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**CITY OF CALEXICO
PROFESSIONAL SERVICES AGREEMENT
FOR
INTERIM CITY ATTORNEY SERVICES**

1. PARTIES AND DATE.

This Agreement is made and entered into this ___ day of September, 2015 (the "Effective Date"), by and between the City of Calexico, a general law municipal corporation organized under the laws of the State of California ("City"), and Best Best & Krieger LLP, a California Limited Liability Partnership ("BB&K"). City and BB&K are sometimes individually referred to herein as "Party" and collectively as "Parties."

2. RECITALS.

2.1 BB&K.

BB&K desires to perform and assume responsibility for the provision of Interim City Attorney services required by City on the terms and conditions set forth in this Agreement. BB&K represents that it is experienced in providing City Attorney services to public clients, is licensed in the State of California, and is familiar with the plans of City.

2.2 Project.

City desires to engage BB&K to render legal services as set forth in this Agreement.

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. BB&K promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply professional legal services to City ("Services"). The Services are more particularly described in Section 3.3 below. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from the Effective Date until such time as City engages a full time City Attorney, unless earlier terminated as provided in this Agreement. BB&K shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines.

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3.2 Responsibilities of BB&K.

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by BB&K or under its supervision. BB&K will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. City retains BB&K on an independent contractor basis and not as an employee. BB&K retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of BB&K shall also not be employees of City and shall at all times be under BB&K's exclusive direction and control. BB&K shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. BB&K shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. BB&K shall perform the Services expeditiously, within the term of this Agreement described in Section 3.1.2 above. BB&K represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions.

3.2.3 Conformance to Applicable Requirements. All work prepared by BB&K shall be subject to the approval of City.

3.2.4 Substitution of Key Personnel. BB&K has represented to City that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, BB&K may substitute other personnel of at least equal competence upon written approval of City. In the event that City and BB&K cannot agree as to the substitution of key personnel, City shall be entitled to terminate this Agreement. As discussed below, any personnel who fail or refuse to perform the Services in a manner acceptable to the City, or who are determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the Project by the BB&K at the request of the City. The key personnel for performance of this Agreement are as follows: Carlos Campos and Robert Hargreaves shall serve as primary legal contacts.

3.2.5 City's Representative. The City hereby designates its City Manager, or his/her designee, to act as its representative for implementation of this Agreement ("City's Representative").

3.2.6 BB&K's Representative. BB&K hereby designates Carlos Campos, or his designee, to act as its representative for the performance of this Agreement ("BB&K's Representative"). BB&K's Representative shall have full authority to represent and act on behalf of the BB&K for all purposes under this Agreement. BB&K's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.7 Coordination of Services. BB&K agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants and other staff at all reasonable times.

3.2.8 Standard of Care; Performance of Employees. BB&K shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. BB&K represents and maintains that it is skilled in the professional calling necessary to perform the Services. BB&K warrants that all employees and sub-consultants shall have sufficient skill and experience to perform the Services assigned to them. Finally, BB&K represents that it, its employees and sub-consultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a City Business License, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, BB&K shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by BB&K's failure to comply with the standard of care provided for herein. Any employee of BB&K or its sub-consultants who is determined by the City Council to be uncooperative, incompetent, a threat to the adequate or timely completion of the Services, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to City, shall be promptly removed by BB&K and shall not be re-employed to perform any of the Services.

3.2.9 Laws and Regulations. BB&K shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Services, including all Cal/OSHA requirements, and shall give all notices required by law. BB&K shall be liable for all violations of such laws and regulations in connection with Services. If BB&K performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the City, BB&K shall be solely responsible for all costs arising therefrom. BB&K shall defend, indemnify and hold City, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.2.10 Insurance.

3.2.10.1 Time for Compliance. BB&K shall not commence work under this Agreement until it has provided evidence satisfactory to City that it has secured all insurance required under this section. In addition, BB&K shall not allow any sub-consultants to commence work until it has provided evidence satisfactory to City that the sub-consultant has secured all insurance required under this section or that City's Representative has determined that the insurance described herein is inappropriate to the sub-consultant's scope of work.

3.2.10.2 Types of Insurance Required. As a condition precedent to the effectiveness of this Agreement for work to be performed hereunder and without limiting the indemnity provisions of the Agreement, BB&K shall procure and maintain in full force and effect during the term of the Agreement, the following policies of insurance. If the existing

policies do not meet the Insurance Requirements set forth herein, BB&K agrees to amend, supplement or endorse the policies to do so.

(a) Commercial General Liability: Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 0001, with minimum limits of at least \$1,000,000 per occurrence, and if written with an aggregate, the aggregate shall be double the per occurrence limit.

(b) Automobile Liability Insurance: Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 0001 covering "Any Auto" (Symbol 1) with minimum limits of \$1,000,000 each accident.

(c) Professional Liability: Professional Liability insurance with minimum limits of \$1,000,000. - Covered professional services shall specifically include all work to be performed under the Agreement.

(d) Workers' Compensation: Workers' Compensation Insurance, as required by the State of California and Employer's Liability Insurance with a limit of not less than \$1,000,000 per accident for bodily injury and disease.

3.2.10.3 Endorsements. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for approval.

3.2.10.4 Primary and Non-Contributing Insurance. All insurance coverages shall be primary and any other insurance, deductible, or self-insurance maintained by the indemnified parties shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

3.2.10.5 Waiver of Subrogation. Required insurance coverages shall not prohibit BB&K from waiving the right of subrogation prior to a loss. BB&K shall waive all subrogation rights against the indemnified parties. Policies shall contain or be endorsed to contain such provisions.

3.2.10.6 Deductible. Any deductible or self-insured retention must be approved in writing by City and shall protect the indemnified parties in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

3.2.10.7 Evidence of Insurance. BB&K, concurrently with the execution of this Agreement, and as a condition precedent to the effectiveness thereof, shall deliver either certified copies of the required policies, or original certificates and endorsements on forms approved by City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15 days) prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with City. If such coverage is cancelled or reduced, BB&K shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies.

3.2.10.8 Failure to Maintain Coverage. BB&K agrees to suspend and cease all operations hereunder during such period of time as the required insurance coverage is not in effect and evidence of insurance has not been furnished to City. City shall have the right to withhold any payment due BB&K until BB&K has fully complied with the insurance provisions of this Agreement. In the event BB&K's operations are suspended for failure to maintain required insurance coverage, the BB&K shall not be entitled to an extension of time for completion of the Services because of production lost during suspension.

3.2.10.9 Acceptability of Insurers. Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

3.2.10.10 Insurance for Sub-consultants. All sub-consultants shall be included as additional insureds under BB&K's policies, or BB&K shall be responsible for causing sub-consultants to purchase the appropriate insurance in compliance with the terms of these Insurance Requirements, including adding City as an Additional Insured to the sub-consultant's policies, unless the City's Representative determines that the has determined that the insurance described herein is inappropriate to the sub-consultant's scope of work.

3.2.11 Safety. BB&K shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, BB&K shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed.

3.3 Fees and Payments.

3.3.1 General Counsel Legal Services. General counsel legal services include any office hours, city council meetings, preparing ordinances, resolutions, and agenda reports, and providing legal advice on municipal matters such as the Brown Act, Public Records Act, general employment and land use matters. Our interim rates are \$220 per hour for Attorneys and \$140 per hour for Paralegals and Law Clerks.

More specifically, the General Counsel legal services include the following services:

- Represent and advise the City Council and all City officers in all matters of law pertaining to their office. Give advice or opinion on the legality of all matters under consideration by the City Council or by any of the boards and commissions or officers of the City.
- Act as legal counsel to agencies the City Council serves as governing body to, including but not limited to, the Calexico Redevelopment Successor Agency, Calexico Financing Authority and other affiliated entities.
- Attend and represent the City's legal interests at all City Council meetings (including Closed Sessions and Council Workshops), and other meetings on an as

needed basis specified by the City.

- Provide legal opinions, advice, assistance, and consultation to the City Council, City Manager, and City staff related to municipal law issues, including, but not limited to, the Brown Act, the Public Records Act, election law, contracts and franchises, and pending and current state and federal legislation and court decisions.
- Review, approve, and/or prepare ordinances, resolutions, staff reports, contracts, deeds, leases, and other legal documents required by the City.
- Prepare legal opinions for City departments, the City Council, boards and commissions.
- Oversee services provided by outside legal specialists engaged by the City for special legal problems.
- Coordinate legal activities with other City departments, divisions, and outside agencies.
- Provide written updates to new state or federal legislation or judicial decisions and suggest action or procedures to ensure compliance.
- Perform such other legal duties as may be required by the City Council as may be necessary to complete the performance of the functions mentioned above.

3.3.2 Special Counsel Services. Special Legal Services shall include the following types of services, in the event such issues arise: litigation, complex labor and employment, complex public policy and ethics, public retirement systems, non-routine advice on taxes, assessments, fees, Proposition 218 and other financial matters, non-routine environmental law, water law, non-routine real estate services, telecommunications, and other matters mutually agreed upon. Our interim rates are \$275 per hour for Attorneys and \$150 per hour for Paralegals and Law Clerks.

Special Counsel work would include the following work:

- Provide legal opinions, advice, assistance, and consultation to the City Council, City Manager, and City staff related to non-routine municipal law issues, including, but not limited to real estate and property transactions, land use, environmental law/CEQA, public improvements/capital projects, code enforcement, tort liability and risk management, fees, taxes, assessments, Proposition 218, former Redevelopment Agency dissolution, refuse, recycling, green waste rates and other matters as directed.
- Prepare cases for trial and the investigation of claims or complaints by or against the City.

- Approve the form of all contracts made by and between the City of Calexico and all bonds given to the City, endorsing same.
- Complex litigation and other legal matters relating to water, the Voting Rights Act and districting, Zoning Code, development and Industrial Specific Plan matters, land use and infrastructure, RDA issues and transfers, personnel and employment issues, recycling and green initiatives, Proposition 218 and Proposition 26 matters, medical marijuana, and finance and revenue-sharing.

3.3.3 Third Party Reimbursables. Legal services for which the City receives reimbursement from a Developer or other Third Party would be billed at BB&K's current published standard private rates, less ten percent (10%).

3.3.4 Public Financing. Public financing will be provided at rates set by amendment to this Agreement.

3.3.5 Cost of Living Adjustments. On October 1 of each year during the term of this Agreement, BB&K's hourly rate shall be adjusted for the change in the cost of living for the twelve (12) month period published in August, as shown by the U.S. Department of Labor in its All Urban Consumers Index set forth for the San Diego area. However, such adjustment shall never be lower than zero percent (0%), nor more than four percent (4%).

3.3.6 Reimbursement. City shall reimburse BB&K for actual costs advanced on behalf of City in addition to the amount billed for legal fees. These costs include travel on behalf of City, automobile mileage at the current approved IRS rate, actual expenses away from BB&K offices while on City business, long-distance telephone calls, copying and other expenses incurred on City's behalf.

3.3.7 Payment of Compensation. BB&K shall submit to City a monthly itemized statement which indicates work completed and hours of Services rendered by BB&K. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. City shall, within 45 days of receiving such statement, review the statement and pay BB&K the compensation.

3.4 Accounting Records.

3.4.1 Maintenance and Inspection. BB&K shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. BB&K shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. BB&K shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.5 General Provisions.

3.5.1 Termination of Agreement.

3.5.1.1 Grounds for Termination. This Agreement and the Services rendered under it may be terminated at any time upon thirty (30) days' prior written notice from either Party, with or without cause. In the event of such termination, BB&K shall be paid for all Services authorized by City and performed up through and including the effective date of termination.

3.5.1.2 Effect of Termination. If this Agreement is terminated as provided herein, City may require BB&K to provide all finished or unfinished Documents and Data and other information of any kind prepared by BB&K in connection with the performance of Services under this Agreement. BB&K shall be required to provide such document and other information within fifteen (15) days of the request.

3.5.1.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5.2 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

BB&K: 74760 Highway 111,, Suite 200
Indian Wells, CA 92210
Attn: **Carlos Campos**

City: City Hall 608
Heber Avenue
Calexico, CA 92231
Attn: **City Manager**

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.3 Ownership of Materials and Confidentiality.

3.5.3.1 Documents and Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by BB&K under this Agreement ("Documents and Data"). BB&K shall require all sub-consultants to agree in writing that City is granted a non-exclusive and perpetual license for any Documents and Data the sub-consultant prepares under this Agreement. BB&K represents and warrants that BB&K has the legal right to license any and all Documents and Data. BB&K makes no such representation and warranty in regard to Documents and Data which were

prepared by professionals other than BB&K or provided to BB&K by the City. City shall not be limited in any way in its use of the Documents and Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at City's sole risk.

3.5.3.2 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to BB&K in connection with the performance of this Agreement shall be kept confidential by BB&K. Such materials shall not, without the prior written consent of City, be used by BB&K for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to BB&K which is otherwise known to BB&K or is generally known, or has become known, to the related industry shall be deemed confidential. BB&K shall not use City's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of City.

3.5.4 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.5 Attorney's Fees. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

3.5.6 Indemnification. BB&K shall defend, indemnify and hold City, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged acts, omissions, negligence or willful misconduct of BB&K, its officials, officers, employees, agents, subcontractors and sub-consultants arising out of or in connection with the performance of the Services or this Agreement, including without limitation the payment of all consequential damages and attorneys' fees and other related costs and expenses. BB&K shall defend, at BB&K's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against City, its directors, officials, officers, employees, agents or volunteers. BB&K shall pay and satisfy any judgment, award or decree that may be rendered against City or its directors, officials, officers, employees, agents or volunteers, in any such suit, action or other legal proceeding. BB&K shall reimburse City and its directors, officials, officers, employees, agents and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. BB&K's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City, its directors; officials, officers, employees, agents or volunteers.

3.5.7 Entire Agreement. This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations,

understandings or agreements. This Agreement may only be modified by a writing signed by both Parties.

3.5.8 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Imperial County.

3.5.9 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.5.10 Assignment or Transfer. BB&K shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.5.11 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to BB&K include all personnel, employees, agents, and sub-consultants of BB&K, except as otherwise specified in this Agreement. All references to City include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.5.12 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.13 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

3.5.14 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.5.15 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5.16 Prohibited Interests. BB&K maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for BB&K, to solicit or secure this Agreement. Further, BB&K warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for BB&K, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of

this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.17 Equal Opportunity Employment. BB&K represents that it is an equal opportunity employer and it shall not discriminate against any sub-consultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. BB&K shall also comply with all relevant provisions of City's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.5.18 Labor Certification. By its signature hereunder, BB&K certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.5.19 Authority to Enter Agreement. BB&K has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.5.20 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.5.21 Declaration of Political Contributions. BB&K shall, throughout the term of this Agreement, submit to City an annual statement in writing declaring any political contributions of money, in-kind services, or loan made to any member of the city council within the previous twelve-month period by the BB&K and all of BB&K's employees, including any employee(s) that BB&K intends to assign to perform the Services described in this Agreement.

3.6 Subcontracting.

Prior Approval Required. BB&K shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

CITY OF CALEXICO

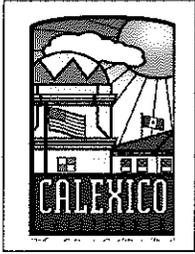
BEST BEST & KRIEGER LLP

By: _____
Richard Warne
City Manager

By: _____
Carlos Campos

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AGENDA STAFF REPORT

DATE: September 15, 2015

TO: Mayor and City Council

APPROVED BY: Richard N. Warne, City Manager *RW*

PREPARED BY: Richard N. Warne, City Manager *RW*
Mark J. Austin, Interim City Attorney

SUBJECT: Introduction and Waive First Reading of an Ordinance Amending the City's Purchasing Policy and Procedures to Reduce the Purchasing Authority of the City Manager and Make Other Changes to the City's Purchasing Policy and Procedures

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OPTIONS / RECOMMENDATION

The City Council has the following options, with the recommendation of staff set forth below:

1. **[STAFF RECOMMENDATION]** Do not take action, leaving intact the existing Purchasing Policy and Procedures (adopted by the City Council on February 18, 2014). The existing Purchasing Policy and Procedures limit the City Manager's spending authority to \$49,999, with anything greater requiring the approval of the City Council.
2. Approve the introduction and first reading of the Ordinance attached hereto as **Attachment 3**, reading the Ordinance by title only, and waiving the full reading. The draft Ordinance would adopt the Amended Purchasing Policy and Procedures attached to the Ordinance. The Amended Purchasing Policy and Procedures would limit the spending authority of the City Manager and Finance Director to \$10,000 (subject to certain exceptions), amongst other changes.
3. Approve the introduction and first reading of the Ordinance attached hereto as **Attachment 3** (by title only, waiving full reading), subject to modifications approved by the City Council, such as increasing the purchasing authority of the City Manager stated in the Amended Purchasing Policy so it is above \$10,000.

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Background

California Government Code Sections 54202 and 54203 require the City to adopt, by ordinance, a formal purchasing policy that governs the purchase of supplies and equipment by the City. Pursuant to that mandate, on February 18, 2014, the City Council adopted Ordinance No. 1153, which adopted the City's "Purchasing Policy and Procedures." A copy of Ordinance No. 1153 is attached hereto as **Attachment 1**.

The Purchasing Policy and Procedures adopted under Ordinance No. 1153 (hereinafter, the "Purchasing Policy") established various rules and procedures, including the following spending limits: (1) Department Heads can make over-the-counter purchases of less than \$2,500, (2) purchasing authority from \$2,500 to \$49,999 is delegated to the Finance Director or the City Manager after obtaining three competitive bids or quotations, and (3) purchases that exceed \$49,999 require a formal bid process and City Council approval.

At its meeting of August 18, 2015, City staff presented information regarding the spending authorities of the City Manager and Chief Executive Officers of various nearby public agencies. That information showed the following:

1. The purchasing authority of the El Centro City Manager is \$50,000.
2. The purchasing authority of the Imperial County CEO is \$100,000.
3. The purchasing authority of the Calexico Unified School District's Superintendent is \$200,000.

The purchasing policy excerpts for the City of El Centro, Imperial County, and the Calexico Unified School District are attached hereto as **Attachment 2**.

After considering this evidence, the City Council directed the City Attorney's office to prepare an ordinance amending the City's existing Purchasing Policy, so that the City Manager's spending authority would be limited to \$10,000 per item or order, annually. Certain members of the City Council further indicated that this limitation should not apply to expenditures such as (1) personnel-related investigations and expenses, including, but not limited to investigations and related services in response to personnel-related complaints and employee misconduct; (2) recurring and/or routine expenditures, so long as the total amounts expended do not exceed the amounts permitted in the budget; (3) expenditures that are required to be reimbursed by third parties; and (4) the City's legally and/or contractually mandated payments, to the extent not otherwise expressly addressed by action of the City Council. With respect to those expenditures, the City Manager's spending limit would remain at \$50,000 per item or order, annually.

Pursuant to this direction, the City Attorney's office, in conjunction with City staff, drafted the Ordinance that is attached hereto as **Attachment 3**. The draft Ordinance would adopt the Amended Purchasing Policy and Procedures attached thereto (the "Amended Purchasing Policy"), supplanting and replacing the existing Purchasing Policy. Among other things, the Amended Purchasing Policy would make the following changes:

1. Limit the spending authority of the City Manager and Finance Director to \$10,000;
2. Clarify that this spending authority applies on a per order and/or per item basis – *i.e.*, that each individual product, item, or service, purchased for a particular purpose, would have a separate annual limit of \$10,000;
3. State that any purchase above this spending limit would require approval by the City Council;
4. State that purchases between \$10,000.01 and \$50,000, while requiring the approval of the City Council, could be initiated via an informal bid process, but that purchases above \$50,000 would require a formal bid process (consistent with the prior Purchasing Policy);
5. State that the \$10,000 spending limit would not apply to (1) personnel-related investigations and expenses, including, but not limited to investigations and related services in response to personnel-related complaints and employee misconduct; (2) recurring and/or routine expenditures, so long as the total amounts expended does not exceed the amounts permitted in the budget; (3) expenditures that are required to be reimbursed by third parties; and (4) the City's legally and/or contractually mandated payments, to the extent not otherwise expressly addressed by action of the City Council. With respect to those expenditures, the City Manager's spending limit would remain at \$50,000 per item or order, annually; and
6. Eliminate the ability of City staff to use City credit cards for incidental personal expenses, which had been allowed by the prior Purchasing Policy.

Discussion

City staff does not recommend that the City Council adopt the Amended Purchasing Policy. The City Council already approves all spending each meeting when it approves the City's warrants.

A spending limit of \$10,000 would cause a large number of routine and non-controversial spending items to require City Council approval. Such a rule would impede the efficient operation of the City, allow City Council Members to micromanage staff and interfere with the day-to-day operations of the City, politicize business decisions, clog regular City Council agendas where meetings already go late into the night, reduce customer service, interfere with personnel investigations (if not excluded) and interfere with the City Manager's ability to respond to problems as they arise.

The proposed Amended Purchasing Policy is inconsistent with other large governments in Imperial County. The purchasing authority of the El Centro City Manager is \$50,000. The purchasing authority of the Imperial County CEO is \$100,000 and purchasing authority of the Calexico Unified School District's Superintendent is \$200,000.

Fiscal Impact

The adoption of the Amended Purchasing Policy and Procedures would require more spending items to be brought to the City Council for approval.

Attachments:

1. Ordinance No. 1153, adopting existing Purchasing Policy and Procedures.
2. Purchasing policy excerpts for the City of El Centro, Imperial County, and the Calexico Unified School District.
3. Proposed ordinance with Amended Purchasing Policy and Procedures.

ORDINANCE NO. 1153

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, ADOPTING THE AMENDED CITY OF CALEXICO PURCHASING POLICY AND PROCEDURES

WHEREAS, the City of Calexico ("City") is a municipal corporation organized and existing under the Constitution and the laws of the State of California; and

WHEREAS, the City has the authority to enter into contracts to carry out the necessary functions of the City; and

WHEREAS, the City must adopt its Purchasing Policy governing the purchase of supplies and equipment by means of an ordinance pursuant to California Government Code sections 54202 and 54203; and

WHEREAS, the existing Purchasing Policy requires revisions to ensure efficient operation of the City's business.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CALEXICO DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and determines that each of the findings set forth above are true and correct.

SECTION 2. A Purchasing Policy, attached as Exhibit "A," is adopted in order to establish efficient procedures for the purchase of supplies and equipment, to secure supplies and equipment at the lowest possible cost commensurate with quality needed, to exercise positive financial control over purchases and to define authority for the purchasing function.

EFFECTIVE DATE: This Ordinance shall be effective thirty days after its adoption; and the City Clerk shall certify the adoption of this Ordinance and cause it to be published as required by law.

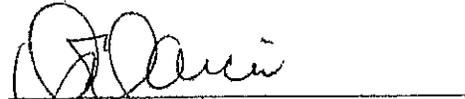
INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Calexico on the 21st day of January, 2014 and

THEREAFTER ADOPTED at a regular meeting of the City Council of the City of Calexico, California, on the 18th day of February, 2014, by the following vote:

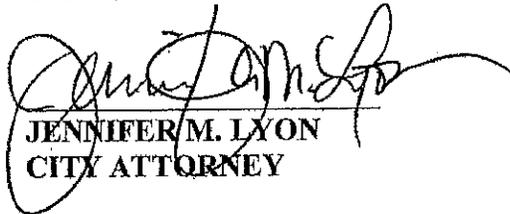
AYES: Hodge, Moreno, Hurtado
NOES: Kim, Castro
ABSENT: None


BILL HODGE, MAYOR

ATTEST:


GABRIELA GARCIA
DEPUTY CITY CLERK

APPROVED AS TO FORM:


JENNIFER M. LYON
CITY ATTORNEY

ISSUE DATE: MARCH 19, 2014

The purpose of this procedure is to provide the City of Calexico a means of assuring continuity and uniformity in its purchasing operation and to define the responsibilities for purchasing supplies, services and equipment for the City of Calexico. The general rule is that a general law City cannot take action except through its City Council. Further, a City cannot be obligated under a contract except through action by its City Council. However, the City Council chooses to create this policy so that certain contracts can be formed and purchases can be made without formal action by the City Council so that the City can operate efficiently. The basic standard that should always prevail is to exercise good judgment in the use and stewardship of City resources, including keeping within the budget authorized by City Council.

The policy outlined herein is to be adhered to by all Departments when procuring supplies, services and equipment. This policy strives to define making the prudent review and internal control procedures and to maintain Department Head responsibility for their budget and flexibility in evaluating, selecting and purchasing supplies, equipment and services.

Unauthorized Purchases

Except for urgencies or other authorized exemptions as stated in these guidelines, no purchase of supplies, services, or equipment shall be made without an authorized purchase order. Unless allowed by some other City Council ordinance, resolution, or law, a purchase or contract formed in violation of this Policy is void. An employee ordering the unauthorized purchase may be subject to reprimand for violation of this policy.

Purchase orders shall be issued prior to ordering supplies, equipment and services and not after the fact for work already done or materials already ordered.

City employees, officers or officials shall not solicit or accept gifts except for those items that can be shared by all staff such as food and flowers. In addition, no employee, officer, or official shall be entitled to any special consideration, i.e. discounts from vendors and merchants in their personal affairs.

Vendor Relations

It is to the City's advantage to promote and maintain good relations with vendors. The Finance Department and Departments' staff shall conduct their dealings with vendors in a professional manner and shall promote equal opportunity and demonstrate fairness, integrity, and courtesy in all vendor relations. When feasible to do so, vendors within the City of Calexico should be utilized for supplies, services and equipment. When determining the lowest responsible bidder, the amount of local City sales tax included in the bid submitted by a local vendor shall be credited by the City against said bid.

Purchasing Method**Requirements for certain purchasing dollar limits**

Purchasing dollar limits are "per order". This policy specifically prohibits splitting an order to circumvent the specified dollar limits. Departments shall contact the Finance Department to coordinate volume bids of repetitive requirements (i.e., the frequent purchase of items such as chemical, paper goods, etc., which annually exceed the specified limits).

Purchases of Less than \$2,500 – Over-the-Counter

For purchases of less than \$2,500, the authority to award is the Department Head. Comparative pricing is not required but shall be used when practical. Prudent judgment shall be used at all times. All departments may purchase supplies, equipment, and services, of less than \$2,500 without competitive bidding.

Purchase between \$2,500 - \$49,999 – Open Market

For Purchases of between \$2,500 and \$49,999 the authority to award is the City Manager or Finance Director. Department staff shall not award purchase orders for \$2,500 or more without the approval of the City Manager, Finance Director, or Assistant Finance Director, except in the event of an urgency purchase (see Urgency Purchases). All Departments shall obtain three oral or written competitive quotations whenever possible for purchases. The Department should submit a requisition, which includes the recommended vendor, with all supporting documentation to the Finance Department. Supporting documentation shall include competitive price quotes obtained, names of vendors contacted, description of the items required, and certificates of insurance if applicable. The Finance Department should review the recommendation and supporting documentation and may contact additional sources for quotations.

The City Manager, Finance Director, or Assistant Finance Director may award purchase to the lowest responsive and responsible bidder whose quote fulfills the intended purpose, quality, and delivery needs of the solicitation, provided that an appropriation for that item exists. In lieu of awarding the purchase, the City Manager, Finance Director, or designee may reject bids, or may negotiate further to obtain terms acceptable to the city.

Purchases of \$49,999 or More – Formal Bid

Purchases that exceed \$49,999 require a Formal Bid Process and City Council approval. See Informal and Formal Bid Process.

Open Purchase Orders :

An Open Purchase Order is an agreement whereby the City contracts with a vendor to provide equipment or supplies on an as-needed and often over-the-counter basis. Open Purchase Orders provide a mechanism whereby items, which are uneconomical to stock, may be purchased in a manner that allows field operations timely access to necessary materials. Open Purchase Orders shall not be used to purchase services, capital assets or items maintained in stock.

ATTACHMENT A

CITY OF CALEXICO PURCHASING POLICY & PROCEDURES

The Finance Department shall request confirmation of Open Purchase Orders annually, before the beginning of the fiscal year. Requests for Open Purchase Orders may also be submitted to the Finance Department on an as-needed basis. The Finance Department shall review the Open Purchase Order requests based upon the following criteria:

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

All Open Purchase Orders shall include the following information:

- a. A general description of the equipment or supplies which may be charged;
- b. The period of time the order will remain open, not to exceed one fiscal year;
- c. The maximum total amount which may be charged on the purchase order;
- d. Items excluded from the purchase, if applicable;
- e. Requirement that employees print and sign their names when picking up goods; and
- f. Account number to be charged.

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

Contract Purchase Orders

Contract Purchase Orders are the preferred method of purchasing repetitive-use items or services, for example office supplies, which may be common to several departments or within one department. Establishing Contract Purchase Orders provides a means of obtaining volume pricing based upon the combined needs of all departments, reduces the administrative costs associated with seeking redundant competitive bids and processing a Purchase Order each time an order is placed, and allows Departments to order as needed, reducing the requirement to maintain large inventories of stock.

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

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

Cooperative Purchases

The City may participate in purchases and contracts established by other political jurisdictions, provided the cooperative agreement is established following a competitive

CITY OF CALEXICO

PURCHASING POLICY & PROCEDURES

bid process. The City Manager may authorize the award of cooperative purchase agreements up to \$49,999. City Council approval is required for the award of any cooperative purchase of \$50,000 or more.

Sole Source Purchases

Commodities and services, which can be obtained from only one vendor, are exempt from competitive bidding. Sole source purchases may include proprietary items sold directly from the manufacturer, items that have only one distributor authorized to sell in this area or a certain product had been proven to be the only product that has proven to be acceptable. All sole source purchases shall be supported by written documentation signed by the appropriate Department Head and forwarded to the Finance Department. The Finance Director or designee will make final determination that an item is a valid sole source purchase.

Urgency Purchases

An urgency purchase is one where there is an unforeseen situation which requires immediate procurement of materials or services in order to continue operations of an essential department, or for the preservation of health, safety and welfare of the people, or protection of property, when there is a present, immediate and existing danger. A depletion of stock through normal routine usage is not considered an urgency item.

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

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

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

4. The Finance Department shall be contacted as soon as possible for an advance purchase order number, which may be given verbally to cover the urgent transaction. If unable to contact the Finance Department place the order and contact the Finance Department the next workday.
5. A completed purchase requisition shall be submitted to the Finance Department within two working days, or as soon as possible as the information is available. The appropriate Department Head shall sign all purchase requisitions for urgent purchases.
6. Documentation explaining the circumstances and nature of the urgency purchase shall be submitted by the appropriate Department Head as follows:
 - a. Purchases less than \$2,500: Use standard purchasing procedure;
 - b. Purchases in the amount of \$2,500 - \$49,999: Report to the Finance Director by processing requisition within one day and report to the City Manager within two working days for ratification;

CITY OF CALEXICO PURCHASING POLICY & PROCEDURES

- c. Purchases of \$50,000 or more: 1) Report to the City Manager within two working days, and 2) report to the City Council at its next scheduled meeting for ratification
7. If the urgency purchase causes any budget line item to exceed the adopted budget, it shall be the responsibility of the Department requesting the purchase to make a transfer to cover the purchase or obtain subsequent City Council approval for an additional appropriation to cover the purchase. If funds are available to transfer from another budget line item, the Transfer of Appropriation form shall be used. If the urgency purchase requires an increase in the Adopted Budget, a Budget Amendment Resolution form must be submitted to the City Council for approval.

Purchase Order Exemptions

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

Advertisements and Notices	Payments to other Governmental Units
Attorney Services	Petty Cash Replenishments
Consultant Services	Property Rentals
Courier/Delivery/Messenger Services	Subscriptions
Insurance Claims and Premiums	Trade Circulars or books
Medical Payments	Travel Expense/Advances
Membership Dues	Utility Payments

Exemptions are limited to those items listed above. Departments may submit written requests for additional exemptions to the Finance Department. If warranted, additional exemptions will be added to this list.

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

Petty Cash

A petty cash advance is used to obtain petty cash for a quick purchase of small items from a local store. Department Heads have approval of petty cash purchases up to \$25 only. Only the Finance Director or the Assistant Finance Director can approve petty cash purchases over \$25 to a maximum of \$100. All petty cash transactions must be completed on the same day an advance is made. If the transaction cannot be completed the cash must be returned to Accounts Payable by the end of the day and another advance obtained the next day.

Petty cash advances are obtained from Accounts Payable. When seeking an advance, obtain the appropriate form from Accounts Payable and fill out form with date, name, department description, account number and signature. After the purchase is made,

CITY OF CALEXICO

PURCHASING POLICY & PROCEDURES

please submit receipt with any unused money. A petty cash voucher is then prepared by Accounts Payable, which will be used to reimburse the petty cash fund.

Purchase Award

1. Lowest responsive and qualified bidder
 - A. Bids shall be awarded to the "responsive" and "qualified" bidder who submits the lowest bid.
 - B. In determining the lowest "responsive" bid, the following elements shall be considered in addition to price:
 - a. A responsive bid is one, which is in substantial conformance with the requirements of the invitation to bid, including specifications and the City's contractual terms and conditions. Bidders who substitute terms and conditions or who qualify their bids in such a manner as to nullify or limit their ability shall be considered non-responsive bidders.
 - b. Conformance with the requirements of the invitation to bid may also include providing proof of insurance, completing all forms, including references, and all other information as requested in the bid document.
 - c. The successful bidder must demonstrate the ability to successfully fulfill a contract, including rendering of subsequent and continuing service. Staff may request proof of a prospective bidder's reliability. Prospective bidders may be requested to furnish proof of financial resources, a list of current or previous customers, and other pertinent data. Such action may also be taken after receipt of bids.
 - d. A bidder may be determined to be non-responsive if a prospective bidder fails to furnish proof of qualifications when required.
 - C. In determining the lowest "qualified" bidder, the following elements shall be considered in addition to price:
 - a. That the products offered provide the quality, fitness, and capacity for the required usage.
 - b. That the bidder has the ability, capacity and skill to perform the contract satisfactorily and within the time required.
 - c. That bidder's experience(s) regarding past purchases by the City or other public agencies demonstrates the reliability of the bidder to perform the contract.
 - D. When a bid is recommended to be awarded to other than the low bidder, written justification is required. The written statement, signed by the appropriate department head, shall be attached to the purchase requisition.
2. Rejection of Bids

The City Manager shall have the authority to reject any or all bids for a contract of \$49,999 or less. The City Council shall have the authority to reject any or all bids for a contract of \$50,000 or more, upon recommendation of the City Manager. The City Manager may recommend rejection of any or all bids if it is determined to be in the best interests of the City. Reasons for rejection may

include, but are not limited to, the following: 1) a bid is determined to be non-responsive, 2) the number of bids received is inadequate, 3) bids received are not reasonably uniform in price, or 4) the lowest bid received is deemed to be too high. If all bids are rejected, the requesting Department may be authorized to re-solicit bids, negotiate a contract for the purchase, or abandon the purchase.

3. Tie Bids

If two or more bids are received which are in all respects equal, the City Manager may accept the one deemed to be in the best interests of the City.

Change Orders

Purchase Orders represent a contract between the City and the Vendor. Any substantial change to a Purchase Order shall be documented as a change order. Change Orders shall be reviewed and approved by either the Finance Director or the City Manager. A purchase order may not be increased by more than 10% or \$100 whichever is less without a change order except for taxes, shipping and handling as discussed below.

In the event the purchase of supplies or services exceeds this limit, written authorization must be given to the vendor by the City Manager, Finance Director, or designee in order to proceed.

Taxes, shipping and handling may cause the purchase order to exceed the authorized purchase order amount. These items do not require a change order, even if they exceed 10% of the original purchase order amount.

This section does not apply to Change Orders for housing programs and public works and utility construction and/or improvement contracts. All public works and utility construction and/or improvement contracts in the amount of \$100,000 or more that require a Change Order, which results in either an increase or a deduction in the original contract amount, must be approved by the City Council. All housing program contracts that result in an increase in the original contract, including any contingency, shall be approved by the City Manager, if the Change Order exceeds 20% of the total contract.

Informal and Formal Bid Process

Except as otherwise exempted in the policy, supplies, services and equipment with an estimated value of \$2,500 to \$49,999 shall be purchased following an Informal Bid Process and purchases of \$50,000 or more shall be made following a Formal Bid Process.

To initiate the informal/formal bid process, the Department making the request shall provide specifications for the item to be purchased and documentation showing the existence of an unencumbered appropriation for the item in the current approved budget.

Informal bids may be posted at City Hall, mailed to prospective bidders a minimum of ten calendar days before the due date, or solicited over the phone. Formal bids shall be posted at City Hall and shall be published at least once in a newspaper of general circulation as required by State law, and, if applicable, in appropriate trade publications.

CITY OF CALEXICO

PURCHASING POLICY & PROCEDURES

The date of publication shall be at least ten days before the due date. All formal bids shall be sealed and shall be publicly opened and read at the date, time and place indicated in the published notice.

Bids shall be reviewed for compliance with specifications by the requesting Department. All deviations shall be fully documented by the requesting department and the impact of the deviations on the performance or suitability of the bid item shall be detailed. Staff will prepare and forward a recommendation for approval of purchase. Informal bids shall be approved by the City Manager. Formal bids shall be approved by the City Council.

Credit Card Usage

Under certain circumstances the use of a city credit card may be the most appropriate method for certain purchases. The following policies and procedures are established to insure internal control and timely payment of charges.

1. City bank, gasoline, vendor credit cards will be signed out on an as-needed basis to City Council or staff at the sole discretion of the Finance Department or the appointed designee, in accordance with internal control procedures. Failure to comply with established procedures may result in discontinuance of use by the employee/department.
 2. Because of Internal Revenue Service (IRS) tax reporting requirements, except for Urgency Purchases, city credit cards may not be used to purchase services provided by vendors who are doing business as partnerships or sole proprietors. Examples of this include, but are not limited to:
 - a. Labor charges for auto repair
 - b. Plumbers
 - c. Construction contractors
 3. City credit cards shall be available to the City Council and staff for the conduct of official City business included but not limited to the following purposes:
 - a. Gasoline purchases
 - b. Authorized travel expenses and hotel charges, which shall subsequently be documented on the travel reconciliation report
 - c. To charge the cost of meals when required in the conduct of official business except when an employee is traveling in a per diem basis
 - d. Other circumstances where the use of a credit card best meets the City's purchasing needs as determined by the Finance Director or the appointed designee
3. Only the City Manager, Finance Director and City Council are authorized to carry a bank credit card at all times. Gasoline cards and vendor credit cards may be signed out by an employee authorized to purchase items and may be distributed by that authorized employee to personnel under their supervision as long as that authorized employee later approves the receipt. Once the purchase is complete the credit card shall be returned.

4. All receipts must be turned in when credit card is turned in.
5. No personal items shall be charged on any City credit card except those charges that might be incidental to another charge made on the card for travel or meetings. Whenever one of these personal charges is made on the City credit card, the charges will be reimbursed to the City when the travel is completed. Under no circumstances shall a single personal charge be made on a City credit card. Intentional use of the credit card for other than appropriate City use could be considered an attempt to commit fraud against the City of Calexico. Proof of such fraud could result in immediate cancellation of your credit card and disciplinary action against you under applicable City of Calexico Personnel Rules and Regulations. You will be personally liable to the City for the amount of any non-approved purchases. If you leave the City, you must return your credit card to the Finance Director prior to leaving.

Professional Consultant Selection

Selection of Consultants for Professional Services (General):

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

Contracts under \$2,500	Department Head Approval
Contracts of \$2,500 - \$49,999	City Manager Approval
Contract of \$50,000 or greater	City Council Approval

This policy specifically prohibits splitting a purchase to circumvent the limits set forth above.

The appropriate Department Head, with the approval of the City Manager shall prepare a scope of work consistent with budget and project authorization of the City Council. The Request for Proposal (RFP) shall outline the City requirements and project description. The list of solicited firms will be drawn from firms who, in the opinion of the Department Head, can perform the work. A Request for Qualifications may first be necessary if the required services are particularly specialized or if the qualifications of the available consultants are unknown. The list of solicited firms may be limited to a minimum of 3 to 5 due to time constraints or specialties involved.

The involved Department Head(s), who shall make a recommendation to the City Manager, shall conduct the initial review of proposals.

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

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

CITY OF CALEXICO

PURCHASING POLICY & PROCEDURES

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

Approval of "Additional Work" items shall comply with the cost limits.

Selection of Consultants for Professional Services for Continuing Services:

Professional firms providing engineering, land surveying, transit, planning, environmental, auditing, landscape architecture or other services may be retained on a continuing basis to provide professional services. The Department Head, with the approval of the City Manager may contract on a project-by-project or on a retainer basis for additional work/services without going through the RFP and selection process. At least every three years these arrangements shall be reviewed and every effort shall be made to receive proposals from at least three consultants to perform the same services. This is to ensure the city is receiving the best value in their service.

During the budget process the Finance Department shall make a written request to each Department Head to submit to the City Manager a list of consultants currently under contract by their department, setting forth name of firms, type of services, cost of contracts, length of contracts and date entered into, and the number of years retained by the City.

Exclusions

The provisions of this policy shall not apply:

1. To public works projects (governed by the provisions of the California Public Contracts Code);
2. To franchises (governed by the provisions of the California Utilities Code or other statute of the State of California);
3. Where State or Federal law requires a different procedure;
4. To franchises, rights, privileges, licenses and permits granted by the City;
5. To the purchase of insurance;
6. To the leasing, purchase or sale of land or any interest therein;
7. To the hiring of or contracting for personnel (whether as temporary, seasonal or permanent employees or agents)
8. To construction contracts other than public works projects;
9. To the purchase of utilities, including, but not limited to, telephone service, gas, electricity or water.

ORDINANCE NO. 1153

The City Attorney has prepared the following summary of Ordinance Number 1153.

The City of Calexico's Purchasing Policy establishes procedures for the purchases of goods and services and for contracts for professional services. It also sets the contract awarding authority of the City Manager and the City council based on the dollar amount of the contract. The Purchasing Policy also sets the minimum dollar amount of a contract that can be entered into before a formal bid process is required.

This Ordinance revises the Purchasing Policy to allow the City Manager to have contract awarding authority up to \$49,999. Further, the Ordinance revises the current Purchasing Policy to allow for informal bids for any purchases and contracts under \$49,999. Under the proposed Purchasing Policy, the formal bid process would be used for purchases of \$50,000 or more.

A copy of the ordinance is available for review in the City Clerk's Office at City Hall located at 608 Heber Avenue, Calexico, California. This ordinance was introduced at the regularly scheduled City Council meeting of January 21, 2014. It is scheduled for adoption at the regular meeting of February 18, 2014.

PURCHASING POLICIES LIMIT COMPARISON

CITY OF EL CENTRO	
Purchasing Agent (Finance Director)	Up to \$25,000
City Manager & Purchasing Agent	\$25,000 - \$50,000
Formal Bid Process with award made by both C.M. & P.A. C.M. has final decision.	

COUNTY OF IMPERIAL	
Purchasing Agent	Individual items up to \$5,000. Public Works contracts up to \$50,000
Executive Officer	\$100,000
Has authority to authorize and/or execute contracts and purchase and hold personal property necessary.	

CALEXICO UNIFIED SCHOOL DISTRICT	
Superintendent	Up to \$200,000

**CITY OF
EL CENTRO**

Sec. 2-168. - Purchasing officer—Appointed.

The director of finance, or in the alternative such other person as may be designated in writing by the city manager, shall be and is appointed to perform the functions of the purchasing officer for the city.

(Ord. No. 90-14, § 1; Ord. No. 07-16, § 1)

Sec. 2-169. - Same—Powers and duties.

The purchasing officer shall:

- (1) Purchase or contract for supplies, services and equipment required by any using agency or department in accordance with purchasing procedures prescribed by this division, such administrative rules and regulations as the purchasing officer shall adopt for the internal control and operation of the purchasing function and such other rules and regulations as shall be prescribed by the council or city manager;
- (2) Prepare and adopt administrative rules and regulations not in conflict with the provisions of this ordinance for the purpose of carrying out the requirements and intent of this purchasing system.
- (3) Negotiate and execute contracts for the purchase of supplies, services and equipment;
- (4) Procure for the city the needed quality in supplies, services and equipment at least expense to the city;
- (5) Encourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases;
- (6) Prepare and recommend to the council rules governing the purchase of supplies, services and equipment for the city;
- (7) Prepare and recommend to the council revisions and amendments to the purchasing rules;
- (8) Keep informed of current developments in the field of purchasing, prices, market conditions and new products;
- (9) Prescribe and maintain such forms as are reasonably necessary to the operation of this chapter and other rules and regulations;
- (10) Insure that all supplies, services and equipment purchased conform with specifications;
- (11) Recommend to the city manager or city council, as appropriate, the transfer of surplus or unused supplies and equipment between agencies or departments as needed and the sale of all supplies and equipment which cannot be used by any agency or which become unsuitable for city use;
- (12) Maintain a bidder's list.
- (13) Recommend to the council the disqualification for a stated period of time vendors who default on their quotations.
- (14) Consider the possibilities of buying "in bulk" so as to take full advantage of discounts.
- (15) Have the right to waive any defect or informality with the approval of the using department or agency.

(Ord. No. 90-14, § 1; Ord. No. 07-16, § 1)

Sec. 2-173. - Contracts for \$50,000.00 or less.

Except as otherwise provided by specific statute.:

- (1) The purchasing officer may enter into a contract of any nature without advertising when the estimated amount required to perform the contract is twenty-five thousand dollars (\$25,000.00) or less.
- (2) Contracts of between twenty-five thousand dollars (\$25,000.00) and fifty thousand dollars (\$50,000.00) will require both the city manager's and purchasing officer's approval and shall be let by the administrative bid process set forth herein:
 - a. The purchasing officer may mail notices inviting formal bids. The notices shall be mailed to all qualified vendors on the bid list or who have requested their name to be added thereto unless the product or service is proprietary.
 - b. The notices to the fullest extent possible should be mailed no later than ten calendar days before the opening date of the bids. The notices shall describe the commodities or services in general terms, how to obtain more detailed information, and state the time and place for submission of bids. Failure of any person to receive such notice shall not invalidate any bid awarded.
 - c. A notice inviting bids shall be published at least ten (10) calendar days before the date of opening of the bids. Notice shall be published in a newspaper of general circulation, printed and published in the city, or, if there is none, it shall be posted in at least three (3) public places in the city.
 - d. Such notice must state:
 1. The nature, character or object of the contract.
 2. If the plans and specifications are to constitute part of the contract, where the plans and specifications may be seen.
 3. The time and place where bids will be received and opened.
 4. Such other matters as may properly pertain to giving notice to bid.
 - e. Sealed bids shall be submitted to the city clerk and shall be identified as a bid on the envelope. The bid must include an original signature of an authorized person.
 - f. Bids shall be opened in public by the city clerk or designee at the time and place stated in the public notices.
 - g. Contracts shall be awarded by the city manager and purchase officer to the lowest responsible bidder except as otherwise provided in this chapter. The decision of the city manager shall be final.
 - h. In their discretion, the city manager and purchase officer may reject any or all bids presented, abandon the purchase or re-advertise. A permanent record of all requests for bids and all bids received shall be maintained. If no responsible bid is received, the city manager and purchasing officer may let the contract without further competitive bidding.
 - i. If two (2) or more bids received are the same and lowest, the city manager and purchase officer may accept the one it chooses.
 - j. If no bids are received, the contract may be let in the open market, or by the informal procedures set forth in section 2-173.
 - k. The city manager and purchase officer shall have the right to waive any defect or informality in the bidding or in the procedures set forth in this section. No defect or informality shall void any contract entered into.
 - l. In the event no responsible bids are received, the city manager and purchase officer may let the contract without competitive bidding.

- (3) If the estimated amount required to perform the contract, is more than five thousand dollars (\$5,000.00) but not more than twenty-five thousand dollars (\$25,000.00), requests for bids may be submitted in writing or verbally to two (2) or more persons or businesses capable of performing the contract. If the bid was received verbally, the department head must submit a written memo documenting the request and bids received. The contract shall be issued to the lowest responsible bidder. The purchasing officer shall maintain a permanent record of all requests for bids and all bids received. If no responsible bid is received, the purchasing officer may let the contract without further competitive bidding.
- (4) Nothing in this section prohibits the purchasing officer from advertising for or requesting bids regardless of the estimated amount to perform the contract.
- (5) The council may, from time to time, modify the monetary limits in this section by resolution.

(Ord. No. 90-14, § 1; Ord. No. 07-16, § 1)

Sec. 2-174. - Contracts for more than \$50,000.00.

- (a) Purchases and contracts for supplies, services, equipment and the sale of surplus property of estimated value greater than fifty thousand dollars (\$50,000.00) shall be let by the formal procedures set forth herein.
 - (1) The purchasing officer shall mail notices inviting formal bids. The notices shall be mailed to all qualified vendors on the bid list or who have requested their name to be added thereto unless the product or service is proprietary.
 - (2) The notices to the fullest extent possible should be mailed no later than ten (10) calendar days before the opening date of the bids. The notices shall describe the commodities or services in general terms, how to obtain more detailed information, and state the time and place for submission of bids. Failure of any person to receive such notice shall not invalidate any bid awarded.
 - (3) A notice inviting bids shall be published at least ten (10) calendar days before the date of opening of the bids. Notice shall be published in a newspaper of general circulation, printed and published in the city, or, if there is none, it shall be posted in at least three public places in the city.
 - (4) Such notice must state:
 - a. The nature, character or object of the contract.
 - b. If the plans and specifications are to constitute part of the contract, where the plans and specifications may be seen.
 - c. The time and place where bids will be received and opened.
 - d. Such other matters as may properly pertain to giving notice to bid.
 - (5) Sealed bids shall be submitted to the city clerk and shall be identified as a bid on the envelope. The bid must include an original signature of an authorized person.
 - (6) Bids shall be opened in public by the city clerk or designee at the time and place stated in the public notices.
 - (7) Contracts shall be awarded by the council to the lowest responsible bidder except as otherwise provided in this chapter. The decision of the council shall be final.
 - (8) In its discretion, the council may reject any bids presented, abandon the purchase or readvertise. If all the bids submitted are rejected, the council may either readvertise or adopt a resolution by a four-fifths (4/5) majority declaring that the materials or supplies can be furnished

at a lower price in the open market and away award the contract in the open market without further complying with this section.

- (9) If two (2) or more bids received are the same and lowest, the council may accept the one it chooses.
 - (10) If no bids are received, the contract may be let in the open market, or by the informal procedures set forth in section 2-173.
 - (11) The council shall have the right to waive any defect or informality in the bidding or in the procedures set forth in this section. No defect or informality shall void any contract entered into.
 - (12) In the event no responsible bids are received, the council may let the contract without competitive bidding.
 - (13) The council may modify, from time to time, the monetary limits in this section by resolution.
- (Ord. No. 90-14, § 1; Ord. No. 07-16, § 1)

**COUNTY OF
IMPERIAL**

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF IMPERIAL
COUNTY EXECUTIVE OFFICER DELEGATION OF AUTHORITY
RESOLUTION NO. 2013-069**

WHEREAS, pursuant to Imperial County Code sections 2.20.010-040, the Imperial County Board of Supervisors ("Board") has appointed a County Executive Officer ("CEO") who, subject to the direction of the Board, is responsible for administering County business; and

WHEREAS, the Board has authority to enter into certain service contracts pursuant to California Government Code sections 23005; and

WHEREAS, in the interest of efficient use of resources and to assure the timely preparation and execution of contracts needed to carry out responsibilities of the County, the Board desires to delegate the authority to enter into certain agreements to the CEO; and

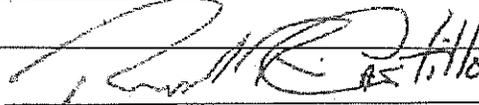
WHEREAS, the public was given an opportunity to comment on such delegation of authority during open session at the August 13, 2013 Board of Supervisors regular agenda meeting.

NOW, THEREFORE, BE IT RESOLVED that the Imperial County Board of Supervisors hereby finds that the delegation of certain authority to the County Executive Officer will provide for more efficient and cost effective governing and thereto, delegates authority to the CEO to make and execute or ratify any contract pursuant to California Government Code Section 23004 (c) including but not limited to the to acceptance grant funding, services or other benefit to the County subject to the following:

1. The authority delegated to the CEO to execute or ratify any agreement pursuant to California Government Code section 23004 (c) is limited to and shall not exceed \$100,000.
2. The CEO shall, upon exercising of the delegated authority:
 - a. Obtain from County Counsel approval as to form of the Contract; and
 - b. Submit an executed copy of the agreement to the Clerk of the Board for placement on the next regular meeting agenda of the Board of Supervisors as an informational item.

PASSED AND ADOPTED by the Board of Supervisors, County of Imperial, State of California, on this 13th day of August, 2013 by the following vote:

Renison, Terrazas, M. Kelley, R. Kelley, Castillo


Raymond R. Castillo, Chairman
Imperial County Board of Supervisors


Blanca Acosta, Clerk of the Board
County of Imperial, State of California



GOVERNMENT CODE - GOV

TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205] (*Title 3 added by Stats. 1947, Ch. 424.*)

DIVISION 1. COUNTIES GENERALLY [23000 - 23732] (*Division 1 added by Stats. 1947, Ch. 424.*)

CHAPTER 1. General [23000 - 23027] (*Chapter 1 added by Stats. 1947, Ch. 424.*)

A county may:

23004. (a) Sue and be sued.

(b) Purchase, receive by gift or bequest, and hold land within its limits, or elsewhere when permitted by law.

(c) Make contracts and purchase and hold personal property necessary to the exercise of its powers.

(d) Manage, sell, lease, or otherwise dispose of its property as the interests of its inhabitants require.

(e) Levy and collect taxes authorized by law.

(Amended by Stats. 1947, Ch. 829.)

**CALEXICO UNIFIED
SCHOOL DISTRICT**

CALEXICO UNIFIED SCHOOL DISTRICT
RESOLUTION NO. 10-06-13

**DELEGATION OF AUTHORITY TO PAY AND SIGN PROPER
LEGAL BILLS, BILLINGS, INVOICES, AND ORDERS UNDER
SPECIFIC LIMITATIONS**

October 22, 2013

WHEREAS. The Governing Board is authorized in Education Code section 35161 to delegate any of its statutory powers or duties to the Superintendent of the District or any other management employee of the District

WHEREAS. Education Code section 42632 authorizes the Governing Board to authorize the Superintendent of the District and/or any other management employee pursuant to Board Policy No. 3314.3 to sign "orders" drawn on the funds of the District.

WHEREAS. The Governing Board now desires to specifically delegate to the Superintendent of the District and/or also the Assistant Superintendent of Business Services of the District the authority to pay proper and legal bills, billings, invoices, and orders submitted to the District without prior or subsequent approval by the Governing Board; and also now desires to specifically authorize the Superintendent and/or the Assistant Superintendent of Business Services to sign the necessary orders so that proper and legal payment may be made in response to such bills, billings, invoices and orders to the District.

NOW, THEREFORE, BE IT RESOLVED THAT

The Governing Board hereby specifically delegates to the Superintendent of the District and the Assistant Superintendent of Business Services of the District the authority to pay proper and legal bills, billings, invoices, and orders submitted to the District without prior or subsequent approval by the Governing Board under the limitations of this Resolution.

BE IT FURTHER RESOLVED THAT

The Superintendent and/or the Assistant Superintendent of Business Services, within their discretion, are hereby authorized to pay proper and legal bills, billings, invoices, and orders submitted to the District without prior or subsequent approval by the Governing Board under the limitations of this Resolution which shall include all of the following:

1. Each and every payment of any bill, billing, invoice or order authorized and signed shall be consistent with the current adopted Budget in the District. This means that each and every payment shall be consistent with the amounts budgeted in any major classification of the current adopted Budget in the District.

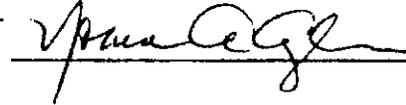
2. The Superintendent and Assistant Superintendent of Business Services shall exercise great care and diligence with regard to each and every payment of any bill, billing, invoice or order, and shall adhere to established, careful business practices.
3. Each and every payment and signing of each and every proper and legal bill, billing, invoice and order shall be consistent with all Board Policies in the District and all actions by the Governing Board.
4. Each and every monthly payment, or possible alternate payment, schedule of more than a month, under this Resolution shall have an absolute maximum amount of \$200,000.00 dollars. Multiple payments shall not be utilized to exceed this absolute maximum amount with regard to any regular or monthly bill, billing, invoice or order. Payments for the following purpose will be exempt of the maximum amount limitation: Medical, Dental, Vision, Long Term Disability & Life insurance, Voluntary Deduction Insurances, Worker's Compensation, Certificate of Participation payments, Liability insurance, and Payroll Taxes.
5. No payment shall be made under any contract or agreement unless such contract or agreement was authorized and entered into lawfully and consistent with established Board Policies and practices in the District.
6. The Superintendent and/or Business Manger shall report to the Governing Board at its next regular meeting as an information item each and every payment and signing under this Resolution.
7. This Resolution shall not be in effect during any time when the District is operating without an approved Budget, or during any time when the County Superintendent has stay and rescind authority over actions by the District.

BE IT FURTHER RESOLVED THAT

The Superintendent and/or the Assistant Superintendent of Business Services and also are authorized to sign the necessary orders so that proper and legal payment may be made in response to such bills, billings, invoices and orders to the District:

PASSED AND ADOPTED this 22nd day of October 2013.

CALEXICO SCHOOL DISTRICT



President

10/25/13

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, AMENDING THE CITY OF CALEXICO PURCHASING POLICY AND PROCEDURES TO REDUCE THE PURCHASING AUTHORITY OF THE CITY MANAGER AND MAKE OTHER CHANGES TO THE CITY'S PURCHASING POLICIES AND PROCEDURES

WHEREAS, the City of Calexico ("City") is a municipal corporation and general law city organized and existing under the Constitution and laws of the State of California; and

WHEREAS, the City has the authority to enter into contracts to carry out the functions of the City; and

WHEREAS, the City is required, under California Government Code sections 54202 and 54203, to adopt by ordinance a formal purchasing policy governing the purchase of supplies and equipment; and

WHEREAS, the City's existing purchasing policy was adopted by the City Council on February 18, 2014; and

WHEREAS, the City Council desires to revise the existing purchasing policy in the manner reflected in this Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CALEXICO DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and determines that each of the findings set forth above are true and correct.

SECTION 2. An amended purchasing policy, attached hereto as Exhibit "A," is hereby adopted to establish procedures for the purchase of supplies, equipment, and services, to secure supplies, equipment, and services at the lowest possible cost commensurate with needed quality, to exercise financial control over purchases, define authority for the purchasing function of the City and reduce the purchasing authority of the City Manager.

SECTION 3. The purchasing policy attached hereto as Exhibit "A" shall supersede and replace the prior purchasing policy that was adopted by the City Council on February 18, 2014.

EFFECTIVE DATE: This Ordinance shall become effective thirty days after its adoption; the City Clerk shall certify the adoption of this Ordinance and cause it to be published as required by law.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Calexico on the _____ day of _____, 2015; and

THEREAFTER ADOPTED at a regular meeting of the City Council of the City of Calexico, California, on the _____ day of _____, 2015, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Joong S. Kim, Mayor

ATTEST:

Gabriela Garcia
Deputy City Clerk

APPROVED AS TO FORM:

Mark J. Austin
Interim City Attorney

~~ISSUE DATE: MARCH 19, 2014~~

ISSUE DATE: _____

The purpose of this ~~procedure~~ purchasing policy is to provide the City of Calexico ("City") with a means of assuring continuity and uniformity in its purchasing operation, and to define the procedures and responsibilities for purchasing supplies, services, and equipment for the City of Calexico. ~~The general rule is that~~ Under most circumstances, a general law City city cannot take action except through its City Council. Further city council, a City and cannot be obligated under a contract except through action by of its City Council city council. However, to allow for more efficient operation of the City, the City Council chooses to ~~create~~ adopt this policy ~~so that allowing certain contracts can to be formed and purchases can to be made without formal action by the City Council so that the City can operate efficiently.~~ The basic standard that should always prevail is to the exercise of good and prudent judgment in the use and stewardship of City resources, including ~~keeping staying~~ within the budget authorized by the City Council.

The policy outlined herein is to be adhered to by all City Departments when procuring supplies, services, and equipment. This policy strives to define ~~making~~ the prudent review and internal control procedures and that will govern such purchases, to maintain Department Head responsibility for their ~~budget budgets,~~ and to provide flexibility in evaluating, selecting, and purchasing supplies, equipment, and services.

Unauthorized Purchases

Except for urgencies or other authorized exemptions ~~as stated~~ in these guidelines, no purchase of supplies, services, or equipment shall be made without an authorized purchase order. Unless allowed by some other City Council ordinance, resolution, or law, a purchase or contract formed in violation of this Policy is void. An employee ordering the unauthorized purchase may be subject to reprimand for violation of this policy.

Purchase orders shall be issued prior to ordering supplies, equipment ~~and,~~ and/or services, and not after the fact for work already done or materials already ordered.

City employees, officers, or officials shall not solicit or accept gifts, ~~except for those items that can be shared by all staff such as food and flowers.~~ In addition, no employee, officer, or official shall be entitled to any special ~~consideration,~~ consideration— i.e., discounts from vendors and merchants in their personal affairs.

Vendor Relations

It is to the City's advantage to promote and maintain good relations with vendors. ~~The Finance Department and Departments~~ City staff shall conduct their dealings with vendors in a professional manner ~~and,~~ shall promote equal opportunity, and shall demonstrate

CITY OF CALEXICO AMENDED PURCHASING POLICY & PROCEDURES

fairness, integrity, and courtesy in all vendor relations. When feasible and prudent to do so, and when otherwise consistent with this policy, vendors within the City of Calexico should be utilized for supplies, services, and equipment. When determining the lowest responsible bidder, the amount of local City sales tax included in the bid submitted by a local vendor shall be credited by the City against said bid.

Purchasing Method**Requirements for ~~certain purchasing dollar limits~~ Certain Purchasing Dollar Limits**

Purchasing dollar limits are "per order". This policy specifically prohibits splitting an order to circumvent the specified dollar limits, which shall apply on an annual basis, and shall apply separately to each item or order. City Departments shall contact the Finance Department to coordinate volume bids of repetitive requirements (*i.e.*, the frequent purchase of items such as chemical, paper goods, etc., which ~~annually~~ exceed the specified limits in a given fiscal year).

Purchases of Less than \$2,500 - Over-the-Counter

For purchases of less than \$2,500, the person with the authority to award is the appropriate Department Head (or, the absence of a particular Department Head, the City Manager). Comparative pricing is not required but shall be used when practical. Prudent judgment shall be used at all times. All departments may purchase supplies, equipment, and services, of less than \$2,500 without competitive bidding.

~~Purchase between \$2,500 - \$49,999~~ 2,500 and \$10,000 - Open Market

~~For purchases of purchases between \$2,500 and \$49,999~~ 10,000, inclusive, the persons with the authority to award is are the City Manager and the Finance Director. Department staff shall not award purchase orders ~~for between \$2,500 or more and \$10,000, inclusive,~~ without the approval of the City Manager, ~~Finance Director, or Assistant~~ or the Finance Director, except in the event of an urgency purchase (see "Urgency Purchases"). All Departments shall obtain three oral or written competitive quotations whenever possible for purchases in this range. The Department requesting the purchase should submit a requisition, ~~which includes the recommended vendor, with all supporting documentation~~ to the Finance Department, which requisition shall recommend a vendor and provide all supporting documentation. Supporting documentation shall include competitive price quotes obtained, names of vendors contacted, a description of the items or services required, and certificates of insurance if applicable. The Finance Department should review the recommendation and supporting documentation and may contact additional sources for quotations.

The City Manager, ~~Finance Director, or Assistant~~ or Finance Director may award a purchase to the lowest responsive and responsible bidder whose quote fulfills the intended purpose, quality, and delivery needs of the solicitation, provided that an appropriation for that item exists. In lieu of awarding the purchase, the City Manager, Finance Director, or their designee may reject bids, or may negotiate further to obtain terms acceptable to the ~~city~~ City.

Purchases between \$10,000.01 and \$50,000 – City Council Approval Required, but Informal Bid Process Permitted

For purchases between \$10,000.01 and \$50,000, City Council approval is required, but an Informal Bid Process may be followed for the solicitation of bids. See Informal and Formal Bid Process, below.

Purchases of ~~\$49,999~~ 50,000.01 or More — Formal Bid

Purchases that exceed ~~\$49,999~~ 50,000 require a Formal Bid Process and City Council approval. See Informal and Formal Bid Process, below.

!

Investigations and Recurring Purchases – City Manager Authorization Up to \$50,000

Notwithstanding the dollar limits otherwise specified herein, the City Manager shall have authority, up to \$50,000 annually for each item or service purchased, in the following instances: (1) for personnel-related expenditures, including but not limited to investigations and related services in response to personnel-related complaints, (2) for recurring and/or routine expenditures, so long as the total amount expended does not exceed the amounts permitted in the budget, (3) expenditures that are required to be reimbursed by third parties, and (4) the City's legally and/or contractually mandated payments, to the extent not otherwise expressly addressed by action of the City Council.

Open Purchas~~e~~ Purchase Orders

An Open Purchase Order is an agreement whereby the City contracts with a vendor to provide equipment or supplies on an as-needed, and often over-the-counter, basis. Open Purchase Orders provide a mechanism whereby ~~Items, which items that are~~ uneconomical to stock, may be purchased in a manner that allows field operations timely access to necessary materials. Open Purchase Orders shall not be used to purchase services, capital assets, or items maintained in stock.

The Finance Department shall request confirmation of Open Purchase Orders annually, before the beginning of the fiscal year. Requests for Open Purchase Orders may also be submitted to the Finance Department on an as-needed basis. The Finance Department shall review the Open Purchase Order requests based upon the following criteria;

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

All Open Purchase Orders shall include the following information:

- a. A general description of the equipment or supplies which may be charged;
- b. The period of time the order will remain open, not to exceed one fiscal year;

ATTACHMENT A

CITY OF CALEXICO AMENDED PURCHASING POLICY & PROCEDURES

- c. The maximum total amount which may be charged on the purchase order;
- d. Items excluded from the purchase, if applicable;
- e. Requirement that employees print and sign their names when picking up goods; and
- f. Account number to be charged.

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

Contract Purchase Orders

Contract Purchase Orders are the preferred method of purchasing repetitive-use items or services, ~~for example such as~~ office supplies, which may be common to several ~~departments~~ Departments or within one ~~department~~ Department. Establishing Contract Purchase Orders (i) provides a means of obtaining volume pricing based upon the combined needs of all ~~departments~~ City Departments, (ii) reduces the administrative costs associated with seeking redundant competitive bids and processing a Purchase Order each time an order is placed, and (iii) allows Departments to order as needed, reducing the requirement to maintain large inventories of stock.

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

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

Cooperative Purchases

The City may participate in purchases and contracts established by other political jurisdictions, provided the cooperative agreement is established following a competitive bid process. The City Manager may authorize the award of cooperative purchase agreements up to \$49,999 10,000, but City Council approval is required for the award of any cooperative purchase of ~~\$50,000~~ 10,000.01 or more.

Sole Source Purchases

Commodities and services, ~~which that~~ can be obtained from only one vendor, ~~(“sole-source purchases”)~~ are exempt from competitive bidding. Sole-source purchases may include proprietary items sold directly from the manufacturer, items that have only one distributor authorized to sell in this area ~~or a certain product had~~, or products that have been proven to be the only ~~product that has proven to be acceptable~~ option. All sole-source

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CITY OF CALEXICO AMENDED PURCHASING POLICY & PROCEDURES

purchases shall be supported by written documentation signed by the appropriate Department Head and forwarded to the Finance Department. The Finance Director or designee will make final determination that an item is a valid sole-source purchase.

Urgency Purchases

Urgency purchases may also be made by the City Manager or the Finance Director. An urgency purchase is one where there is an unforeseen situation which that requires immediate procurement of materials or services in order to (i) continue operations of an essential department, or for the preservation of health, safety and welfare of the people, or protection of property, when there is (ii) preservethe health, safety, welfare, and/or property of the City or its citizens, (iii) avoid or reduce City liability, or (iv) avoid a present, immediate, and existing danger. A depletion of stock through normal routine usage is not considered an urgency item.

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

1. to forestall a shutdown of essential public services
2. to preserve or protect life, health, the public welfare, or property;
- ~~or 2.3. upon to avoid or reduce City liability;~~
4. to avoid a present, immediate, and existing danger; or
5. in response to a natural disaster; ~~or 3. to forestall a shutdown of essential public services~~

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

41. The Finance Department shall be contacted as soon as possible for an advance purchase order number, which may be given verbally to cover the urgent transaction. If unable to contact the Finance Department, place cannot be contacted, the order shall be placed and contact the Finance Department shall be contacted the next workday.
52. A completed purchase requisition shall be submitted to the Finance Department within two working days, or as soon as possible as after the necessary information is available. The appropriate Department Head shall sign all purchase requisitions for urgent purchases.
63. Documentation explaining the circumstances and nature of the urgency purchase shall be submitted by the appropriate Department Head as follows:
 - a. Purchases of less than \$2,500: Use - use standard purchasing procedure procedures;
 - b. Purchases in the amount range of \$2,500 - to \$49,999: Report 10,000 - (a) report to the Finance Director by processing requisition within

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CITY OF CALEXICO AMENDED PURCHASING POLICY & PROCEDURES

- one day, and (b) report to the City Manager within two working days for ratification;
- c. Purchases of ~~\$50,000~~ 10,000.01 or more: ~~1~~ -(a) Report report to the City Manager within two working days, and ~~2~~ (b) report to the City Council at its next scheduled meeting for ratification.
74. If the urgency purchase causes any budget line item to exceed the adopted budget, it shall be the responsibility of the Department requesting the purchase to make a transfer to ~~cover~~ cover the purchase or obtain subsequent City Council approval for an additional appropriation to cover the purchase. If funds are available to transfer from another budget line item, the Transfer of Appropriation form shall be used. If the urgency purchase requires an increase in the Adopted Budget, a Budget Amendment Resolution form must be submitted to the City Council for approval.

Purchase Order Exemptions

Certain purchases are not readily adaptable to the open market ~~and, the formal bidding process, or the use of purchase orders.~~ These purchases are generally for items where the competitive bid process is not applicable or where a check is required to accompany the order. ~~Following~~ The following is a list of allowable exemptions from the purchase-order requirement:

Advertisements and Notices	Payments to other Governmental Units
Attorney Services	Petty Cash Replenishments
Consultant Services	Property Rentals
Courier/Delivery/Messenger Services	Subscriptions
Insurance Claims and Premiums	Trade Circulars or books
Medical Payments	Travel Expense/Advances
Membership Dues	Utility Payments

Exemptions are limited to those items listed above. Departments may submit written requests for additional exemptions to the Finance Department. If warranted, additional exemptions will be added to this list.

If a vendor requires a ~~Purchase Order~~ purchase order to process an order, the department shall submit a purchase order requisition to the Finance Department to initiate a purchase order.

Petty Cash

A petty cash advance ~~is~~ can be used to obtain petty cash for a ~~quick purchase~~ purchase of small items from a local store, for City use. Department Heads have approval of petty cash purchases up to \$25 only, per Department, on a monthly basis. Only the ~~Finance Director~~ City Manager or the ~~Assistant~~ Finance Director can approve petty cash purchases over \$25, to a maximum of \$100 on a monthly basis. All petty cash transactions must be completed on the same day an advance is made. If the

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CITY OF CALEXICO AMENDED PURCHASING POLICY & PROCEDURES

transaction cannot be completed, the cash must be returned to Accounts Payable by the end of the day and another advance obtained the next day.

Petty cash advances are obtained from Accounts Payable. When seeking an advance, obtain the appropriate form from Accounts Payable and fill out form with date, name, department description, account number and signature. After the purchase is made, please submit receipt with any unused money. A petty cash voucher is then prepared by Accounts Payable, which will be used to reimburse the petty cash fund.

Purchase Award

1. Lowest responsive and qualified bidder
 - A. Bids shall be awarded to the "responsive" and "qualified" bidder who submits the lowest bid.
 - B. In determining the lowest "responsive" bid, the following elements shall be considered in addition to price:
 - a. A responsive bid is one, ~~which~~ that is in substantial conformance with the requirements of the invitation to bid, including specifications and the City's contractual terms and conditions. Bidders who substitute terms and conditions or who qualify their bids in such a manner as to nullify or limit their ability to provide the required products or services shall be considered ~~non-~~ responsive bidders.
 - b. Conformance with the requirements of the invitation to bid may also include providing proof of insurance, completing all forms, including references, and all other information as requested in the bid ~~document~~ documents.
 - c. The successful bidder must demonstrate the ability to successfully fulfill a contract, including the rendering of subsequent and continuing ~~services~~ services. Staff may request proof of a prospective bidder's reliability. Prospective bidders may be requested to furnish proof of financial resources, a list of current or previous customers, and other pertinent data. Such action may also be taken after receipt of bids.
 - d. A bidder may be determined to be non-responsive if a prospective bidder fails to furnish proof of qualifications when ~~required~~ requested.
 - C. In determining the lowest "qualified" bidder, the following elements shall be considered in addition to price:
 - a. That the products offered provide the quality, fitness, and capacity for the required usage.
 - b. That the bidder has the ability, capacity and skill to perform the contract satisfactorily and within the time required.
 - c. That the bidder's experience(s) regarding past purchases by the City or other public agencies demonstrates the reliability of the bidder to perform the contract.

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CITY OF CALEXICO AMENDED PURCHASING POLICY & PROCEDURES

- D. When a bid is recommended to be awarded to other than the ~~low~~ lowest bidder, written justification is required. The written statement, signed by the appropriate ~~department head~~ Department Head, shall be attached to the purchase requisition.

2. Rejection of Bids

The City Manager shall have the authority to reject any or all bids for a contract of ~~\$49,999 or less~~ 10,000 or less. The City Manager, or the City Council if the bids are presented to it, shall have the authority to reject any or all bids for a contract between \$10,000.01 and \$50,000, inclusive. The City Council shall have the authority to reject any or all bids for a contract of ~~\$50,000.01~~ or more, upon recommendation of the City Manager. The City Manager may recommend rejection of any or all bids if it is determined to be in the best interests of the City. Reasons for rejection of bids may include, but are not limited to, the following: (1) ~~a~~ the bid is determined to be ~~non~~ non-responsive, (2) the number of bids received is inadequate, (3) ~~the~~ bids received are not reasonably uniform in price, or (4) the lowest bid received is deemed to be too high. If all bids are rejected, the requesting Department may be authorized to ~~re~~ re-solicit bids, negotiate a contract for the purchase, or abandon the purchase.

3. Tie Bids

If two or more bids are received ~~which~~ that are in all respects equal, the City Manager may accept the one deemed to be in the best interests of the City.

Change Orders

~~Purchase Orders~~ orders represent a contract between the City and ~~the Vendor~~ vendor. Any substantial change to a ~~Purchase Order~~ order shall be documented as a change order. ~~Change Orders~~ orders shall be reviewed and approved by either the Finance Director or the City Manager. A purchase order may not be increased by more than 10% or \$100, whichever is less, without a change order, except for taxes, shipping, and handling, as discussed below.

In the event the ~~purchase of supplies or services~~ change order exceeds this limit, written authorization must be given to the vendor by the City Manager, the Finance Director, or ~~their~~ his designee, in order to proceed.

Taxes, shipping, and handling may cause the purchase order to exceed the authorized purchase order amount. These items do not require a change order, even if they exceed 10% of the original purchase order amount.

This section does not apply to ~~Change Orders~~ change orders for housing programs ~~and~~ and public works ~~and~~ and or utility construction and/or improvement contracts. All public works and utility construction and/or improvement contracts in the amount of \$100,000 or more that require a ~~Change Order~~ change order, which ~~results~~ change order would result in either an increase or a deduction in the original contract amount, must be approved by the City Council. All housing program contracts that result in an increase in the original contract, including any contingency, shall be approved by the City Manager, if the ~~Change Order~~ change order exceeds 20% of the total contract.

Informal and Formal Bid Process

Except as otherwise exempted in ~~the this~~ policy, supplies, services, and equipment with an estimated value of \$2,500 to \$49,999-50,000 shall be purchased following an Informal Bid Process (albeit with City Council approval for purchases above \$10,000), and purchases of \$50,000.01 or more shall be made following a Formal Bid Process.

To initiate the informal/ or formal bid process, the Department making the request shall provide specifications for the item to be purchased and documentation showing the existence of an unencumbered appropriation for the item in the current approved budget.

Informal bids may be posted at City Hall, mailed to prospective bidders a minimum of ten calendar days before the due date, or solicited over the phone. Formal bids shall be posted at City Hall and shall be published at least once in a newspaper of general circulation as required by State law, and, if applicable, in appropriate trade publications.

The date of publication shall be at least ten days before the due date. All formal bids shall be sealed and shall be publicly opened and read at the date, time and place indicated in the published notice,

Bids shall be reviewed for compliance with specifications by the requesting Department. All deviations shall be fully documented by the requesting department and the impact of the deviations on the performance or suitability of the bid item shall be detailed. Staff will prepare and forward a recommendation for approval of purchase. Informal bids shall be approved by the City Manager, ~~;~~ Formal bids shall be approved by the City Council.

Credit Card Usage

Under certain circumstances, the use of a city credit card may by the most appropriate method for certain purchases. The following policies and procedures are established to insure internal control and timely payment of charges:

1. City bank, gasoline, and vendor credit cards will be signed out on as as-needed basis to City Council or staff at the sole discretion of the Finance Department or ~~the its~~ appointed designee, in accordance with internal control procedures. Failure to comply with established procedures may result in discontinuance of use by the employee/department.
2. Because of Internal Revenue Service (IRS) tax reporting requirements, except for ~~Urgency Purchases~~ urgency purchases, city credit cards may not be used to purchase services provided by vendors who are doing business as partnerships or sole proprietors. Examples of this include, but are not limited to:
 - a. Labor charges for auto repair.
 - b. Plumbers.
 - c. Construction contractors.
3. City credit cards shall be available to the City Council and staff for the conduct of official City business ~~included~~, including but not limited to the following purposes:

CITY OF CALEXICO AMENDED PURCHASING POLICY & PROCEDURES

- a. Gasoline purchases.
 - b. Authorized travel expenses and hotel charges, which shall subsequently be documented on the travel reconciliation report.
 - c. To charge the cost of meals when required in the conduct of official business, except when an employee is traveling ~~in~~ on a per diem basis.
 - d. Other circumstances where the use of a credit card best meets the City's purchasing needs as determined by the Finance Director or the appointed designee
4. Only the City Manager, the Finance Director, and ~~the~~ City Council are authorized to carry a bank credit card at all times. Gasoline cards and vendor credit cards may be signed out by an employee authorized to purchase items and may be distributed by that authorized employee to personnel under their supervision as long as that authorized employee later approves the receipt. Once the purchase is complete the credit card shall be returned.
 5. All receipts must be turned in when the credit card is turned in.
 6. No personal items shall be charged on any ~~City credit card except those charges that might be incidental to another charge made on the card for travel or meetings. Whenever one of these personal charges is made on the City credit card, the charges will be reimbursed to the City when the travel is completed. Under no circumstances shall a single personal charge be made on a City credit card. Intentional use of the credit card for other than appropriate City use could be considered an attempt to commit fraud against the City of Calexico. Proof of such fraud could result in immediate cancellation of your the employee's credit card and disciplinary action against you the employee under applicable City of Calexico Personnel Rules and Regulations. You will Any employee guilty of such conduct shall be~~ personally liable to the City for the amount of any ~~non-~~ non- approved purchases. ~~If you leave an employee leaves employment with the City, you he or she must return your his or her credit card to the Finance Director prior to leaving.~~

Professional Consultant SelectionSelection of Consultants for Professional Services (General);

The following criteria shall be used to determine approval authority for ~~Professional Consultant Service Contracts~~ professional consultant service contracts, unless otherwise authorized herein or by other City Council action:

Contracts under \$2,500	Department Head Approval
Contracts of \$2,500 - \$49,999	City Manager Approval
<u>10,000</u>	
Contract of \$50,000 - 10,000.01 or greater	City Council Approval

ATTACHMENT A

CITY OF CALEXICO AMENDED PURCHASING POLICY & PROCEDURES

This policy specifically prohibits splitting a purchase to circumvent the limits set forth above. The above dollar limits shall apply on an annual basis.

The appropriate Department Head, with the approval of the City Manager, shall prepare a scope of work consistent with budget and project authorization of the City Council. The Request for Proposal (REP) shall outline the City requirements and project description. The list of solicited firms will be drawn from firms ~~whethat~~, in the opinion of the Department Head, can perform the work. A Request for Qualifications may first be necessary if the required services are particularly specialized or if the qualifications of the available consultants are unknown. The list of solicited firms may be limited to a minimum of 3 to 5 due to time constraints or specialties involved.

The involved Department Head(s), who shall make a recommendation to the City Manager, shall conduct the initial review of proposals.

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

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

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

Approval of "Additional Work" items shall comply with the cost limits specified herein.

Selection of Consultants for Professional Services for Continuing Services:

Professional firms providing engineering, land surveying, transit, planning, environmental, auditing, landscape architecture, or other services may be retained on a continuing basis to provide professional services. The Department Head, with the approval of the City Manager, may contract on a project-by-project or on a retainer basis for additional work/services without going through the RFP and selection process. At least every three years these arrangements shall be reviewed, and every effort shall be made to receive proposals from at least three consultants to perform the same services. This is to ensure the ~~city~~ City is receiving the best value in ~~their services~~ its purchased services.

During the budget process the Finance Department shall make a written request to each Department Head to submit to the City Manager a list of consultants currently under contract by their department, setting forth, for each contract, the name of firm, the firm, the type of services provided, the cost of contracts, the contract, the length of contracts and the contract, the date entered into, and the number of years retained by remaining on the City contract.

Exclusions

ATTACHMENT A

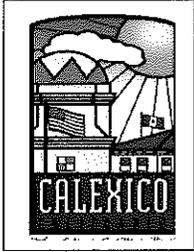
CITY OF CALEXICO AMENDED PURCHASING POLICY & PROCEDURES

The provisions of this policy shall not apply:

1. To public works projects (which are governed by the provisions of the California Public Contracts Code);
2. To franchises (governed by the provisions of the California Utilities Code or other statute of the State of California);
3. Where State or Federal law requires a different procedure;
4. To franchises, rights, privileges, licenses and permits granted by the City;
5. To the purchase of insurance;
6. To the leasing, purchase or sale of land or any interest therein,
7. To the hiring of or contracting for personnel (whether as temporary, seasonal or permanent employees or agents);
8. To construction contracts other than public works projects;
9. To the purchase of utilities, including, but not limited to, telephone service, gas, electricity or water.

AGENDA
ITEM

18



AGENDA STAFF REPORT

DATE: September 15, 2015

TO: Mayor and City Council

APPROVED BY: Richard N. Warne, City Manager

PREPARED BY: Richard N. Warne, City Manager *REW*
Mark J. Austin, Interim City Attorney *MJA*

SUBJECT: Resolution of the City Council of the City of Calexico Limiting the Ability of the City Manager to Make Administrative Transfers of Appropriations Without the Approval of the City Council

=====

Options / Recommendation

The City Council has the following options, with the recommendation of staff set forth below:

1. **[STAFF RECOMMENDATION]** Do not take action, leaving intact the existing City policy of allowing the City to make administrative transfers of appropriations between different accounting funds within the City budget without the need for approval of the City Council.
2. Approve the Resolution attached hereto as **Attachment 1**, eliminating the City Manager's authority to make administrative transfers of appropriations between different accounting funds within the City budget without the need for approval by the City Council, subject to certain exceptions.

Background

The City approves a City budget on an annual basis. Under longstanding City policy, the City Manager has had the authority to make administrative transfers of appropriations between different accounting funds within the City budget without the need for a formal budget amendment by the City Council.

The Mayor has asked City staff, with the assistance of the City Attorney's office, to prepare a resolution limiting the authority of the City Manager to make such administrative transfers of appropriations without the approval of the City Council.

AGENDA
ITEM
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In response to the Mayor's request, City staff prepared the resolution attached hereto as **Attachment 1** (the "Resolution"). The Resolution would prohibit the City Manager from making administrative transfers of appropriations between different accounting funds within the City budget without approval by the City Council.

This prohibition would be subject to various exceptions. Specifically, the City Manager would be permitted to do any or all of the following:

(1) Transfer an appropriation to ensure there are sufficient appropriations in a given accounting fund to cover projects, purchases, and capital expenditures expressly approved by the City Council; (2) to transfer an appropriation to ensure there are sufficient appropriations in a given accounting fund for legally or contractually obligated payments of the City; (3) to make appropriation transfers between accounting funds where the transfer is expressly permitted by the adopted budget; (4) to make appropriation transfers between accounting funds when the transfer will not cause the total appropriations of both funds to exceed the City Council-approved total budget of all accounting funds; (5) to comply with State or Federal laws or regulations; (6) to comply with the provisions or conditions of a State or Federal grant; (7) to comply with the accounting standards and guidelines as published by the Governmental Accounting Standards Board (GASB) or other government accounting regulatory body.

Discussion

City staff does not recommend that the City Council adopt the proposed Resolution. Eliminating the City Manager's authority to make the identified administrative transfers of appropriations without a formal budget amendment would impede the efficient operation of the City and interfere with the City Manager's ability to quickly respond to changes in circumstances or unanticipated developments during a fiscal year. In addition, Staff does not recommend that City Council micro-manage the accounting functions of the City nor micro-manage City staff or politicize administrative operations of the City.

Fiscal Impact

Approving the Resolution would prohibit the City Manager from making administrative transfers of appropriations between different accounting funds within the City budget without approval by the City Council subject to certain limitations.

Attachments

Resolution of the City Council of the City of Calexico Limiting Ability of the City Manager to Make Administrative Transfers of Appropriations Without the Approval of the City Council.

CITY COUNCIL RESOLUTION NO. 2015-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALEXICO LIMITING THE ABILITY OF THE CITY MANAGER TO MAKE ADMINISTRATIVE TRANSFERS OF APPROPRIATIONS WITHOUT THE APPROVAL OF THE CITY COUNCIL

WHEREAS, the City Council of the City of Calexico ("City") approves a City budget on an annual basis; and

WHEREAS, under longstanding City policy, the City Manager has had the authority to make administrative transfers of appropriations between different accounting funds within the City budget without the need for a formal budget amendment by the City Council; and

WHEREAS, the City Council would like to limit the authority of the City Manager to make such administrative transfers of appropriations.

NOW, THEREFORE, the City Council of the City of Calexico **DOES HEREBY RESOLVE** the following:

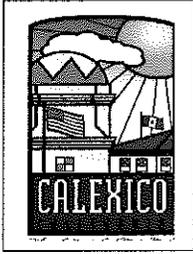
Section 1. The foregoing recitals are true and correct, and are incorporated herein by this reference.

Section 2. Unless otherwise established hereafter by resolution or ordinance of the City Council, any administrative transfer of appropriations between different accounting funds within the City budget will require approval by the City Council.

Section 3. Notwithstanding the foregoing, the City Manager shall have the authority, without the approval of the City Council, to do any or all of the following: (1) to transfer an appropriation to ensure there are sufficient appropriations in a given accounting fund to cover projects, purchases, and capital expenditures expressly approved by the City Council; (2) to transfer an appropriation to ensure there are sufficient appropriations in a given accounting fund for legally or contractually obligated payments of the City; (3) to make appropriation transfers between accounting funds where the transfer is expressly permitted by the adopted budget; (4) to make appropriation transfers between accounting funds when the transfer will not cause the total appropriations of both funds to exceed the City Council-approved total budget of all accounting funds; (5) to comply with State or Federal laws or regulations; (6) to comply with the provisions or conditions of a State or Federal grant; (7) to comply with the accounting standards and guidelines as published by the Governmental Accounting Standards Board (GASB) or other government accounting regulatory body.

AGENDA
ITEM

19



AGENDA STAFF REPORT

DATE: September 15, 2015
TO: Mayor and City Council
APPROVED BY: Richard N. Warne, City Manager *RW*
PREPARED BY: Gabriela T. Garcia, Deputy City Clerk
SUBJECT: Appointment by City Council of a Resident Commissioner to the Calexico Housing Authority Board.

=====

Recommendation:

City Council make the appointment of a Resident Commissioner to the Calexico Housing Authority Board.

Background:

A position of a resident commissioner to the Housing Authority Board expired on August 19, 2015. The City Council as a whole needs to fill this position. The position was advertised on the City website, City Hall, Camarena Library and in the Calexico Chronicle, IV Press and El Sol del Valle.

Discussion & Analysis:

The applicants for this position must be residents of the Calexico Housing Authority. The following persons submitted applications for the position of Resident Commissioner:

John Anthony Romo
Ema Rosa Silva
Raul Palomino

Fiscal Impact:

None.

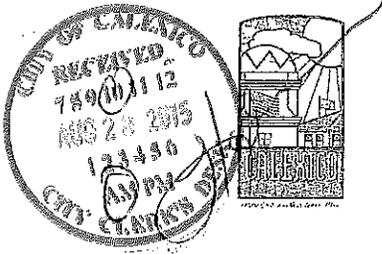
Coordinated With:

None.

Attachment:

Applications from John Anthony Romo, Ema Rosa Silva, Raul Palomino.

AGENDA
ITEM
19



**CITY OF CALEXICO
APPLICATION FOR CITY COMMISSION
And
STATEMENT OF QUALIFICATIONS**

ALL APPLICANTS MUST EITHER
RESIDE, BE EMPLOYED, OR
REGISTERED TO VOTE IN THE CITY
OF CALEXICO. PROOF IS
REQUIRED WHEN SUBMITTING
THIS APPLICATION.

APPLICATION IS FOR THE FOLLOWING COMMISSION:
(A separate application is required for each commission)

Housing Authority - Resident Comm

PERSONAL INFORMATION:

Resident Commission

Name: John Anthony Romo

Residence Address: 2840 Rockwood Ave apt 14

Length of time at this Address: 32 YRS E-mail address: JohnRomo2005@yahoo.com

Home Phone No. 760 768-1603 Cell/Message Phone No. 760 604-9233

Are you 18 years of age or older? YES Are you registered to vote in the City of Calexico? yes

Do you currently serve as an elected or appointed official for any board and/or agency within the City of Calexico? NO
If yes, name of agency and position: N/A

EDUCATION: Highest level of education completed: High school & 4 yrs College

Name of Institution where Highest Level of Education was completed: High School / College

Location of Institution: Imperial County

EMPLOYMENT INFORMATION / EXPERIENCE:

Name and Address of Employer (s)	Position Title	Dates of Employment
<u>Retired</u>		

IMPORTANT: Read the following carefully and answer completely. A conviction is not an automatic bar to appointment. Each case is considered on its individual merits.

HAVE YOU EVER BEEN CONVICTED OF A FELONY OR MISDEMEANOR OTHER THAN A MINOR TRAFFIC VIOLATION? NO
If yes, Please list all offenses, date and place of offenses(s), and the sentence/fine received:

ACKNOWLEDGMENT/CERTIFICATION:

I understand that upon filing, this application becomes a public record. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct

John A Romo
Signature and Date

Do Not Write Below this Line - For City Use Only

Applicant furnished proof of eligibility requirements via:

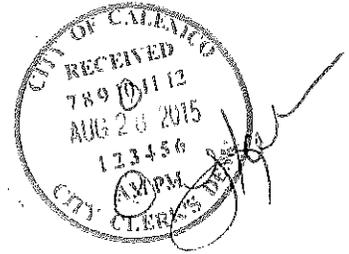
Proof of residency: Yes No
Proof of employment: Yes No
Voter Registration Verification: Yes No

Appointment By: _____
Term Expires: _____
Date & Clerk Verifying: 8/28/15 [Signature]

John Anthony Romo
Consultant - Housing and Community Developments
1840 Rockwood Ave. Apart 14
Calexico, Ca. 92231

Thursday, August 27, 2015

City Council
Of the City of Calexico
608 Heber Ave
Calexico CA 92231



Ref: Letter of Interest / Appointment / Resident Commissioner

Honorable Council,

This communication serves to request appointment as resident Commissioner to the Housing Authority's Board of Directors. I have previously served as resident commissioner from 1990 to 2002 in which during my terms, I was certified in housing law by the Department of Housing and Urban Development (HUD), through completions of continued training regarding Policies and Regulatory Provisions set forth and prescribe to all Housing Authorities under the Housing Act of 1937, as amended.

I'm a cofounder of a local and State wide resident organizations, purposefully design to advocate and to promote HUD's policy on Resident Participation & the active involvement of residents in all aspects of the Public Housing Authority's (PHA's) overall operational programs.

I was also employed and did case management for the Imperial County Department of Behavior Health Services. I retired in 2012. I still currently serve with the agency on two advisory boards in which we monitor a variety of programs under strict guidelines as required by the State of California.

I am also well verse in **Parliamentary Law** and Roberts Rules of Order which is the basis for smooth conduct for open public Forums; I was an instructor/facilitator to Resident Councils in the Los Angeles area.

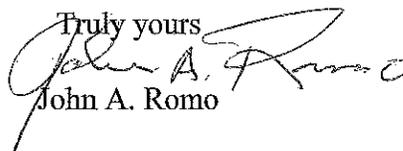
Goals & objectives:

My main goal is to work collectively with the existing Board of commissioners to properly address HUD's regulatory provisions to ensure efficient and effective representation to the Calexico Housing Authority and to enhance the quality of life & services to housing residents.

Based on my qualifications, and in exultant hope that this Council takes competent skills into account, may serve to appoint me as Resident Commissioner to the Housing Authority's board of directors.

From the above, I will ensure to be a great asset in the capacity of Housing Commissioner.

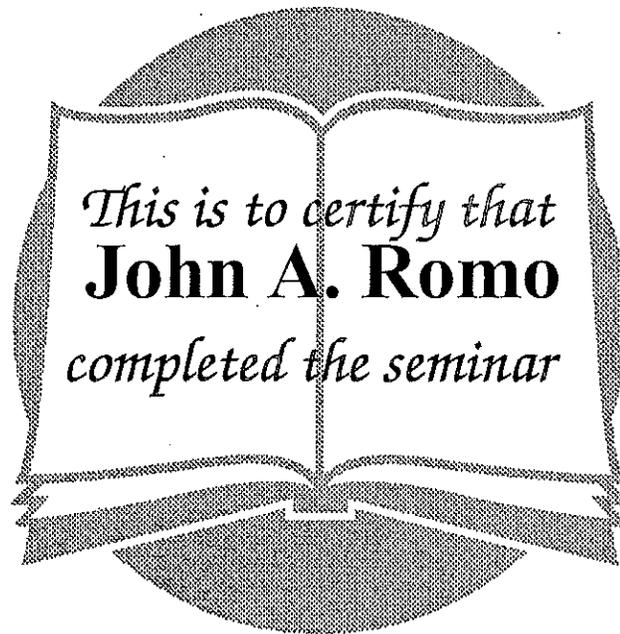
(Attachments:)

Truly yours

John A. Romo

NANMCKAY

AND ASSOCIATES, INC.

PUBLIC HOUSING UPDATE



Continuing Educational Units 1.3

January 26-27, 2000

Nan McKay

Nan McKay

The National Association of Housing and Redevelopment Officials

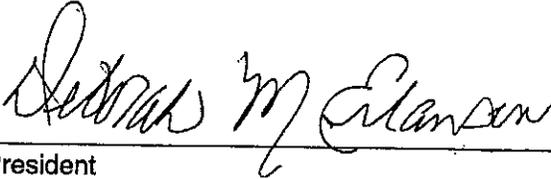
hereby certifies that on June 14-15, 1998

John Romo

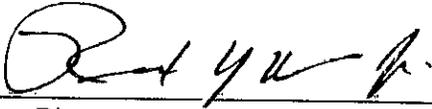
has met all requirements for successful completion of
NAHRO's Professional Development Program Course:

Commissioners Fundamentals

Under the established guidelines set forth by the Council on
Continuing Education Units (CEU), 1.4 CEUs are hereby awarded
for successful completion of this seminar program.



President



Executive Director

Trainer





CITY OF CALEXICO
APPLICATION FOR CITY COMMISSION
 And
STATEMENT OF QUALIFICATIONS

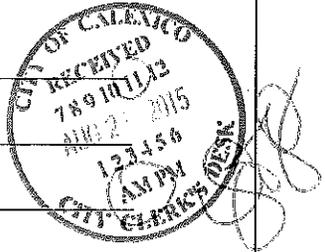
ALL APPLICANTS MUST EITHER
 RESIDE, BE EMPLOYED, OR
 REGISTERED TO VOTE IN THE CITY
 OF CALEXICO . PROOF IS
 REQUIRED WHEN SUBMITTING
 THIS APPLICATION:

APPLICATION IS FOR THE FOLLOWING COMMISSION:
 (A separate application is required for each commission)

Housing Authority

PERSONAL INFORMATION:

Name Ema Rosa Silva
 Residence Address 801 NUSOTOS, Calexico
 Length of time at this Address: _____ E-mail address: _____
 Home Phone No. 768-1753 Cell/Message Phone No. _____
 Are you 18 years of age or older? yes Are you registered to vote in the City of Calexico? yes
 Do you currently serve as an elected or appointed official for any board and/or agency within the City of Calexico? _____
 If yes, name of agency and position: no



EDUCATION: Highest level of education completed: Vicent Memorial High School

Name of Institution where Highest Level of Education was completed: _____
 Location of Institution: San Diego State Community College
11 units - Teachers Aide

EMPLOYMENT INFORMATION / EXPERIENCE:

Name and Address of Employer (s)	Position Title	Dates of Employment
<u>New River Forks Force</u>	<u>Resident west-side Representative</u>	<u>8/2009 - 2011</u>
<u>Comite Curte Del Valle</u>	<u>Promotora ^{the valley}</u>	<u>2004 - 2011</u>

IMPORTANT: Read the following carefully and answer completely. A conviction is not an automatic bar to appointment. Each case is considered on its individual merits.
Resident Council - HAEC 1995-2008
Housing Authority - 20

HAVE YOU EVER BEEN CONVICTED OF A FELONY OR MISDEMEANOR OTHER THAN A MINOR TRAFFIC VIOLATION? _____
 If yes, Please list all offenses, date and place of offenses(s), and the sentence/fine received:
No

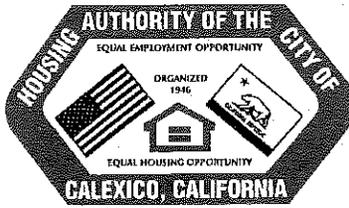
Ema Rosa Silva
 Signature and Date 8/27/15

ACKNOWLEDGMENT/CERTIFICATION:
 I understand that upon filing, this application becomes a public record. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Do Not Write Below this Line - For City Use Only

Applicant furnished proof of eligibility requirements via:
 Proof of residency: Yes No
 Proof of employment: Yes No
 Voter Registration Verification: Yes No

Appointment By: _____
 Term Expires: _____
 Date & Clerk Verifying: 8/28/15 [Signature]



1006 East Fifth Street • Calexico, California • 92231 • (760) 357-3013 • Telecopier (760) 357-3084

August 27, 2015

Mayor Joon Kim and City Council Members
City of Calexico
608 Heber Avenue
Calexico, CA 92231

Dear City Council Members,

At the next regularly scheduled City Council Meeting for the City of Calexico you will be responsible for the appointing or re-appointment of Commissioners to the Housing Authority of the City of Calexico. The Housing Authority of the City of Calexico's current board of commissioner's have been a very supportive group of commissioners with a vision for the future for Affordable Housing for Calexico residents. Each commissioner has displayed commitment to Housing Authority goals and service to the community. The Housing Authority has provided training for each commissioner to understand their role and responsibilities as a commissioner of the Housing Authority. The Housing Authority needs commitment from its commissioners to fulfill the needs of the community and the current board members have provided that.

This letter of support is for the re-appointment of the Chairman and current resident commissioner Emarosa Silva to the Housing Authority board, who comes to the board with a wealth of housing authority resident council and administrative experience. As an incumbent commissioner her experience on the board has provided mediation between the tenants and housing authority, support, policy enforcement and advising administration of issues within the developments of the Housing Authority. Her character, advocacy for the residents and understanding of the needs of the residents are most definitely needed for the Housing Authority.

As the Executive Director I am expressing my support and requesting reappointment of Emarosa Silva to another term as Commissioner to the Housing Authority of the City of Calexico.

Respectfully,


Orlando Johnson
Executive Director
Housing Authority of the City of Calexico

August 24, 2015

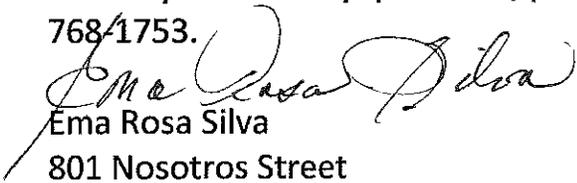
Honorable Mayor Joong S. Kim
City of Calexico
608 Heber Avenue
Calexico, CA 92231

Re: Appointment to the Housing Authority Commission

I am a resident of the Housing Authority of the City of Calexico and have served for many years as a Resident Council Member for the Housing Authority City of Calexico. Currently I am the Chairperson of the Calexico Housing Board of Commissioners. My term expired on August 19, 2015 and would like to be considered for reappointment. We are currently working on important projects that I would like to see accomplished.

I would greatly appreciate if the City Council re-appoints me for the two-year term available for residents of the Housing Authority. Not only am I active in the public housing community, but have been a member of "Comite Civico Del Valle" and New River Commission and more importantly, as an advocate for the residents of the Housing Authority. As a resident I know the needs of the residents and would like to continue working towards the agency and residents goals and objectives.

Should you have any questions, please don't hesitate to contact me at (760) 768-1753.


Ema Rosa Silva

801 Nosotros Street
Calexico, CA 92231



CITY OF CALEXICO
APPLICATION FOR CITY COMMISSION
 And
STATEMENT OF QUALIFICATIONS

ALL APPLICANTS MUST EITHER RESIDE, BE EMPLOYED, OR REGISTERED TO VOTE IN THE CITY OF CALEXICO. PROOF IS REQUIRED WHEN SUBMITTING THIS APPLICATION.

APPLICATION IS FOR THE FOLLOWING COMMISSION:
 (A separate application is required for each commission)

Resident Commissioner

PERSONAL INFORMATION:

Name Raul Palomino
 Residence Address 1830 E 7th street
 Length of time at this Address: 5 E-mail address: same
 Home Phone No. 760-357-5249 Cell/Message Phone No. _____



Are you 18 years of age or older? older Are you registered to vote in the City of Calexico? yes

Do you currently serve as an elected or appointed official for any board and/or agency within the City of Calexico? no
 If yes, name of agency and position: _____

EDUCATION: Highest level of education completed: High School
 Name of Institution where Highest Level of Education was completed: Professor Cobawles Rincon
 Location of Institution: Mexicali Mexico

EMPLOYMENT INFORMATION / EXPERIENCE:

Name and Address of Employer (s)	Position Title	Dates of Employment
		<u>retired</u>

IMPORTANT: Read the following carefully and answer completely. A conviction is not an automatic bar to appointment. Each case is considered on its individual merits.

HAVE YOU EVER BEEN CONVICTED OF A FELONY OR MISDEMEANOR OTHER THAN A MINOR TRAFFIC VIOLATION? no
 If yes, Please list all offenses, date and place of offenses(s), and the sentence/fine received:

ACKNOWLEDGMENT/CERTIFICATION:
 I understand that upon filing, this application becomes a public record. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct

Palomino 8-26-2015
 Signature and Date

Do Not Write Below this Line – For City Use Only

Applicant furnished proof of eligibility requirements via:

Proof of residency: Yes No
 Proof of employment: Yes No
 Voter Registration Verification: Yes No

Appointment By: _____
 Term Expires: _____
 Date & Clerk Verifying: [Signature] 8/26/15

August 25, 2015

Mr Kim

Honorable Mayor
608 Heber Avenue
Calexico, CA 92231

Re: Housing Authority of the City of Calexico
COMMISSIONER APPOINTMENT

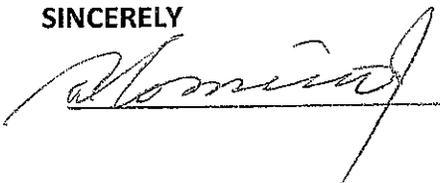
Dear Honorable Mayor

This letter serves to express my interest in to be appointed to the Housing Authority of the City of Calexico Board of Commissioners.

I would like to mention that being myself a Public Housing Resident. I know about the importance of having a good representation at Board Level if you allow me to continue serving on this Board. I will make my best effort to continue representing the benefits of all residents of the Housing Authority and the Community of the City of Calexico.

I really appreciated your consideration in the support of the present petition.

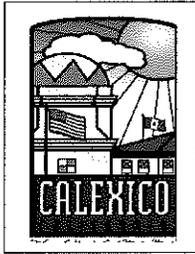
SINCERELY

A handwritten signature in black ink, appearing to read "Raul Palomino", written over a horizontal line.

Raul Palomino
830 Seventh Street, Calexico CA 92231
Telephone (760) 357-5249

**AGENDA
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AGENDA STAFF REPORT

DATE: September 15, 2015

TO: Mayor and City Council

APPROVED BY: Richard N. Warne, City Manager *RN*

PREPARED BY: Gabriela T. Garcia, Deputy City Clerk

SUBJECT: Appointment by Mayor and Council Members to Various Commissions, Boards and Committees

- a. Economic Development Commission – Appointments by Mayor Pro Tem Castro.
- b. Business Improvement District – Appointments by Mayor Kim, Council Member Hurtado and Council Member Moreno.
- c. Recreation Commission – Appointment by Mayor Kim
- d. Financial Advisory Board – Council Member Hurtado

=====

Recommendation:

Mayor and Council Members to make the following appointments to the following Commissions, Boards and Committees:

- a. Economic Development Commission – Appointments by Mayor Pro Tem Castro.
- b. Business Improvement District – Appointments by Mayor Kim, Council Member Hurtado and Council Member Moreno.
- c. Recreation Commission – Appointment by Mayor Kim
- d. Financial Advisory Board – Council Member Hurtado

Background:

At the meeting of August 18, 2015, Staff presented a report on the City Commissions, Boards and Committees and reported attendance by commissioners. Pursuant to Ordinance No. 1159 approved by the City Council on February 3, 2015 several commissioners forfeited their position on the commission by having three or more absences from regular commission meetings between March 2015 and June 2015. As a result, the above-mentioned positions were opened to the public and advertised by the City Clerk's office.

Discussion & Analysis:

City Clerk has advertised the positions on the Calexico website, City Hall and Camarena Library. Deadline to submit applications was set for September 4, 2015. As of September 4, 2015, no applications were received for any of the positions advertised.

Fiscal Impact:

None.

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Coordinated With:

None.

Attachment:

None.

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