

Malibu City Council
Administration and Finance Subcommittee
Special Meeting Agenda

Monday, October 20, 2025

1:00 P.M.

City Hall – Multi-Purpose Room
23825 Stuart Ranch Road

Mayor Pro Tem Bruce Silverstein
Councilmember Doug Stewart

Call to Order

Roll Call

Report on Posting of the Agenda – Thursday, October 16, 2025

Approval of Agenda

Public Comment *This is the time for the public to comment on any items not appearing on this agenda. Each public speaker shall be allowed up to three (3) minutes for comments. The Subcommittee may not discuss or act on any matter not specifically identified on this agenda, pursuant to the Ralph M. Brown Act.*

Discussion Items

1. Presentations/Staff Updates

None.

2. Old Business

None.

3. New Business

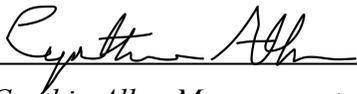
- A. Ordinance Amendment and Procurement Standards Update to Increase City Managers Purchasing Authority and Raise Small Purchase/Open-Market Purchases Procedure

Recommended Action: Provide a recommendation to the City Council to adopt an ordinance amendment and update the Procurement Standards Policy to increase the City Manager’s purchasing authority from \$25,000 to \$60,000 and raise the small purchase/open-market purchases procedure from \$5,000 to \$10,000.

Staff Contact: Richard Rojas, Deputy City Manager, Ext. 300

Adjournment

I hereby certify under penalty of perjury, under the laws of the State of California, that the foregoing agenda was posted in accordance with the applicable legal requirements. Special meeting agendas may be amended up to 24 hours in advance of the meeting. Dated this 16th day of October 2025, at 5:45 p.m.



Cynthia Alba, Management Analyst



Administration and Finance Subcommittee Agenda Report

To: Mayor Pro Tem Silverstein and Councilmember Stewart

Prepared by: Nicholas Sanchez, Interim Management Analyst

Reviewed by: Renée Neermann, Financial Controller

Approved by: Richard Rojas, Deputy City Manager

Date prepared: October 8, 2025 Meeting date: October 20, 2025

Subject: Ordinance Amendment and Procurement Standards Update to Increase City Managers Purchasing Authority and Raise Small Purchase/Open-Market Purchases Procedure

RECOMMENDED ACTION: Provide a recommendation to the City Council to adopt an ordinance amendment and update the Procurement Standards Policy to increase the City Manager's purchasing authority from \$25,000 to \$60,000 and raise the small purchase/open-market purchases procedure from \$5,000 to \$10,000.

FISCAL IMPACT: The increase to the City Manager's purchasing authority from \$25,000 to \$60,000 and raising the small purchase/open-market purchases procedure from \$5,000 to \$10,000 is not expected to have a direct fiscal impact on the City's budget. All expenditures will continue to be subject to existing budgetary constraints, internal controls, and procurement procedures.

STRATEGIC PRIORITY: This item was not included in the Adopted FY 2024-25 Strategic Priority Project List. At the Council's direction, this project can be brought back at a future Strategic Planning meeting for prioritization.

DISCUSSION:

Following an internal review of the City's recent disaster recovery efforts, staff identified limitations in the City Managers current purchasing authority as a barrier to timely response and recovery. The existing threshold of \$25,000, unchanged, since Malibu's

incorporation in 1991, has proven restrictive during emergency situations and routine operations.

City staff conducted a comparative analysis of purchasing authority levels in COG cities and cities with a similar population and budget structures. The findings indicate that Malibu’s threshold is significantly lower than those of peer municipalities.

The table below illustrates the City Manager’s purchasing authority across comparable cities based on population, budget, or geographic proximity.

| City | FY25-26 Estimated Adopted Expenditures | Population | City Manager Purchasing Authority |
|--------------------------|--|------------|-----------------------------------|
| City of Agoura Hill | \$20,853,000.00 | 19,000 | ≤\$25,000 |
| City of Calabasas | \$67,229,000.00 | 22,000 | ≤\$60,000 |
| City of Dana Point | \$67,889,000.00 | 32,000 | ≤\$35,000 |
| City of Hidden Hills | \$4,566,000.00 | 1,600 | ≤\$10,000 |
| City of Laguna Beach | \$162,105,000.00 | 23,000 | ≤\$75,000 |
| City of Malibu | \$110,319,000.00 | 10,000 | ≤\$25,000 |
| City of Manhattan Beach | \$193,134,000.00 | 33,000 | ≤\$75,000 |
| City of Menlo Park | \$77,541,000.00 | 33,040 | ≤\$93,000 |
| City of San Rafael | \$163,777,000.00 | 60,000 | ≤\$100,000 |
| City of Santa Monica | \$911,959,000.00 | 91,000 | ≤\$250,000 |
| City of Thousand Oaks | \$117,707,000.00 | 124,000 | ≤\$75,000 |
| City of Westlake Village | \$26,568,000.00 | 7,600 | ≤\$25,000 |

Note: Budget figures are rounded to the nearest thousand.

Additionally, when adjusted for inflation, the original \$25,000 City Manager purchasing authority established in 1991 equates to approximately \$60,000 today. Similarly, the original \$5,000 threshold for small purchase/open-market purchases procedure equates to approximately \$10,000 today.

The Subcommittee can take the following recommendations to City Council:

1. Increase the City Manager’s purchasing authority to \$60,000 and raise the small purchase/open-market purchases procedure threshold to \$10,000 to align with inflation and update related ordinances and procurement standards. (Staff’s recommendation)
2. Recommend an increase to the purchasing authority and small purchase/open-market purchase procedure determined by the Subcommittee.

ALTERNATIVES:

1. The Subcommittee can take no action and this item will be heard by the full City Council.

ATTACHMENTS:

- A. Ordinance Amendment Increasing Purchasing Authority and Small Purchase/Open-Market Purchases Procedure
- B. Procurement Standards Policy Update

ORDINANCE NO. XXX

AN ORDINANCE OF THE CITY OF MALIBU AMENDING MALIBU CODE SECTION 2.56.070, 2.56.110, AND 2.56.120 INCREASAEING THE PURCHASING AUTHORITY OF THE CITY MANAGER

The City Council of the City of Malibu does ordain as follows:

SECTION 1. Amendments

A. Section 2.56.070 of the Malibu Municipal Code is amended to read as follows:

“A. The purchasing officer is authorized to issue purchase orders and award contracts for supplies or services where the cost thereof does not exceed \$60,000.

B. Contracts or purchase orders for supplies or services involving a cost in excess of \$60,000 must be approved or awarded by the city council.

C. Notwithstanding subsections [A](#) and [B](#) of this section or any other provision of this chapter, the purchasing officer may purchase supplies or services having a cost in excess of \$60,000 in the event of emergency requiring the immediate preservation of the public peace, health or safety, and precluding action by the city council. In such instances, the purchasing officer shall submit to the city council at its next succeeding meeting a written report describing the circumstances of the emergency, the supplies or services purchased, and the cost thereof.”

B. Section 2.56.110 of the Malibu Municipal Code is added to read as follows:

The purchase of supplies or services having a cost of less than \$10,000 can be made without a purchase order by the purchasing officer or other employee of the city having authorization from the purchasing officer to do so. A petty cash fund can be used for such purchases.

C. Section 2.56.120 (a) & (b) of the Malibu Municipal Code is added to read as follows:

A. Purchases of supplies or services having a cost of \$10,000 or more but less than \$25,000 may be made in the open market without formal competitive bidding procedures, if authorized by either the purchasing officer or the city council as provided in Section [2.56.070](#) of this chapter.

B. Open market purchases involving a cost of \$10,000 or more shall, whenever possible, be based upon at least three informal price quotations and shall be awarded on the basis of the price quotation most advantageous to the city. The purchasing officer may solicit price quotations either orally or in writing, or may utilize price information on file with the city or available elsewhere.

SECTION 2. The City Clerk shall certify the adoption of this ordinance.

PASSED, APPROVED AND ADOPTED this ____ day of ____ 2025.

MARIANNE RIGGINS, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

Date: _____

APPROVED AS TO FORM:

TREVOR RUSIN, Interim City Attorney



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PURPOSE

To comply with the Malibu Municipal Code sections 2.56 “*Purchasing System*” and 2.60 “*Informal Bidding on Public Works Projects*” for the procurement of services, supplies, material, or labor, including capital improvements projects, and to implement changes necessary to conform with the federal procurement requirements set forth in the Office of Management and Budget’s Uniform Guidance codified at 2 CFR Sections 200 *et seq.*

OBJECTIVE

- To ensure the City’s existing procurement policies incorporate and comply with local ordinances and state and federal regulations.
- To ensure all procurement solicitation clearly and accurately describe the City’s minimum requirements and to assure the quality of supplies and services purchased by the City.
- To monitor contractors to ensure they perform in accordance with the terms, conditions, and specifications of their contracts and/or purchase orders.
- To have written policies about conduct of City’s employees involved in the selection, award, and administration of contracts.
- To detail the City’s conflict of interest policies to prevent unfair or noncompetitive awards being provided and include disciplinary actions for any violations of the conflict-of-interest standards.
- To make the most efficient and effective approach to purchases, avoid unnecessary or duplicative purchases, and to utilize intergovernmental contracts when appropriate
- To maintain documentation to support the history of the procurement and explain the procurement methodology, including contractor selection or rejection and the basis for contract price.

DEFINITIONS

For the purposes of this Policy, the following words and phrases shall have the meanings respectively ascribed to them by this section, unless the context or the provision clearly requires otherwise:

“Brand name” means a product, item or material described by reference to its manufacturer’s name or catalogue number.



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“Brand name or equal specification” means a contract or purchase order specification containing a brand name to describe the nature, standard of quality, performance, and other characteristics needed to meet the City’s requirements, and which provides for the submission of equivalent products.

“Cost,” as applied to a single transaction for the purchase of supplies or services, means the total amount to be expended by the City, exclusive of sales or use taxes.

“Services” means and includes labor, professional services and consulting services. Services shall not include incidental labor such as set-up, testing, and maintenance of supplies where the primary purpose is to purchase the supplies.

“Supplies” means and includes all materials, supplies, equipment, products, and other items of tangible personal property.

POLICY

I. Exclusions

Pursuant to MMC section 2.56.030, the types of transactions described below are excluded from the provisions of this City’s Purchasing System:

- The award of contracts for public projects governed by the provisions of the California Public Contract Code or the provisions of the City’s informal bidding ordinance contained in MMC section 2.60;
- The award of contracts governed by any state or federal law which prescribes a different procedure;
- The granting by the City of franchises, rights, privileges, licenses or permits;
- The purchase of utilities, including, but not limited to, electricity, water, gas, or telephone service;
- Employment contracts or collective bargaining agreements with any employees of the City;
- The purchase of insurance, including coverage provided by any self-insurance pool in which the City is a participant;
- The extension or renewal of any existing contract for technical or professional services to be performed by consultants, unless the City Council elects to award a new contract pursuant to this Policy;



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- Contracts for technical or professional services to be performed by consultants, where the cost thereof will be paid in advance by a person applying to the City for a permit, license or other approval;
- Contracts for educational, recreational, travel, or entertainment services furnished by independent contractors or consultants, where the total cost thereof is paid by the persons utilizing the services;
- Contracts for supplies or services to be furnished by any other public agency;
- The purchase of supplies or services made in compliance with the terms and conditions of any grant, gift or bequest to the City that is otherwise consistent with law.

II. Centralized Purchasing System—Purchasing Officer

Except as otherwise provided by this section, all purchases of supplies and services shall be centralized under the Purchasing Officer. The City Manager is appointed as the Purchasing Officer for the City and Officer shall have authority to:

- Procure or supervise the procurement of all supplies and services needed by the City, in accordance with the procedures prescribed in this Policy and any administrative rules and regulations as may be adopted by the Purchasing Officer pursuant hereto;
- Exercise direct supervision over the City's central stores and general supervision over all other inventories of supplies belonging to the City;
- Establish or supervise the establishment of specifications for supplies and services required by the City;
- Inspect or supervise the inspection of all supplies purchased by the City to insure quality, quantity, and conformance with the minimum specifications, and require any tests necessary to determine quality and conformance with specifications;
- Prepare and adopt administrative rules and regulations not in conflict with the provisions of this Policy and all applicable laws for the purpose of implementing the purchasing system established hereunder; and
- Sell, trade or otherwise dispose of surplus supplies, in accordance with the provisions of this Policy and all applicable laws.

The Purchasing Officer may authorize any department head to investigate, solicit bids, or negotiate the purchase or award of contracts for or services independently of the centralized purchasing system, provided that all such



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actions shall be done in conformity with the procedures prescribed by this Policy or by duly adopted administrative rules and regulations pertaining thereto.

The City Council may, by resolution, delegate the authority of the Purchasing Officer to the subordinate of the City Manager responsible for the financial management of the City.

III. Contracting with Small Businesses, Minority-owned Businesses, Women-owned Businesses, and Labor Surplus Area Firms

The procurement standards also emphasize contracting with small businesses, minority-owned businesses, women-owned business enterprises, and labor surplus area firms, as defined below. (2 CFR § 200.321.) The City must use these firms when possible. Methods for inclusion include placing these businesses on the vendor list, soliciting pricing from them when they are potential sources, breaking up projects or orders into smaller tasks to permit participation by these firms or requiring contractors to follow these guidelines for subcontracts.

Generally, the Small Business Administration defines a small business as one that is independently owned and operated, is organized for profit, and is not dominant in its field. "Small business" is more precisely defined by the size standards established for different types of economic activity or industry; these size standards are updated annually in the Federal Register. (13 CFR § 121.101.) Certification is required.

Minority-owned businesses are for-profit enterprises, regardless of size, owned, operated and controlled by someone who is either Asian, Black, Hispanic and Native American. (40 CFR § 33.103.) Ownership and control are specifically defined in 13 CFR 124.105 and 13 CFR 124.106, respectively. Certification is required.

Women-owned business enterprise is a business concern which is at least 51% owned or controlled by women. (40 CFR § 33.103.) Certification is required.

Labor surplus area firms are business that, together with first-tier subcontractors, will substantially perform in labor surplus areas. (40 CFR § 33.103.) The list of civil jurisdictions that qualify as labor surplus areas is published each year by the Department of Labor's Employment and Training Administration. (See 20 CFR part 654.)

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METHODS OF PROCUREMENT

As described below, the five procurement methods provided for in this Policy are contingent on the cost of the item(s) being purchased. Documentation must be kept to support any procurement methodology or decision, e.g., maintain printouts of internet searches for quotes or documenting in a memo the reasons for acceptance or rejection of bidders in sealed bids or competitive proposals.

I. Micro-Purchase Procedure

The “Micro-purchase” procedure is the method used to expedite the completion of its lowest-dollar, small purchase transactions and to minimize the associated administrative burden and cost. A micro-purchase is one in which the **aggregate** dollar amount does not exceed the threshold defined in OMB’s Uniform Guidance. (See 2 CFR § 200.320(a).) Micro-purchases can be made by the Purchasing Officer or other authorized City employee without a purchase order, cost or price analysis, or bid if management determines that the price is reasonable. A petty cash fund can be used for such micro-purchases. The Purchasing Officer must sign the invoice as confirmation of receipt of supplies, materials or services and approval of the expense amount.

II. Small Purchases/Open-Market Purchases Procedure

A “small purchase” is the procedure for making purchases above the micro-purchase threshold, but below the Simplified Acquisition Threshold, as defined in OMB’s Uniform Guidance. (2 CFR § 200.320(b).) The method is meant to be simple and informal, and must be authorized by either the Purchasing Officer or the City Council as provided in MMC section 2.56.070.

Price or rate quotes must be obtained from an adequate number of qualified sources, but no cost or price analysis is required. Quotes may be obtained from a variety of simple sources (internet search, vendor price listing, verbal quotes, etc.), and a purchase order may be required. Whenever possible, any purchase involving a cost of ten thousand dollars (\$10,000) or more shall be based upon at least three informal price quotations and shall be awarded on the basis of the price quotation most advantageous to the City. The Purchasing Officer may solicit price quotations either orally or in writing, or may utilize price information on file with the City or available elsewhere.

Purchase Orders. Notwithstanding the “Small Purchases” provision within this Policy, purchases of supplies or services having a cost of ten thousand

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dollars (\$10,000) or more shall be made only by purchase orders signed by the Purchasing Officer or their designee. Nothing herein shall preclude the use of authorized petty cash funds for purposes intended by their establishment.

However, purchase orders may be issued regardless of amount when required by the vendor or when the complexity of the contract demands a formal document. Purchases or vendor contracts of \$60,000 or more are approved by the City Council. Prior to year-end, Finance staff shall review all the purchase orders to be closed or carried over to the new fiscal year. (MMC § 2.56.050.)

Availability of Funds. Except in case of an emergency, the purchasing officer shall not issue any purchase order for supplies or services unless there exists an unencumbered appropriation in the fund account against which such purchase is to be charged. The appropriate account and funds shall be encumbered immediately after the issuance of the purchase order. (MMC § 2.56.060.)

Authorization for Purchase Orders and Contracts—Emergencies. The Purchasing Officer is authorized to issue purchase orders and award contracts for supplies or services where the cost thereof does not exceed sixty thousand dollars (\$60,000). Contracts or purchase orders for supplies or services involving a cost in excess of sixty thousand dollars (\$60,000) must be approved or awarded by the City Council.

Notwithstanding subsections A and B of this section or any other provision of this Policy, the Purchasing Officer may purchase supplies or services having a cost in excess of sixty thousand dollars (\$60,000) in the event of emergency requiring the immediate preservation of the public peace, health or safety, and precluding action by the City Council. In such instances, the Purchasing Officer shall submit to the City Council at its next succeeding meeting a written report describing the circumstances of the emergency, the supplies or services purchased, and the cost thereof. (MMC § 2.56.070.)

III. Sealed Bids

A. Formal Bidding Procedure

Pursuant to MMC section 2.56.140 and 2 CFR section 200.320(c), the following method shall be followed for Sealed Bids/Formal Bidding Procedure:



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Notice Inviting Bids. Notices inviting bids shall include a general description of the supplies or services to be purchased, the place where bid forms and specifications can be obtained, the time and place for opening bids, whether a bid deposit or bond will be required, and whether a performance bond will be required. The notice shall be published at least once, not less than ten (10) days prior to the date set for final receipt of bids, in a newspaper having general circulation in the City, and shall be posted at the City Hall location used for the posting of legal notices. Notices shall also be sent to persons who have submitted a written request to the City to be notified of such bidding opportunities, and notices may be sent at the discretion of the purchasing officer to any additional persons.

Bidder's Security. When deemed necessary by the purchasing officer, bids shall be accompanied by a bidder's security in the form of a cashier's check, certificate of deposit, money order, or unconditional an irrevocable letter of credit, payable at sight to the City, or a surety bond in favor of the City, in such amounts as determined by the purchasing officer to be adequate for protection of the City's interests. Bidders shall be entitled to return of their bid security. A successful bidder shall forfeit his or her bid security upon failure or refusal to execute a contract within ten (10) days after mailing the notice of the award, unless the City is responsible for the delay. The City Council may, on failure or refusal of the successful bidder to execute the contract, award it to the next lowest responsible bidder, in which event, the lowest bidder's security shall be applied by the City first to the difference between the low bid and the second lowest bid, then toward payment of any other costs, expenses or damages incurred by the City as a result of such failure or refusal, and the balance of the security, if any, shall be returned to the lowest bidder.

Bid Opening Procedure. Sealed bids shall be submitted to the purchasing officer and shall be identified as bids on the envelope. Bids received after the deadline for submitting the same shall not be accepted and shall be returned to the bidder unopened. The bids shall be opened in public at the time and place stated in the public notice. All opened bids shall be available for public inspection during regular business hours from the time of bid opening until the contract has been awarded by the City Council.

Rejection of Bids. If, in the opinion of the City Council, none of the bids is satisfactory, the Council may reject all bids and either purchase the supplies or services in the open market or re-advertise for new bids.



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Award of Contract. Except as otherwise provided herein, a contract shall be awarded to the lowest responsible bidder, taking into consideration the criteria listed in MMC section 2.56.090.

Tie Bids. If two or more bids received are for the same total amount or unit price, quality and service being equal, and if a delay for re-advertisement would not be in the public interest, the City Council may accept the bid it chooses or it may accept the lowest bid made by negotiation with the tie bidders at the time of the bid opening.

Performance Bond. The City Council may require that a performance bond be furnished before entering into a contract with a successful bidder. The performance bond shall be in a form satisfactory to the City Attorney. The performance bond amount will be satisfactory to the purchasing officer and in compliance with the contract specifications.

Waive Irregularities. The City Council may waive any minor irregularities in the bids, based upon a determination that the same have no material impact upon the bidding process or other bids submitted.

No Bids. If no bids are received in response to the notice inviting bids, the City Council may proceed to purchase the supplies or services without further competitive bidding.

Exceptions to the Seal Bids/Formal Bidding Procedure. A contract for the purchase of supplies or services involving a cost of twenty-five thousand dollars (\$25,000) or more may be awarded by the City Council without competitive bidding in each of the following cases:

- i. Where the City Council determines that the immediate preservation of the public peace, health or safety requires the purchase to be made without competitive bids;
- ii. Where the supply or service required by the City can only be obtained from a single source;
- iii. Where the contract is for specialized or professional services such as, but not limited to, services rendered by architects, engineers, attorneys, appraisers, geologists, and other specialized consultants;
- iv. Where the City Council determines that use of the competitive bidding process is impracticable or impossible, or would not be likely to result in a lower price to the City from a responsible bidder, or would cause unnecessary expense or delay under the circumstances;

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- v. Where the City Council utilizes the request for proposal method of purchase, as set forth in MMC section 2.56.150.

B. Informal Bidding Procedure for Public Works Projects

Pursuant to MMC section 2.60, the following method shall be followed for Sealed Bids/Informal Bidding Procedure for Public Works Projects.

Definition. In addition to the definitions provided in this Policy, additional definitions provided in MMC section 2.60.020 apply to the Informal Bidding Procedure for Public Works Projects.

Applicability. This Procedures applies to public projects with a cost in excess of the dollar amount specified in Public Contract Code section 22032(a), but not exceeding the dollar amount specified in Section 22032(b). Any public project with a cost less than the dollar amount specified in Section 22032(a) may be performed by the employees of the city by force account, by negotiated contract, or by purchase order as authorized by Section 22032(a), unless the City Council shall specifically direct that the provisions of this chapter be followed with respect to such project.

The provisions of this chapter shall in no way restrict the right of the city to perform all necessary repair or replacement work in cases of great emergency, without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts, as authorized by and in accordance with the procedures set forth in of the Public Contract Code Section 22035.

List of Qualified Contractors. The City shall maintain a list of qualified contractors, identified according to categories of work. The list shall be developed and maintained in compliance with such minimum requirements as may be specified from time to time by the Commission. The public works director is designated as the City official having primary responsibility for preparation and maintenance of the list of qualified contractors.

Notice Inviting Informal Bids. Where public project is to be performed which is subject to the provisions of this Policy, the public works director shall mail a notice of work to be bid to the List of Qualified Contractors, as described in MMC section 2.60.040, and to all construction trade journals for the category of work as determined by the commission pursuant to Public Contract Code section 22036.

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All mailing of notices to contractors and construction trade journals pursuant to subsection A of this section shall be completed not less than ten (10) calendar days before bids are due.

The notice inviting informal bids shall describe the public project in general terms, shall indicate the name, address and telephone number of the person from whom detailed information concerning the project can be obtained, and shall state the time and place for the submissions of bids.

If there is no existing list of qualified contractors maintained by the City for the particular category of work to be performed, the notice inviting informal bids shall be sent only to the construction trade journals specified by the commission. If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclusively to such contractor or contractors.

Award of Contracts. Contracts on which informal bids have been obtained shall be awarded in accordance with the same policies and standards customarily followed by the City for public projects requiring formal bids. For contracts based on informal bids, in particular, consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. (2 CFR § 200.318(h).)

The City Council may, by resolution, delegate to the City Manager or the public works director or other designated employee of the City the authority to award any particular contract for which informal bids will be obtained.

IV. Competitive Proposal/Request for Proposals Procedure

This procedure is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. (2 CFR § 200.320(d).) Pursuant to MMC section 2.56.150, the City Council may utilize this method of purchasing supplies or services upon a determination that competitive bidding is not practical or advantageous to the city because:

- Quality, capability, performance or qualification is overriding in relation to price;
- Delivery, installation, service, maintenance, reliability or replacement is overriding in relation to price; or



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- In the opinion of the City Council, the marketplace will respond better to a solicitation permitting a range of alternative proposals or evaluation and discussion of proposals before entering the contract.

Requirements. Proposals shall be solicited in such manner as directed or approved by the City Council, but must be solicited from an adequate number of qualified sources. The identity of persons responding to the request for proposals and the content of proposals submitted to the city may be kept confidential during the process of negotiation and until a contract is awarded.

Requests for Proposals must be publicized and identify all evaluation factors and their relative importance. Discussions may be conducted with responsible offerors and revisions to proposals, based upon such discussions, may be accepted. Any response to publicized requests for proposals must be considered to the maximum extent practical.

The contract award shall be based upon the proposal determined by the City Council to be most advantageous to the city, taking into consideration price and the evaluation factors set forth in the request for proposals.

The City Council may reject any and all proposals if such rejection is deemed to be in the best interests of the city. The Council may thereupon direct that proposals be solicited or utilize any other purchasing method set forth in this Policy.

V. Noncompetitive Proposal/Sole Source Procedure

Procurement by noncompetitive proposal is used when the items are only available from a single source. (2 CFR § § 200.320.) One or more of the following circumstances must apply:

- Item is available from only one source
- Public emergency will not permit a delay resulting from competitive solicitation
- Awarding agency has expressly authorized a noncompetitive process, or after solicitation of a number of sources
- After solicitation of a number of sources, competition is deemed inadequate



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Sole Source Justification. Under the OMB's Uniform Guidance (2 CFR § 200.320), when a purchase is made under this exception, a written justification is required and must be maintained with the procurement records. The justification must answer the following questions:

- Why is this purchase necessary? Explain why this contract could not be competitively bid.
- Why was this vendor selected? Does the City have prior experience with the vendor? Is the service to be provided unique or proprietary in nature?
- How was a fair price established? Provide details and supporting documentation about the vendor's competitors and pricing.
- What would happen if this exception was not approved? Clarify ramifications of not taking action, including the delay involved in the formal bidding procedure.

Use of Brand Names. Pursuant to MMC section 2.56.080, the Purchasing Officer may determine that an article of a specified brand or trade name is the only article that will properly meet the needs of the City. Specifically, brand name or equal specifications may be used when the Purchasing Officer determines one of the following:

- a. No other design or performance specification or products list is available; or
- b. Time does not permit the preparation of another form of purchase description which does not include a brand name specification; or
- c. The nature of the product or the nature of the city's requirements makes use of a brand name or equal specification suitable for the procurement; or
- d. Use of a brand name or equal specification is in the city's best interests.

Where a brand name or equal specification is used in a solicitation, the solicitation shall state that substantially equivalent products to those designated will be considered for award. Additionally, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of

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describing the standard of quality, performance and characteristics desired and is not intended to limit or restrict competition.

CONFLICTS OF INTEREST

Pursuant to City Administrative Guideline No. 3.4.1, no City employee, officer, or agent may participate in the selection, award, or administration of a contract if he or she has a real or apparent conflict of interest. (See also 2 CFR § 200.318 (c).) Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

The City requires full disclosure for the positions which participate in making decisions that may foreseeably have a material effect on financial interests. (City Resolution No. 18-12.) These “designated positions” must file Statement of Economic Interests with the City Clerk. The City Clerk will perform the duties of filing officer for the City of Malibu and will maintain the original filings in the City Clerk’s office. Full Disclosure includes all interests in real property in the City of Malibu, as well as investments, business positions, and sources of income, including gifts, loans, and travel payments.

The following are examples of conduct that the City deems to be conflicts of interest and as such are prohibited:

Favoritism. No employee shall engage in any transactions or have any personal or financial interest, direct or indirect, which would lead the objective, reasonable person to believe the independence of judgment or action in the performance of official duties is or could be impaired.

Incompatibility. Engaging in private employment or rendering services for private interests when incompatible with the proper discharge of official duties;

Judgment. Engaging in activities that give the appearance that independence of judgment or actions in the performance of official duties are or could be impaired.

Improper Use of Position. Without legal authorization, using official influence, insignia of office or disclosing information, either confidential or not generally known or readily available to the public, concerning the property or



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business of the City for the purpose of furthering or influencing any private interest.

Influence. Appearing on behalf of or attempting to influence any unit, committee or official body of the City for the benefit of any private interest except for appearances by the employee as a member of the general public for self-representation on matters related solely to his or her personal interests.

Personal Financial Gain. Knowingly participate in any City decision that could affect his or her personal or financial interests. Upon learning of a possible conflict pursuant to this paragraph, the employee must immediately make such facts known to his or her supervisor and/or the Administrative Services Director.

Gifts and Favors. Soliciting or accepting, in the course of employment, directly or indirectly for the employee's personal use, any gift, gratuity, favor, discount not available to all City employees; entertainment, loan, or other things of value. (See the City's Administrative Guideline on Acceptance of Gifts.)

A. Conflicts of Interest and Consultants

Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation: The City Manager may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination must include a description of the consultant's duties and, based upon the description, a statement of the extent of disclosure requirements. The City Manager's determination is a public record and must be retained for public inspection in the same manner and location as this Conflict of Interest Code.

B. Disciplinary Action

Prior to the suspension, demotion, reduction in pay, or termination of a regular employee for disciplinary purposes ("disciplinary action"), the City will comply with the procedure set forth in City Administrative Guideline No. 3.5.1. A conflict of interest by a City employee could result in any of the following disciplinary actions including, but not limited to:

- failure to perform or properly perform assigned duties;
- violation of administrative policies and procedures or these Rules;



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- insubordination;
- excessive tardiness;
- unauthorized absence from employment;
- abuse of leave privileges;
- acceptance of money or favors from anyone for the performance of any act which is required or expected during the performance of regular City duties;
- falsification of an application for employment or of any other information provided to the City;
- use of employee's official position or of the City's time, facilities, equipment or supplies for personal gain or advantage;
- disclosure of confidential information acquired by or available to the employee in the course of employment with the City, or use of confidential information for personal gain;
- reporting for work, or being at work under the influence of or in possession of alcohol or non-prescribed controlled substances; or being at work in possession of non-prescribed controlled substances;
- conviction of a felony, or conviction of a misdemeanor relating to the employee's fitness to perform assigned duties;
- theft or improper use of City funds or property;
- failure to work satisfactorily with other employees or the public in a responsible and courteous manner; or
- sexual harassment or other unlawful harassment of another employee or a member of the public.

For additional information and guidance on Conflicts of Interest, refer to the City's Administrative Guideline No. 3.4.1 "Employee Conduct, Ethical Standards, & Conflict of Interest".

RECYCLED PAPER

The Purchasing Officer shall establish and maintain procedures and specifications for the purchase of paper and paper products which give preference to the purchase of recycled paper and paper products containing recycled paper, whenever such products are available at no more than the total cost of unrecycled paper and paper products and when fitness and quality are equal. Additionally, the purchasing officer may provide a preference to the suppliers of recycled paper or paper products equal to five percent of the lowest bid or price quoted by suppliers offering unrecycled paper or paper products.

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The term “recycled paper,” as used in this section, shall have the same meaning as defined in Public Contract Code section 10391.

JOINT PURCHASE WITH OTHER AGENCIES

Notwithstanding any other provision of this Policy, the Purchasing Officer may issue a joint purchase order together with any other city, county, or public agency in the state for the purchase of supplies or services. The specifications for such supplies or services shall have been approved by the Purchasing Officer if the cost thereof is less than sixty thousand dollars (\$60,000), or by the City Council if the cost thereof is sixty thousand dollars (\$60,000) or more. At least one of the other agencies shall have solicited or advertised for bids in a manner similar to the applicable procedures set forth in this Policy.

DISPOSAL OF PERSONAL PROPERTY

The Purchasing Officer shall have authority to dispose of personal property of the City which cannot be used by any department or has become obsolete or worn out. The disposition may be accomplished by negotiated sale, public auction, exchange or trade-in for other supplies or, upon a determination by the purchasing officer that the property has no commercial value, by abandonment, destruction or donation to a public body or a nonprofit charitable or civic organization. The disposition of any property having a value of five hundred dollars (\$500) or more shall first be authorized by the City Council. All surplus property shall be sold or donated on an “as-is” basis. Sale of surplus property shall first be offered for purchase to City employees and residents of Malibu. Property offered for sale to the general public shall be done through a bid process. If no bids are received, other methods of disposal as determined by the purchasing officer shall be employed.

PURCHASING WITH A CITY CREDIT CARD

Credit cards should never be used to circumvent established competitive purchasing procedures. (City Administrative Guideline No. 6.2.) This means no purchases for goods or services should be made in excess of \$25,000 that would otherwise require competitive bidding. Credit cards may be used in paying for travel expenses; however, the City’s Travel Policy still applies to all such credit card payments.

Charging personal expenses on City cards is a misuse of City funds and a serious breach of the City’s ethics policy. **Employees may not use City credit**

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cards for personal expenses, even if the intent is to reimburse the City later. The use of City credit cards for personal expenses will result in disciplinary action, up to and including termination.

Department specific regulations may further restrict the use of credit cards. Department Heads are responsible for all disciplinary action surrounding misuse of cards, including requesting cancellation of card privileges. The following list covers purchases for which credit card use is expressly prohibited, unless approved in advance by the employee's Department Head:

- Cash advances
- Services
- Rentals, EXCEPT for small equipment and not exceeding a week in duration
- Machinery that requires a maintenance agreement
- Items available from vendors that give us a citywide discount
- Air phone
- Wire transfers, Money Orders
- Direct Marketing Insurance Services
- Financial Institutions: Manual Cash Advances
- Financial Institutions: Automatic Cash Advances
- Non-Financial Institutions: Foreign Currency, Money Orders, Travelers Checks
- Security Brokers/Dealers
- Overpayments
- Savings Bonds
- Timeshares
- Betting, Casino Gaming Chips, Off-Track Betting
- Political Organizations
- Court Costs, Alimony, Child Support
- Fines
- Bail Bonds and Payments
- Tax Payments/Government Loan Programs