

**AGENDA
ITEM**

11



AGENDA STAFF REPORT

DATE: August 18, 2021

TO: Mayor and City Council

PREPARED BY: Best Best & Krieger LLP, City Attorney

APPROVED BY: Miguel Figueroa, City Manager *MF*

SUBJECT: Introduction and First Reading by Title Only of An Ordinance Amending the City of Calexico Purchasing Policy & Procedures Regarding Change Orders

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Recommendation:

It is recommended that the City Council introduce and conduct a first reading by title only of:

Ordinance No. _____ An Ordinance of the City Council of the City of Calexico, California, Amending the City of Calexico Purchasing Policy & Procedures Regarding Change Orders

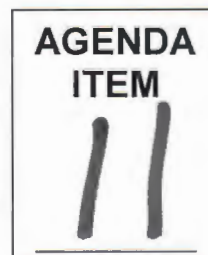
Discussion:

In order to clarify and improve the City’s change order process, the proposed Ordinance would amend the “Change Order” section of the City’s Purchasing Policy & Procedures to state:

“Change Orders

This section shall apply to Change Orders for Purchase Orders (supplies, services, and equipment) and public works contracts. All Change Orders shall comply with the relevant specifications and shall be approved in writing by the appropriate authority (i.e. City Council or City Manager) prior to the work being performed.

The City Manager or Finance Director shall have authority to approve Change Orders for Purchase Orders (supplies, services, and equipment) and public works contracts previously awarded by the City Manager or Finance Director, provided that



Change Orders aggregated with the original contract do not exceed \$24,999, subject to an unencumbered appropriation in the fund against which such expenditure is to be charged.

During the award of a contract by the City Council, the Council may give the City Manager the authority to approve Change Orders, specific to that contract, based on either a percentage of the contract or a specific dollar amount. If no specific authority is given by the City Council, the City Manager may approve Change Orders for a City Council awarded contract that do not exceed \$24,999, provided such Change Orders are within the approved contingency.

Change Orders in excess of the City Manager's authority may be approved by the City Manager and submitted to City Council for ratification under the following circumstance:

1. The failure to immediately issue a Change Order may result in significant project cost increases or an unacceptable project delay due to work stoppage or other inefficiencies;
2. A special meeting or a regularly scheduled meeting of the City Council is not scheduled within a reasonable period of time to sufficiently remedy the problem; and
3. Funding for the Change Order is currently available within the appropriated budget."

Coordinated With:

City Manager's Office.
City Attorney's Office.

Fiscal Impact:

No impact.

Attachments:

1. Ordinance _____ (Amended Purchasing Policy as Attachment "1").
2. Current Purchasing Policy & Procedures adopted February 20, 2019.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, AMENDING THE CITY OF CALEXICO PURCHASING POLICY & PROCEDURES REGARDING CHANGE ORDERS

WHEREAS, the City of Calexico ("City") adopted the City of Calexico Purchasing Policy & Procedures ("Purchasing Policy") on February 20, 2019 (Ordinance No. 1196); and

WHEREAS, the City Council wishes to clarify and improve the City's Purchasing Policy by amending the policy's section regarding Change Orders and restating the Purchasing Policy in its entirety.

The City Council of the City of Calexico, California, does hereby ordain as follows:

SECTION 1. Amendment to Purchasing Policy. The City of Calexico Purchasing Policy & Procedures is hereby amended, fully restated, attached hereto and incorporated herein as **Attachment "1."**

SECTION 2. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption.

SECTION 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional. If for any reason any portion of this Ordinance is found to be invalid by a court of competent jurisdiction, the balance of this Ordinance shall not be affected.

SECTION 4. Certification and Publication. The City Clerk of the City of Calexico shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted under California Government Code Section 36933.

SECTION 5. CEQA. The City Council finds that adoption of this Ordinance is not a "project," as defined in the California Environmental Quality Act because it does not have a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and concerns general policy and procedure making.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Calexico, California on the ____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

JAVIER MORENO, MAYOR

ATTEST:

GABRIELA T. GARCIA, CITY CLERK

APPROVED AS TO FORM:

CARLOS CAMPOS, CITY ATTORNEY

State of California)
County of Imperial) s.s.
City of Calexico)

I, Gabriela T. Garcia, City Clerk, hereby certify that the foregoing is a true copy of Ordinance No. _____, introduced at a regular meeting held on the 18th day of August 2021, and duly adopted by the City Council of the City of Calexico, California at a regular meeting thereof held the _____ day of _____, 2021.

AYES:

NOES:

ABSTAIN:

ABSENT:

GABRIELA T. GARCIA, CITY CLERK

ATTACHMENT "1"
AMENDED AND RESTATED PURCHASING POLICY

CITY OF CALEXICO PURCHASING POLICY & PROCEDURES

ISSUE DATE: Adopted on February 20, 2019 (Ordinance No. 1196)
 Effective on March 22, 2019
 Amended on _____, 2021

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 PURCHASING POLICY & PROCEDURES

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 - \$24,999 – Open Market

For Purchases of between \$2,500 and \$24,999 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 \$25,000 or More – Formal Bid

Purchases that exceed \$24,999 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

CITY OF CALEXICO PURCHASING POLICY & PROCEDURES

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
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.

CITY OF CALEXICO PURCHASING POLICY & PROCEDURES

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 \$24,999. City Council approval is required for the award of any cooperative purchase of \$25,000 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 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;

CITY OF CALEXICO PURCHASING POLICY & PROCEDURES

- b. Purchases in the amount of \$2,500 - \$24,999: Report to the Finance Director by processing requisition within one day;
 - c. Purchases of \$25,000 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 please

CITY OF CALEXICO PURCHASING POLICY & PROCEDURES

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 Council shall have the authority to reject any or all bids, 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,

CITY OF CALEXICO PURCHASING POLICY & PROCEDURES

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

This section shall apply to Change Orders for Purchase Orders (supplies, services, and equipment) and public works contracts. All Change Orders shall comply with the relevant specifications and shall be approved in writing by the appropriate authority (i.e. City Council or City Manager) prior to the work being performed.

The City Manager or Finance Director shall have authority to approve Change Orders for Purchase Orders (supplies, services, and equipment) and public works contracts previously awarded by the City Manager or Finance Director, provided that Change Orders aggregated with the original contract do not exceed \$24,999, subject to an unencumbered appropriation in the fund against which such expenditure is to be charged.

During the award of a contract by the City Council, the Council may give the City Manager the authority to approve Change Orders, specific to that contract, based on either a percentage of the contract or a specific dollar amount. If no specific authority is given by the City Council, the City Manager may approve Change Orders for a City Council awarded contract that do not exceed \$24,999, provided such Change Orders are within the approved contingency.

Change Orders in excess of the City Manager's authority may be approved by the City Manager and submitted to City Council for ratification under the following circumstance:

1. The failure to immediately issue a Change Order may result in significant project cost increases or an unacceptable project delay due to work stoppage or other inefficiencies;
2. A special meeting or a regularly scheduled meeting of the City Council is not scheduled within a reasonable period of time to sufficiently remedy the problem; and
3. Funding for the Change Order is currently available within the appropriated budget."

Informal and Formal Bid Process

Except as otherwise exempted in the policy, supplies, services and equipment with an estimated value of \$2,500 to \$24,999 shall be purchased following an Informal Bid Process and purchases of \$25,000 or more shall be made following a Formal Bid Process.

CITY OF CALEXICO PURCHASING POLICY & PROCEDURES

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. 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

CITY OF CALEXICO PURCHASING POLICY & PROCEDURES

- 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 -\$24,999	City Manager Approval
Contract of \$25,000 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.

CITY OF CALEXICO PURCHASING POLICY & PROCEDURES

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.

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 City employees or contract providers;
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.

EXHIBIT "A"
CITY OF CALEXICO PURCHASING POLICY & PROCEDURES

ISSUE DATE: Adopted on February 20, 2019 (Ordinance No. 1196)
 Effective on March 22, 2019

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.

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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.

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EXHIBIT "A"
CITY OF CALEXICO PURCHASING POLICY & PROCEDURES

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.

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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 \$25,000 or More – Formal Bid

Purchases that exceed \$24,999 require a Formal Bid Process and City Council approval. See Informal and Formal Bid Process.

Open Purchase Orders

EXHIBIT "A"
CITY OF CALEXICO PURCHASING POLICY & PROCEDURES

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.

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

EXHIBIT "A"
CITY OF CALEXICO PURCHASING POLICY & PROCEDURES

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 bid process. The City Manager may authorize the award of cooperative purchase agreements up to \$24,999. City Council approval is required for the award of any cooperative purchase of \$25,000 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 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 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

EXHIBIT "A"
CITY OF CALEXICO PURCHASING POLICY & PROCEDURES

- 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 - \$24,999: Report to the Finance Director by processing requisition within one day;
 - c. Purchases of \$25,000 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

EXHIBIT "A"
CITY OF CALEXICO PURCHASING POLICY & PROCEDURES

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 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.

EXHIBIT "A"
CITY OF CALEXICO PURCHASING POLICY & PROCEDURES

- 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 Council shall have the authority to reject any or all bids, 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.

EXHIBIT "A"
CITY OF CALEXICO PURCHASING POLICY & PROCEDURES

Informal and Formal Bid Process

Except as otherwise exempted in the policy, supplies, services and equipment with an estimated value of \$2,500 to \$24,999 shall be purchased following an Informal Bid Process and purchases of \$25,000 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. 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 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

EXHIBIT "A"
CITY OF CALEXICO PURCHASING POLICY & PROCEDURES

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 - \$24,999	City Manager Approval
Contract of \$25,000 or greater	City Council Approval

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

EXHIBIT "A"
CITY OF CALEXICO PURCHASING POLICY & PROCEDURES

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.

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:

EXHIBIT "A"
CITY OF CALEXICO PURCHASING POLICY & PROCEDURES

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 City employees or contract providers;
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.