



**MEETING DATE:** June 26, 2024

**FROM:** Susan Scarlett

**RE:** Purchasing Policy Update and Resolution NO. 2585

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**BACKGROUND:**

In 1978 Ordinance 172, (codified in Chapter 3.24 of the Portola Municipal Code ) adopted Policies and Procedures for the Purchase of Supplies and Equipment as Exhibit A, the Operational Procedures for Purchasing Materials, Supplies and Equipment and Public Works Improvements pursuant to Government Code Section 54203.

In 1998 Ordinance 275 re-stated Chapter 3.24 of the Municipal Code to allow changes to the Policies and Procedures to be changed by resolution but no changes were made to the policy at that time.

This Policy revision is being made to update the Purchasing policy to current limits. The dollar limits in the policy had not been updated in 46 years.

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**EXECUTIVE SUMMARY:**

In researching the purchasing limits of other Cities it was found that the City of Portola's limits were well below those of other places. If you consider the inflation rates over the last 50 years you will see that the overall price increase is 903.96 %. What was \$100 would now be \$1,000.

The changes being made include

- Changing the term City Administrator to City Manager
- Deleting references to purchase orders except where required by a vendor
- Increasing the limit up to \$30,000 before having to go out to bid and within that limit allowing items under \$10,000 to be purchased without the need for multiple quotes and items \$10,000 up to \$30,000 to purchased using three quotes unless sole source is determined.

The limit for Public Works projects stays the same as it is governed by California law.

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**RECOMMENDATION:**

Staff recommends adopting Resolution NO. 2585 adopting the updated Policies and Procedures for the Purchase of Supplies and Equipment as Exhibit A, the Operational

**FISCAL IMPACT:**

Possible saving on staff time due to increase bid limit dollar amount

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**ATTACHMENTS:**

- A. CITY OF PORTOLA PURCHASING POLICY
- B. RESOLUTION PURCHASING POLICY UPDATE

## EXHIBIT A

### OPERATIONAL PROCEDURES FOR PURCHASING MATERIALS, SUPPLIES, PARTS, & EQUIPMENT AND PUBLIC WORKS IMPROVEMENTS

#### PURPOSE

Purpose. These operational procedures are established pursuant to the Purchasing Policies adopted by the City Council and California Government Code section 54203. They govern the manner in which the City of Portola procures the materials, supplies, services, equipment, public works and improvements necessary for a fully functioning municipal government. In the event of any conflict with state statutes, grant requirements and/or other laws, codes, rules and regulations and these procedures, the former shall control. These guidelines are authorized by Ordinance No. 172, 1978 and Ordinance No. 275, 1998.

These guidelines are to protect and advance the public interest by providing for fair and equitable treatment of all persons involved in the purchasing process, by maximizing the value of public funds and by providing safeguards for maintaining a purchasing system of quality and integrity.

#### OBJECTIVES

- (a) To ensure the fair and equitable treatment of all persons who deal with the procurement system of the City.
- (b) To buy the right material of the right quality and in a proper quantity at the right time from the proper source.
- (c) To reduce the overhead cost of buying by reducing the volume and streamlining the flow of paperwork.
- (d) To seek values that offers the best combination of price, quality and service.
- (e) To seek purchasing savings by consolidating intra-departmental and inter-departmental requirements and making volume purchases when cost effective.

#### DEFINITIONS

As used in this document, unless the context requires otherwise:

"Addendum" means something added and/or supplemented. An addendum is usually used when a Request for Bid requires clarification to the original published document.

"Alternate" An offer to provide goods and/or services which deviate with respect to features, performance or use from the goods and/or services specified as standard whether or not such deviation constitutes an improvement.

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"Amendment" means correction and/or alteration. An amendment is usually used to extend the term of a contract.

"Bid" means an offer to provide goods and/or services to the City in response to a formal solicitation.

"Council" means the City Council of the City of Portola.

"Change Order" means a written order authorizing a change in either plans, specifications, or quantities within the scope of the original contract.

"Competitive bidding" means the issuing of invitations to bid which follows the formal process for advertising, bid and bid opening required by State Statute.

"City means the City of Portola, a California Municipal Corporation.

"Craft, multiple" means the use of more than one trade or craft in the completion of a project, i.e., electrical, plumbing, carpentry.

"Craft, single" means the use of only one trade or craft in the completion of a project.

"Design-Build" means contracts are single contracts, which provide for both the design and the construction of a project. The contractor, or a joint venture between a contractor and an architect or designer, is responsible for designing the project and then building it. The advantages are assumed to be a single point of responsibility to whom the City can look (the designer and builder cannot blame each other for ultimate defects) and possibly lower overall costs. While some cities have used this type of contract, there is no legal authority, which would permit its use when the city is subject to the requirements its public works projects be awarded to the lowest responsible bidder. Since no two contractors would propose the exact same building, it is impossible to determine which is offering the lowest price.

"Emergency Purchase" means a purchase made in response to unforeseen circumstances beyond the control of the City when there exists a threat to public health, welfare, or safety or where the City may suffer a substantial monetary loss by reason of the time required to follow regular purchasing procedures. Competitive bidding may be waived if the legislative body make a finding by a four-fifths vote that an emergency exists. (California Public Contract Code 20168)

"Equal" An offer to provide goods and/or services, which equal or exceed the quality, performance and use of the goods and/or services specified as standard.

"Force account" means the use of the City's employees to complete a project.

"Prevailing Wage" (a.k.a. per diem wages) per Labor Code 1770, the California Supervisor of Industrial Relations has specified the general prevailing wage rates for all public projects in California.

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"Professional Services Agreement means an agreement for services where the work provided is mental in nature, as opposed to physical labor. The product is generally not tangible, i.e., legal services, consulting services.

"Public Project" is defined for bidding purposes as: (1) the erection, improvement, painting, or repair of public buildings and works; (2) work in streams, bays, etc., (3) street or sewer work EXCEPT maintenance or repair; (4) furnishing supplies or materials for any such project, including maintenance or repairs of streets or sewers.

"Recyclable Product" means a product which is manufactured of materials that can be recycled into a different product, i.e., aluminum, paper, glass.

"Recycled Product" means a product, which is made of materials, which have been recycled from a previous use.

"Request for Bid" (RFB) means the solicitation of competitive offers in which specification, price and delivery, (or project completion) will be the predominant award criteria.

"Request for Proposal" (RFP) means the solicitation of competitive proposals, or offers, to be used as a basis for making an acquisition, or entering into a contract when specification and price will not necessarily be the predominant award criteria. Also includes as preliminary phases of an RFP process, the "Request for Qualifications" (RFQual) and "Letter of Intent" (LOI) processes.

"Request for Qualifications" (RFQual) means the solicitation of statements of qualifications and performance data from architects, engineers, architectural landscaping and consulting professional firms. This process is used in conjunction with firms performing professional services for the City.

"Request for Quote" (RFQ) means the solicitation of competitive quotations to be used as a basis for making an acquisition, or entering into a contract when the total value of the acquisition is estimated to be between \$10,000 and \$30,000, including freight.

"Responsible" means the ability, capacity and skill of the contractor to perform the contract or provide the service requested; the character, integrity, judgement, reputation, experience and efficiency of the contractor, the quality of past performance on similar contracts, whether performance can meet the time specifications, and such other information having a bearing on the decision to award a contract.

"Responsive" means conforming in all material respects to the specifications and instructions.

### GENERAL

The City is committed to a program of purchasing competitively and wisely. Departments shall not divide purchases or public projects to circumvent the purchasing procedures. In addition, no department or

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employee shall draft specifications in such a manner as to limit the bidding directly or indirectly to any one specific concern, or any specific brand, product, thing or service. You may, however, draft your specifications so competitors may meet those specifications as an "approved equal" or "alternate". It is an objective of the City to require such competition be obtained from responsible vendors and the materials bought through such competition be properly suited to the job intended, both as to price and quality.

The City Manager shall administer the purchasing system. Each departmental supervisor is responsible to assure there is proper budget approval and available (unencumbered) funds prior to submitting (or approving within their budgetary authority) for any purchase using City funds.

Except as otherwise provided for in these guidelines or by law, contracts and purchases in the amount of \$30,000 or more will be made by sealed bid procedure. (See 2.0)

For purchases between \$10,000 and \$30,000, the City may request informal quotations in lieu of the more expensive formalized bidding process.

The City is authorized to make purchases from other public agencies without seeking competitive bids and may use Joint Powers of Agreements, Cooperative Purchasing programs, Pooling Agreements and other recognized types of agreements used by government agencies to combine agency requirements for purchases. The prices paid must, however, be competitive with comparable products offered in the marketplace. (See 6.0)

### 1.0 SMALL PURCHASE PROCEDURES

1.1 GENERAL. Any purchase of materials, supplies, parts and equipment which will not exceed \$30,000 may be procured by following the procedures detailed in this section. A purchase will not be split and/or broken into segments to avoid any provisions contained herein.

1.2 PURCHASE ORDER. Purchase orders are not required unless required by a vendor.

### 1.3 SOLICITATION

1.3.1 Under \$10,000. Items which will not exceed \$10,000 (including freight, excluding tax) per procurement may be purchased by departments, without the need to solicit multiple quotes. Although multiple quotes are not required it is recommended that staff solicit quotes as time allows to make the most efficient use of public funds.

Solicitation may be conducted using either phone quotes, fax quotes, or written mailed quotes. When a purchase is for complicated items or for a service, use the formal Request for Proposal. This process allows the supplier to propose how the buyer's needs will be met.

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1.3.2 Between \$10,000 and \$30,000. Departments are to submit written or oral quotations and shall solicit no less than three businesses. These quotations shall be recorded for purchases of materials, supplies, services and equipment between \$10,000 and \$30,000, unless procurement is determined to be sole source or three businesses are unavailable. Any request by a department that a procurement be restricted to one potential contractor or supplier shall be justified in writing (See 3.0) The same solicitation methods as described above in 1.3.1 may be used for this expenditure level as well.

The City Manager or his/her designee will make a determination whether or not to award the purchase to such vendor as he/she determines to have submitted the lowest responsive, responsible quote.

1.3.3 Awards to Other than Vendor Submitting Lowest Quote. When the award for a small purchase is not given to the vendor submitting the lowest quote, a statement of the reasons for placing the order elsewhere will be prepared at the department site responsible for soliciting quotes.

1.3.4 Rejection of Quotes. The City Manager or designee, has the authority to reject all quotes or parts thereof, with regard to small purchases of any materials, supplies, services or equipment when he/she determines the public interest will be served thereby, and upon concurrence with department supervisor. The reason for rejection of such quotes will be included in the records of the transaction.

## 2.0 COMPETITIVE BIDDING PROCEDURES

2.1 GENERAL. Any materials, supplies, and equipment (not including professional services or public work and improvements - see 4.0 and 5.0) where the cost thereof exceeds \$30,000 (including freight, excluding tax) may be procured by sealed written bid and written contract with the lowest responsive bidder. A purchase will not be split and/or broken into segments to avoid any provisions herein. Competitive bidding may be waived if the City Council make a finding by a four-fifths vote that an emergency exists. (California Public Contract Code 20168)

Alternatives. (1) State Contracts, Interlocal Purchasing Agreements, and Cooperative Purchasing Agreements may be used for the purchase of materials, supplies, services, and equipment where the cost exceeds \$30,000 without further bidding required. (2) Whenever economically feasible, desirable and in the best interest of the City, used vehicles and used equipment may be purchased by the City under the direction of the City Manager.

## 2.2 SOLICITATION OF BIDS

2.2.1 Requests for Bids ("RFBs"). The City Manager or designee will ensure that adequate requests for bids ("RFBs") are prepared which clearly define the item, project or service needed in order for bidders to properly respond to the invitation. Such RFBs shall be on file with the City, open to public inspection, and shall include:

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- (a) A complete statement of work to be performed, including drawings and specifications, where appropriate, and the required completion schedule;
- (b) The terms and conditions of the contract to be awarded;
- (c) A clear explanation of the method of bidding and the method of evaluation of bid prices, and the basis and method for award of the contract;
- (d) A statement of the responsibility or other criteria which will be employed in excluding bidders;
- (e) Any solicitation statements required by state or federal grant agencies; and
- (f) Any other provisions, procedures or statements, including equal employment opportunity, required or deemed necessary by the City Manager or designee or under applicable City policies and state federal laws and regulations.

2.2.2 Public Notice. (California Public Contract Code Section 20164) The City Manager or designee will ensure adequate public notice to be given by publication of a solicitation at least ten (10) working days prior to the date of bid opening. Such notice shall be published at least twice in a newspaper of general circulation, printed and published in the City, or if there is none, it shall be posted in at least three public places in the City designated for posting public notices. The public notice will include the date and time of bid opening. In addition, copies of the RFB should be available at the City and to contractor associations/plan centers as the City Manager or designee deems appropriate.

2.2.3 Bidding Time. RFBs shall allow sufficient time to permit prospective bidders to prepare and submit bids, provided that the minimum bidding time shall be fourteen (14) days from the date of first publication to the date of bid submission, unless another timeline is deemed necessary by the City Manager or designee.

2.2.4 Amendment of RFB. If, after the issuance of an RFB but before the set for submitting bids, it is necessary to amend any part of the RFB (including drawings and specifications), such amendments or addenda should be sent, by Certified Mail, to each firm to whom an RFB has been furnished and to each public place and other locations maintaining the RFB, in sufficient time to permit all prospective bidders to consider such information in submitting or modifying their bids.

In addition, any information given to a prospective bidder concerning an RFB must be furnished promptly to all other prospective bidders, as an amendment or addendum to the RFB, if such information is necessary to bidders in submitting bids or if the lack of information would be prejudicial to uninformed bidders.

2.2.5 Bid Submittal. The RFB will provide that the City must receive bids no later than the exact time and date set forth in the RFB, including any amendments or addenda, in order to be considered responsive to the RFB. All bids shall be sent to the attention of the



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City Clerk, shall be date stamped and time indicated on the front of the unopened bid submittal. Any bids received after the stated bid submittal time will not be considered responsive to the RFB, and will be returned to the bidder, unopened by the City Clerk.

2.2.6 Bid Correction or Withdrawal: Cancellation of Awards. The RFB will provide that bids may be modified or withdrawn by written notice received in the office designated in the RFB not later than the exact time set for submitting bids. A bid may be withdrawn prior to the exact time set for bid submittal in person by a bidder or his authorized representative, provided that his/her identity is made known and he/she signs a receipt for the bid. Any modifications or request for withdrawal of bids received after the stated bid submittal time shall not be considered. Once a bid opened, the bidder may not thereafter change the bid. (California Public Contract Code 5101) Clerical errors in listing subcontractors may be corrected if the proper procedure is followed (California Public Contract Code 4107.5) All decisions to permit the correction or withdrawal of bids after bid opening or to cancel awards or contracts based on bid mistakes will be made by the City Manager. (California Public Code 5101(a))

2.2.7 Bid Security. The RFB will set forth the requirements that bids be accompanied by security; a bid bond, cashiers or certified check payable to the order of the City of at least ten (10%) percent of the amount of the bid amount to guarantee the bid. The RFB shall also provide the circumstances under which such bond or check would be forfeited or returned to the bidder. (See California Public Contract Code 20170-201740)

2.2.8 Bid Responsiveness. To be considered for award, a bid must comply in all material respects with the essential requirements of the RFB both as to the method and timeliness of submittal and as to the substance of the resulting contract. Bids will be completed, signed and submitted in accordance with the instructions contained in the RFB. In order to assure uniformity, bidders will use only the bid forms provided by the City, these bid forms may be color-coded to ensure all bidders have the latest plans and specifications.

2.2.9 Bid Solicitation Records. For each RFB issued by the City, the City Manager or designee shall retain a record which should include: a copy of the RFB; an affidavit of publication; copies of any addenda to the RFB; the names and addresses of all prospective bidders to whom the RFB was distributed and the date thereof, and any other information prepared or received during the bidding time relevant to the solicitation procedures. This record shall be available for public inspection and should be available for review by staff at the time of subsequent RFBs for the same or similar items.

### 2.3 OPENING OF BIDS

2.3.1 Bid Opening. At the place, date and time set forth in the RFB, including any amendments or addenda, all bids received in accordance with the bid submittal requirements in the RFB, including, equal opportunity policies, will be publicly opened and read aloud by the City Manager or designee to those persons present. Any bids received after the time and date set forth in the RFB, will be returned, unopened, to the bidder. The original of each bid will be carefully

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safeguarded until a record of the bids has been made and its accuracy verified by the City Manager or designee.

2.3.2 Bid Record. After the bid opening, the following information will be entered in a record: the contract number and/or title; the bid opening date; a general description of the services requested; names of bidders; prices bid; and any other information relevant to bid submittal and opening. Such record shall be completed as soon as practical after bid opening and shall be verified as accurate by the City Manager or designee. In the event a bid opening is canceled, this fact should also be recorded, together with a statement of the number of firms invited to bid and the number of bids received.

### 2.4 EVALUATION OF BIDS

2.4.1 Responsive Bid. A responsive bid is a bid that conforms in all material respects to the RFB. Any bid which fails to conform in all material respects to essential requirements of the RFB, imposes conditions which would modify requirements of the RFB, or would limit a bidder's liability to the City, as determined by the City Manager or designee, shall be considered non-responsive.

2.4.2 Responsible Bidder' In addition to price, the following elements will be given consideration by the City Manager or designee in determining whether a bidder is a responsible bidder:

(a) The ability, capacity and skill of the bidder to perform the contract or provide the service required;

(b) The character, integrity, reputation, judgment, experience and efficiency of the bidder;

(c) Whether the bidder can perform the contract within the time specified;

(d) The quality of performance by the bidder on previous and similar contracts;

(e) Previous and existing compliance by the bidder with laws relating to the contract or services; and,

(f) Such other information as may be secured having a bearing on the decision to award the contract.

Bidders may be requested to furnish to the City Manager or designee acceptable evidence of the bidder's ability to perform, such as firm commitments by subcontractors, equipment, supplies and facilities, and to show his/her ability to obtain the necessary personnel.

2.4.3 Reasonable Bid Price. The City Manager or designee will review the bid prices offered to determine whether they are reasonable. Determination in such case should be made in light of all prevailing circumstances and upon analysis of costs and prices.

2.4.4 Record of Evaluation. The City Manager or designee will ensure that records of bid and bidder evaluation are maintained. If the City Manager or designee determines that a bid price is unreasonable, that a

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bidder is not responsible or that a bid is non-responsive, the originals of such bids and all written findings related thereto will be preserved with the records of such procurement.

### 2.5 REJECTION OF BIDS

2.5.1 Rejection of Individual Bids. Based on the evaluation of bids, the City Manager or designee may recommend that an individual bid be rejected after obtaining the advice of the City Attorney. After a final decision, the City Manager or designee will inform the bidder in writing of the reasons for such recommendation.

2.5.2 Rejection of All Bids. Based on the evaluation of bids, the City Manager or designee may recommend that all bids be rejected after obtaining the advice of the City Attorney. After a final decision, the City Manager or designee will inform the bidders in writing of the reasons for such recommendation. The City Council may determine to reject any or all bids. If all bids are rejected or the invitation for bids is cancelled, the City Council may direct the City Manager or designee to initiate another competitive bidding procurement, or to enter into negotiation of a contract, without any further call.

2.5.3 Records of Rejection. The City Manager or designee will ensure that documentation relevant to a recommendation to reject any or all bids is maintained in the record of the procurement.

### 2.6 AWARD OF CONTRACT

2.6.1 Award/Award Recommendation. The City Council makes the determination on the award of all competitively bid or negotiated contracts in excess of \$30,000 for material, supplies, & parts & equipment.

2.6.2 Award Basis. The City Council may award the bid to the lowest responsible bidder as determined under the standards set forth in California Public Contract Code 20162, or may reject all bids in its discretion. The "lowest responsible" bidder is the low bidder who also possesses the quality, fitness and capacity to satisfactorily perform the proposed work.

2.6.3 The City Manager or designee and/or department supervisor will present a recommendation for award within the time for acceptance specified in the RFB. Should any situation after bid opening threaten to delay an award beyond the time for acceptance specified in the RFB, bidders may be requested, in writing, before expiration of their bids, to extend the bid acceptance period (with the consent of the sureties, if necessary) to avoid the need for re-advertisement of the RFB.

2.6.4 Notification of Bidders. The City Clerk will promptly notify all bidders of the bid opening results, and the recommendation for award.

### 2.7 COMPLETION OF COMPETITIVE BIDDING PROCESS

2.7.1 Council Approval. The originating department initiates the appropriate contract for the successful bidder. The contract must be forwarded to the City Manager for inclusion on the City Council Consent Agenda for final approval. After Council approval, the contract

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document is signed by the successful bidder and the City Manager. The City Clerk assigns a contract number and forwards a copy of the fully executed contract to the successful bidder and retains the original according to the City's retention records procedures.

2.7.2 Contract Documents The City Manager or designee initiates the contract documents. The contract documents along with a copy of the contract is sent to the initiating department. The initiating department is responsible for gathering all documents pertinent to the contract, prior to issuing a notice to proceed. The necessary documents may include Performance and Payment Bonds, Certificate of Insurance, Intent to Pay Prevailing Wage, Retainage Certification, and any other documents required in the RFB. Once the initiating department has received all documents, the Notice to Proceed may be issued to the contractor.

### 3.0 SOLE SOURCE PROCUREMENT

3.1 GENERAL. A contract may be awarded for materials, supplies, parts, and equipment without competition when the City Manager or designee determines, in writing, based on justification provided by the requesting department, that there is only one source for the required materials, supplies, parts and equipment.

3.2 CONDITIONS FOR USE OF SOLE SOURCE PROCUREMENT. Sole source procurement is not permissible unless the goods are available from only a single supplier able to meet the City's requirements. A requirement for a particular proprietary item does not justify sole source procurement if there is more than one potential bidder for that item. The following are examples of circumstances that could necessitate sole source procurement:

- (a) Spare parts or replacement parts for existing equipment where only proprietary items can be acquired only from one manufacturer or from a single distributor.
- (b) Routine expenses such as utilities charges, claims and judgments, witness fees, governmental taxes and governmental fees for licenses and permits may be acquired, ordered or paid in the best interest of the City within budget appropriation or City Council authorization.
- (c) Where compatibility of equipment, or accessories is the paramount consideration.
- (d) Where a sole supplier's item is needed for trial and/or testing.

The determination as to whether procurement will be made as a sole source will be made by the City Manager or designee. Any request by a department that procurement be restricted to one potential contractor or supplier shall be justified in writing. This explanation should justify why no other supplier will be suitable or acceptable in meeting the need.

3.3 NEGOTIATION IN SOLE SOURCE. The City Manager or designee will conduct negotiations, as appropriate, as to price, terms, and delivery time.

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3.4 AWARD OF CONTRACT. Sole Source purchases, except routine expenses, [see 3.2(b)] in excess of \$30,000 will require City Council authorization.

### 4.0 PROFESSIONAL SERVICE CONTRACTS

4.1 ARCHITECTS AND ENGINEERS. Departments may solicit qualifications using a Request for Qualification (RFQ) The selection of architectural, landscape architectural, engineering, environmental, (and surveying or construction project management contractors) must be "on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. (California Government Code 4525-4526) Therefore, price and demonstrated competence must be included in the selection process.

4.2 CONSULTANTS AND LEGAL DEFENSE. Departments may solicit qualifications using a Request for Qualification (RFQ), or have the option of negotiating a fee for consulting or legal defense work. Professional Services Agreements shall be initiated by the contracting department, and routed to the City Manager for approval. Once the approved contract has been signed and the Clerk's Office assigns a contract number, the City Manager or designee will initiate a contract. As work is performed, accepted and invoiced, contracting department staff will approve each invoice for payment against the contract.

### 5.0 PUBLIC WORKS AND IMPROVEMENTS

5.1 GENERAL. Competitive bidding for public works contracts for public projects over \$5,000 is required for general law cities. (California Public Contract Code 20688.2) A project may not be split into smaller portions to avoid the competitive bidding requirement. (California Public Contract Code 20163)

5.2 PUBLIC PROJECT. Public Projects is defined for bidding purposes as: (1) the erection, improvement, painting, or repair of public buildings and works; (2) work in streams, bays, etc., (3) street or sewer work EXCEPT maintenance or repair; (4) furnishing supplies or materials for any such project, including maintenance or repairs of streets or sewers. State labor law requires payment of prevailing wages to public works performed under contract; it does not apply to work performed by a public entity with its own forces.

5.3 NOTICE INVITING BIDS. The notice inviting bids must set a date for opening of the bids. The Request for Bids must specify the type of the contractor's license required in both the plans and the invitation for bids California Public Contract Code 3300)

5.4 PUBLIC WORKS OR IMPROVEMENTS ESTIMATED COST GREATER THAN \$5,000. All public works or improvements, the estimated cost of which is greater than \$5,000 will be provided using the procedures for competitive bidding of materials, supplies and equipment as set forth in Section 2.0 of these procedures except as indicated below:

5.5 BIDDER'S SECURITY: FAILURE TO PERFORM. When deemed necessary, bidders' security may be required and prescribed in public notices

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inviting bids for public project contract. Bidders shall be entitled to the return of the security, unless the successful bidder forfeits the bid security by refusal or failure to execute a contract within ten (10) calendar days after the notice of award of the contract has been mailed, unless the City is responsible for the delay as determined by the City Manager.

5.6 PERFORMANCE BOND. The City shall have authority at any time to require a performance bond in an amount determined necessary by the City Manager in order to protect the interests of the City.

5.7 RETAINAGE. All public work projects in excess of \$5,000 shall have a retainage of at least five (5) percent of the contract price. (California Contract Code 9203) Within 60 days after the date of completion of the project, the retained funds must be released to the contractor.

5.8 SECURITIES IN LIEU OF RETAINAGE. The contractor may elect to substitute securities in place of retained funds held by the City. (California Public Contract Code 22300)

### 6.0 COOPERATIVE PURCHASING

6.1 GENERAL. The City Manager or designee may recommend joining in cooperative purchasing arrangements with other public agencies similarly authorized, when the best interests of the City would be served thereby. Any cooperative purchasing agreement will set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties and shall be governed by the requirements of state law in regard to cooperative bidding when applicable.

6.2 USE OF EXISTING CONTRACTS OR SOLICITATIONS. The City Manager or designee may use existing contracts or proposed solicitations of other local, state or federal agencies to procure materials, supplies, parts and equipment for the City if such method of procurement would foster economy and efficiency and as permitted by law.

6.3 AWARD. The City Council shall consider and/or approve all such agreements.

### 7.0 LEASES

7.1 GENERAL. The department supervisor may negotiate lease agreements for materials, supplies, parts and equipment when he/she determines that outright purchase is not the preferred alternative. All lease agreements shall comply with City financial policies and any applicable state law.

7.2 DOCUMENTATION. The Department Supervisor will prepare documentation supporting the decision to lease rather than purchase and this decision shall be approved by the City Manager.

7.3 AWARD. All proposals for leases in excess of \$5,000 or for more than three (3) years in duration, regardless of dollar amount, will be presented to the City Council for consideration and/or approval.

### 8.0 CONTRACT ADMINISTRATION AND CLOSE OUT

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8.1 CONTRACT The City Manager or designee shall be responsible for initiating the contract. upon receipt of a final, approved contract from City Clerk's Office. After a contract is established, a copy of the contract will be sent to the contracting department. It is the department's responsibility to forward a copy of the fully executed contract to the vendor.

8.2 CONTRACTOR PERFORMANCE. Contracting department supervisor shall ensure that appropriate staff are familiar with all requirements contained in the contract and that staff review and monitor performance by the contractor to assure that the work is accomplished in accordance with those requirements.

8.3 PROGRESS REPORTS. The contracting department supervisor shall prepare periodic progress reports for significant or major procurement transactions. Such reports may be based on monthly reports prepared by contractors and should provide information such as contract amount, payments to date, work completed to date, change order or modification amounts, completion date and the reasons for any performance delays.

8.4 PAYMENTS. The contracting department supervisor shall ensure that payments accurately reflect actual performance by contractors and do not exceed the maximum contract amount. Requests for progress payments by contractors should include a clause by which the contractor certifies that he or she has actually incurred costs in the amount of the request and that payment is due. Department staff shall authorize payment on each invoice after services are satisfactorily received. Each payment shall then be processed against the original contract purchase order.

8.5 CONTRACT MODIFICATIONS OR CHANGE ORDERS. Contracting department supervisor may initiate contract modifications or change orders within amounts approved by the City Manager, City Council, or other authorization. The department supervisor shall require that a sole source justification and a detailed breakdown of costs and pricing data are prepared for such modifications and change orders exceeding \$5,000. If necessary, such modifications and change orders shall have prior concurrence by the appropriate state or federal grant agency. All such change orders or modifications, if increasing the compensation to the contractor, shall be added to the original contract purchase order, by the City Manager or designee.

8.6 ACCEPTANCE OF WORK DOCUMENTATION. Upon satisfactory completion of performance by the contractor, the department supervisor shall have the appropriate documentation prepared for contract close out. The contracting department must coordinate close out with the City Manager or designee, to verify that all closing documentation has been received.

8.7 POST-PROCUREMENT CRITIQUE. A post-procurement critique of contractor performance and City actions related to the contract should be conducted for major contracts. Such report should be maintained with the record of such procurement and may be reviewed if the contractor subsequently bids or proposes on another City project.

9.0 PROCUREMENT RECORDS

## EXHIBIT A

9.1 GENERAL. The City Manager or designee and/or the City Clerk shall ensure that records detailing the history of City procurement are maintained in compliance with applicable state law and state or federal grant agency requirements. In order to establish an audit trail that reflects the judgments and conclusions for each procurement, such records should include, at a minimum, information pertinent to the following topics: The method of procurement; the selection of the contract type; contractor selection or rejection; the basis for the cost or price; bidder or other correspondence, complaints and other comments and observations with a clear statement of the action taken; and, other supporting records.

9.2 ACCESS TO RECORDS. The City's procurement records shall be available to the public in accordance with applicable public disclosure law.

9.3 CONTRACTOR RECORDS. The City Manager or designee shall ensure that contractors are required by contract to maintain books, records, documents and other evidence directly pertinent to performance under contracts. Contractors shall be required to maintain such records for three years after final payment is made or after final resolution of any dispute, claim or litigation involving performance under a particular contract. Contractors shall be required by contract to provide access to such records to the City and, as necessary, to state and federal grant agencies, the U.S. Comptroller General or any of their authorized representatives.



**RESOLUTION NO. 2585**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTOLA  
AMENDING THE PURCHASING POLICY AND ADOPTING THE AMENDED  
PURCHASING POLICY**

**WHEREAS**, the Portola City Council adopted Ordinance No. 172 December 4, 1978, An Ordinance of the City of Portola, County of Plumas, (codified in Chapter 3.24 of the Portola Municipal Code) adopting Policies and Procedures for the Purchase of Supplies and Equipment as Exhibit A, The Operational Procedures for Purchasing Materials, Supplies and Equipment and Public Works Improvements pursuant to Government Code Section 54203; and

**WHEREAS**, the Portola City Council on April 22, 1998 Adopted Ordinance No. 275 Restating Chapter 3.24 of the Portola Municipal Code, which re-adopted but did not update the Policies and Procedures for the Purchase of Supplies and Equipment as Exhibit A, The Operational Procedures for Purchasing Materials, Supplies and Equipment and Public Works Improvements pursuant to Government Code Section 54203 and authorized the City to change the Policies and Procedures by resolution; and

**WHEREAS**, the Portola City Council desires to update the Purchasing Policy Exhibit A which has not been updated since 1978.

**NOW THEREFORE, BE IT HEREBY RESOLVED** by the City Council of the City of Portola that the amended Operational Procedures for Purchasing Materials, Supplies and Equipment and Public Works Improvements Policy also known as the Purchasing Policy is attached hereto as Exhibit “A”, and incorporated herein, is hereby adopted and shall take effect as of June 26, 2024.

**PASSED, APPROVED AND ADOPTED** this 26<sup>th</sup> day of June, 2024 by the following vote:

AYES: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Jason Shaw, Deputy City Clerk

I, Jason Shaw, Deputy City Clerk of the City of Portola, do hereby certify that the above and foregoing Resolution was duly passed and adopted by the City Council of the City of

Portola at a regular meeting thereof held on June 26,2024.

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Jason Shaw, Deputy City Clerk