



CITY OF PALO ALTO OFFICE OF THE CITY CLERK

April 6, 2020

The Honorable City Council
Palo Alto, California

SECOND READING: Adoption of two Ordinances Amending Various Sections of Chapter 2.08 (Officers and Departments), Chapter 2.30 (Contracts and Purchasing Procedures); Chapter 10.50 (Residential Preferential Parking Districts), Chapter 10.51 (Crescent Park no Overnight Parking Program); and Title 18 (Zoning) to Reflect Updates to the Organization of Some City Departments and Duties; Clean up the City's Purchasing Procedures; add a new Exemption From Competitive Solicitation for Some Types of Personnel-related Services Contracts; and Update Enforcement and Hearing Procedures in the Zoning Code (FIRST READING: March 16, 2020 PASSED: 7-0)

This was first heard by the City Council on March 16, 2020, where it passed 7-0 with no changes. It is now before you for the second reading.

ATTACHMENTS:

- Attachment A - Ordinances Amending Five Sections of Title 18 (Zoning) of the Palo Alto Munic (PDF)

Department Head: Beth Minor, City Clerk

Ordinance No. _____

Ordinance of the Council of the City of Palo Alto Amending Various Sections of:
Chapter 2.08 (Officers and Departments);
Chapter 2.30 (Contracts and Purchasing Procedures);
Chapter 10.50 (Residential Preferential Parking Districts); and
Chapter 10.51 (Crescent Park No Overnight Parking Program)
of the Palo Alto Municipal Code to Reflect Updates to the Organization of Some
City Departments and Duties, Clean Up the City's Purchasing Procedures, Add a
New Exemption From Competitive Solicitation for Some Types of Personnel-
Related Services Contracts, and Update Enforcement and Hearing Procedures In
the Zoning Code.

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Section 2.08.020 (Approval of city manager's appointments) of Chapter 2.08 (Officers and Departments) of Title 2 (Administrative Code) of the Palo Alto Municipal Code is hereby amended as follows (~~struckthrough~~ text is deleted, underlined text is added):

2.08.020 Approval of City Manager's appointments.

Appointments to the following positions shall be made by the city manager with the approval of the council:

- (a) Assistant city manager;
- (b) Director of administrative services;
- (c) Chief of police;
- (d) Fire chief;
- (e) Director of human resources;
- (f) Director of planning and ~~community environment~~development services;
- (g) Director of utilities;
- (h) Director of public works - city engineer;
- (i) Director of community services; ~~and~~
- (j) Director of libraries;
- (k) Director of information technology; and
- (l) Director of the office of emergency services.

SECTION 2. Sections 2.08.110 to 2.08.260 of Chapter 2.08 (Officers and Departments) of the Palo Alto Municipal Code are hereby amended and restated as follows (amended and restated text is underlined):

2.08.110 Office and duties of the City Clerk.

(a) The office of the city clerk shall be under the direction of a city clerk who shall be accountable to the city council. The duties of the city clerk shall be as follows:

(1) To keep a record of the proceedings of the council and of such other bodies as the council may require;

- (2) To keep all ordinances, resolutions, contracts, and agreements of the city and authenticate such records as may be necessary;
- (3) To publish ordinances and other legal notices as required;
- (4) To keep and maintain a record of all elections of the city and to be responsible for the conduct of elections;
- (5) To keep informed on all matters pending before the council and before other bodies as the council may require;
- (6) To have power to administer oaths or affirmations in connection with all matters relating to the municipality;
- (7) To have authority to appoint deputies and assistants in accordance with control procedures established for that purpose and administered by the department of human resources
- (8) To provide public information regarding city council activities
- (9) To be responsible for management of the city's records and information management program;
- (10) To perform such other duties as may be required by the Charter or as the council may require.

2.08.120 Office and duties of the City Attorney.

- (a) The office of the city attorney shall be under the direction of a city attorney who shall be accountable to the city council. The duties of the city attorney shall be as follows:
 - (1) To advise the council, the city manager, boards, commissions and all officers and departments of the city on all matters of law;
 - (2) To draft, or assist in the drafting of, all ordinances, resolutions, agreements, and contracts to be made or entered into by the city, and approve the form of such instruments;
 - (3) To prosecute all violators of city ordinances and to represent the city in all actions at law;
 - (4) To have authority to appoint deputies and assistants in accordance with control procedures for that purpose and administered by the department of human resources; provided, that the appointment of the chief assistant city attorney shall be approved by at least a majority of the council;
 - (5) To defend any officer or employee of the city in any action arising out of the performance of the official duties of such officer or employee;
 - (6) To perform such other duties as may be required by the Charter or as the council may require.

2.08.130 Office and duties of the City Auditor.

- (a) The office of the city auditor shall be under the direction of a city auditor who shall be accountable to the city council. The duties of the city auditor shall be as follows:
 - (1) Be knowledgeable in conducting performance audits under Government Auditing Standards, as established by the Comptroller General of the United States; public administration; public policy; and public financial and fiscal practices;
 - (2) Be a licensed certified public accountant (CPA) or certified internal auditor (CIA);
 - (3) Establish an organizational structure appropriate to carrying out the responsibilities and functions of this section; and

(4) Set and maintain a tone for ethical behavior, establish a positive ethical environment for the office of the city auditor, and conduct audit work in accordance with the principles of integrity, objectivity, confidentiality, and competency.

(b) The mission of the office of the city auditor is to promote honest, efficient, effective, economical, and fully accountable and transparent city government. To fulfill this mission, the office of the city auditor shall conduct performance audits and perform nonaudit services of any city department, program, service, or activity as approved by the city council. The purpose of these audits is to provide the city council, city management, the residents of Palo Alto, and other stakeholders with independent and objective analysis as to whether management is using its financial, physical, and informational resources effectively, efficiently, economically, ethically, and equitably, and in compliance with laws, regulations, contract and grant requirements, and city policies and procedures. Audits shall be conducted and nonaudit services provided in accordance with Government Auditing Standards, as established by the Comptroller General of the United States, Governmental Accountability Office.

(c) In addition to the aforementioned responsibilities, the office of the city auditor shall:

(1) Select and recommend to the city council for approval an independent certified public accounting firm to conduct the city's annual external financial audit and coordinate the annual external financial audit with the approved firm.

(2) Perform other functions consistent with the provisions of this section.

(d) At the beginning of each fiscal year, the city auditor shall prepare an annual audit plan for city council approval. The plan will be issued on the office of the city auditor website, with written notification to the city council, and be placed on the appropriate committee agenda. The plan shall identify the preliminary objectives of each audit to be performed, reflecting the purpose of the engagement and a preliminary description of the areas that may be addressed. The city auditor will review the plan and consult with the city manager prior to submitting it to the appropriate committee of the city council for approval. The city manager may identify areas where the city will benefit from performance audits or a nonaudit service. The city auditor may review the plan with and seek the advice of the city attorney prior to submitting it to the appropriate committee of the city council for approval. The annual audit plan may be amended during the fiscal year with approval of the city council.

(e) The office of the city auditor shall prepare quarterly reports describing the status and progress towards completing the audits. The reports will be issued on the office of the city auditor website, with written notification to the city council, and be placed on the appropriate committee agenda.

(f) The city auditor shall prepare a written report of the results of each audit conducted and will be responsible for retaining a copy as a permanent record. The reports shall meet the reporting requirements specified in the Government Auditing Standards and the views of the city manager.

(1) Within two weeks after receiving the final draft report, the city manager, or his or her designee, will prepare an official written response to the findings and recommendations contained within the report and provide the response to the office of the city auditor. The city auditor and city manager may agree to an extension of the two-week time frame if requested by the city manager. If a response is not received within the established time frame, the office of the city auditor will issue the audit report without management's response.

(2) The office of the city auditor shall also provide a copy of the draft report to the city attorney for review and comment, including legal advice relating to disclosure of information contained in the report; and to other appropriate officials as determined by the city auditor.

(g) Audit reports and other work products of the office of the city auditor will be placed on the agenda of the city council or appropriate city council committee consistent with the following general guidelines:

(1) Information items and items that will be discussed in a study session will be placed on the council agenda.

(2) Audit reports and other audit work products will be placed on the finance committee agenda when the subject matter focuses primarily on enterprise fund departments, functions, or activities, or is concerned primarily with financial matters.

(3) All other audit reports and audit work products will be placed on the policy and services committee agenda.

(h) The city auditor will prepare and issue an annual report on the status of recommendations made in completed audits. The report will reflect the status as reported by the city manager or his or her designee. The report will be issued on the office of the city auditor website, with written notification to the city council, in the first quarter of the fiscal year and be placed on the appropriate committee agenda. Further follow-up audits will be conducted as determined and recommended by the city auditor and approved by the city council.

(i) (1) Unless prohibited by law, the office of the city auditor will have unrestricted access to all sources of information, property, and personnel relevant to 1) the performance of a council-approved audit or 2) the identification of potential risks when developing the annual audit plan. Department management and staff will not intentionally withhold, hide, or destroy any information or property that may be potential evidence in a planned or ongoing audit. Nothing in this section shall authorize the office of the city auditor to have access to documents, records, and information related to the office of any elected official.

(2) The office of the city auditor will handle documents and information received with the same prudence exercised by those normally accountable for them and consistent with appropriate policies and regulations and the ethical principles cited in the Government Auditing Standards.

(j) To the extent possible, the office of the city auditor will accommodate an area's daily operations in scheduling and conducting audits.

2.08.140 Office and duties of the City Manager.

(a) The office of the city manager shall be under the direction of a city manager who shall be accountable to the city council. The duties of the city manager shall be as follows:

(1) To have the duties as set forth in the Charter;

(2) To approve expenditures, policies, and procedures for the departments coming under control of the city manager;

(3) To sign for the city-approved contracts, agreement, and leases which do not require the signature of the mayor;

(4) To recommend the sale or lease of material, equipment, property, and real estate of the city to the council;

- (5) To negotiate contracts and leases as authorized by the council;
- (6) To establish a schedule of fees and rates for all types of services performed by departments under his or her control, except for those which the city council authorizes;
- (7) To recommend changes to the basic organization plan of departments under the control of the city manager, and to enforce changes approved by the council;
- (8) To have the authority to appoint deputies and assistants in accordance with control procedures established for that purpose and administered by the department of human resources; provided, that the appointment of the assistant city manager shall be approved by the council in accordance with the City Charter;
- (9) Notwithstanding Section 2.08.040, to have the authority to delegate to the assistant city manager the direct reporting responsibility over any department head under the control of the city manager;
- (10) To provide economic resources planning services for the city, as needed; and
- (11) To perform such duties as may be required by the Charter or as the council may require.

2.08.145 Reserved.

2.08.150 Department of Administrative Services.

(a) The department of administrative services shall be under the control of a director of administrative services who shall be accountable to the city manager to carry out the duties of this department. The duties of the department of administrative services shall be as follows:

- (1) Provide administrative support for the finance committee of the city council;
- (2) Management and preparation of the city's budget reports in coordination with the City Manager and in accordance with the requirements set forth in the Municipal Code and City Charter, includes analysis and review of citywide revenue and expenses and departmental budget requests;
- (3) Provide analytical resources for studies on organization, staffing utilization, management and procedures for the city, in order to provide cost-effective municipal services;
- (4) To participate in intermediate and long-range financial planning strategies and to develop and recommend methods for financing city programs and projects;
- (5) Manage production of the City's annual financial reports, general-purpose financial statements, and comprehensive annual financial report in accordance with city ordinances, legal requirements and generally accepted accounting principles:
 - (A) generate appropriate financial reports as required by county, state and federal agencies;
 - (B) coordinate financial audit activities with appropriate parties (internal and external)
- (6) Administer the procurement of supplies, materials and equipment and contracts for general services for the City. Control emergency purchasing in accordance with approved procedures when centralized procurement is impracticable;
- (7) Manage and complete the accounts payable and payroll processes;
- (8) Operate and maintain the warehouse and storage facilities of the city;
- (9) Administer the City's responsibilities regarding surplus property;
- (10) Provide centralized mail and messenger services and printing and other duplicating services for all city departments;

(11) Administer the investment of city funds and banking agreements in accordance with city policy and state law;

(12) Administer and manage the issuance of debt by the City or financing authority entities as may be formed by the city from time to time;

(13) Administer and enforce all ordinances and regulations of the city relating to the imposition and collection of city taxes and other miscellaneous accounts receivables, to provide revenue collections services and to collect delinquent receivables;

(14) Administer and supervise real property such as secure easement titles and leases, negotiate for the purchase or disposition of real property on behalf of the city, and manage all property owned by the city and leased to other persons or agencies;

(15) Perform or cause to be performed all duties required by this code or other law of the director of finance, tax administrator, manager of purchasing, supervisor of revenue collections, chief financial officer, city treasurer and city controller;

(16) To perform such other duties as may be required.

2.08.160 Department of Human Resources.

(a) The department of human resources shall be under the supervision of a director of human resources who shall be accountable to the city manager. The duties of the office of human resources shall be as follows:

(1) To be responsible for the management and administration of the personnel program in accordance with rules and regulations established in the merit system;

(2) To administer control procedures for the recruitment, employment and promotion of personnel of the city;

(3) To follow such personnel procedures and practices as may be approved by the city manager;

(4) To advise and assist the city manager in the preparation of wage scales for recommendation to the council;

(5) To prepare and maintain such job and position classifications and specifications as may be required;

(6) To keep and maintain complete personnel records;

(7) To coordinate such employee safety programs as may be directed by the city manager;

(8) To coordinate and administer the worker's compensation program;

(9) To coordinate and administer such employee-in-service training programs as may be directed by the city manager;

(10) To perform all duties defined in the merit system and such other duties as may be required;

(11) To establish procedures for the operation of the city's insurance program and to keep the city manager advised as to the status of the program;

(12) As directed by the city manager, to represent the city in meet-and-confer negotiations with recognized employee groups and administer resulting agreements;

(13) To perform or cause to be performed all duties required by this code or other law of the loss control officer and risk manager;

(14) To perform such other duties as may be required.

2.08.170 Police Department.

(a) The police department shall be under the direction of a chief of police who shall be accountable to the city manager. The duties of the police department shall be as follows:

(1) To be responsible for the preservation of the public peace and order, the prevention and detection of crime, the apprehension of criminal suspects, the protection of persons and property, and the enforcement of law;

(2) To enforce all traffic regulations, and to consult as necessary with the Transportation Department on matters concerning traffic engineering;

(3) To coordinate the use of the regional Silicon Valley Regional Communications System by all City departments, to maintain back-up radio capabilities, and to provide radio dispatching service for all City departments requiring such service;

(4) To ensure that unclaimed property received by the Police Department is sold at a public auction pursuant to the provisions of this code;

(5) To administer the Police Department's parking enforcement program;

(6) To enforce all City ordinances and state laws relating to the care, control, impounding and rescue of all animals; and to perform or cause to be performed all duties required by this code of animal control officers; and

(7) To perform such other duties as may be required.

(b) For organizational purposes, the Police Department shall consist of the following divisions: Administration, Field Services, Investigative Services, and Technical Services.

2.08.180 Fire Department.

(a) The fire department shall be under the control of a fire chief who shall be accountable to the city manager to carry out the duties of this department. The duties of the fire department shall be as follows:

(1) To be responsible for the prevention of fires, the protection of life and property against fires, and the removal of fire hazards and preparation of emergency plans;

(2) To be responsible for the rendering of emergency medical services for which the department is equipped, including emergency medical transportation services;

(3) To inspect business and other premises for fire hazards, and to enforce the fire prevention code and to conduct educational fire prevention and risk reduction programs;

(4) To protect the environment from the adverse effects of hazardous materials and to coordinate and administer programs to minimize problems associated with the use and disposal of hazardous materials;

(5) To serve as an information resource for the public, other city departments, industry and the media concerning the areas described in this section;

(6) To perform or cause to be performed all duties required by this code or other law of the fire marshal;

(7) To perform such other duties as may be required.

2.08.185 Office of Emergency Services.

(a) The office of emergency services shall be under the direction of the director of the office of emergency services, who shall be accountable to the city manager. The duties of the office of emergency services shall be as defined in Section 2.12.050.

2.08.190 Department of Public Works.

(a) The department of public works shall be under the direction of the director of public works-city engineer, who shall be accountable to the city manager. The duties of the department of public works shall be as follows:

(1) To be responsible for the planning, design, construction, maintenance, repair and improvement of all city facilities and property owned or operated by the city, including the approval of plans and designs for such improvements within the meaning of California Government Code section 830.6, except as otherwise provided in this code;

(2) To assist with the preparation of the capital improvement program and assist the city manager, as directed, in reviewing capital project budget requests;

(3) To provide engineering services as required including development and implementation of capital improvement program projects;

(4) To provide permitting and inspection services relating to private construction of public facilities and private construction affecting city property;

(5) To schedule repairs and preventative maintenance to ensure that the streets and sidewalks are maintained in a safe, and structurally sound, and sanitary manner, and to maintain all markings for traffic control painted or placed upon the streets or curbs;

(6) To maintain trees, parking lots, paved bicycle paths, and underpasses in a safe and aesthetic manner; and to maintain trees adjacent to electric power lines in order to minimize electrical outages caused by tree limbs;

(7) To coordinate the needs of the city departments in their requirements for motorized equipment, to operate the city garage, actively supervise a preventative maintenance program, keep the operating records of all motorized equipment used or operated by the city, monitor the use of pool cars, and maintain fuel sites at city facilities;

(8) To be responsible for the management, regulation, operation, system rehabilitation, and capital improvements of the storm water management enterprise, and to coordinate related activities with interested municipalities or special districts;

(9) To be responsible for refuse collection, source reduction, recycling, street sweeping, and long-term resource recovery and disposal activities of the refuse enterprise;

(10) To be responsible for the operation and capital improvements of the regional water quality control plant, on behalf of the city and its partner agencies within the regional service area; the permitting and enforcement of regulations with respect to industrial discharges into the sewer system; and the development of programs and treatment methods to ensure the maximum feasible compliance with regulations protecting the San Francisco Bay and environment;

(11) To be responsible for the general aviation operation and management of the Palo Alto municipal airport, the adoption and enforcement of general aviation rules and regulations applicable to parties doing general aviation-related business at the airport, and the management and control of all general aviation and non-general aviation-related leases, licenses, permits, easements and other contracts and authorizations issued to or in connection with parties doing business at the airport.

(12) To perform such other duties as may be required.

2.08.200 Department of Utilities.

(a) The department of utilities shall be organized and administered under the direction of a director of utilities who shall be accountable to the city manager. The duties of the department of utilities shall be as follows:

- (1) To plan, direct and coordinate the operations of the city's utilities department;
- (2) To coordinate the forecasting of the city's long-range utility needs and develop financial plans to ensure that the city's utilities rate, reserve and revenue levels will be able to meet customer service, operating and financial requirements;
- (3) To provide administrative support to the utilities advisory commission on matters relating to the department;
- (4) To generate appropriate reports as may be required by county, state and federal agencies or by law;
- (5) To operate a responsive customer service center, to manage customer service utilities billing, inquiries and complaints and to provide a fast and courteous response to each customer's request for utility service;
- (6) To establish rates to offset operating costs of all city utility operations designated as utilities enterprise funds and to provide a fair and reasonable rate of return on the city's capital improvement investment in those utilities designated as utilities enterprise funds;
- (7) To provide technical or other efficiency services to enable residential, commercial and industrial utilities customers to reduce their operating costs, improve the quality of the environment and maintain a high level of customer satisfaction;
- (8) To forecast and plan the acquisition and disposition of sufficient least-cost resource supplies to meet existing and future supply requirements in an environmentally acceptable manner;
- (9) To negotiate for the purchase and sale of water, gas and electricity and contract with water, gas and electric power producers, suppliers and marketers for resource supply at the best available price or cost;
- (10) To recommend capital construction and improvements of all utility systems, and to administer such programs when approved;
- (11) To inspect all construction work done by or for the utilities and require compliance with all contracts made in connection therewith;
- (12) To prepare or cause to be prepared all utility maps of the utilities, and to keep and to maintain such records as are necessary for the fulfillment of this function;
- (13) To provide operations, maintenance, and construction necessary to ensure the safe, efficient and reliable delivery of electric, water, gas and wastewater collection services to all customers;
- (14) To provide operations, maintenance, and construction necessary to ensure the proper operation of the city's traffic signal, street lighting and communication systems;
- (15) To perform or cause to be performed all duties required by this code or other law of the director of utilities and the department of utilities; and
- (16) To perform such other duties as may be required.

(b) For organizational purposes, the department of utilities shall consist of the following divisions: administration; customer support services; resource management; engineering; and operations.

2.08.210 Department of Community Services.

(a) The department of community services shall be under the control of a director of community services who shall be accountable to the city manager to carry out the duties of this department. The duties of the department of community services shall be as follows:

(1) To develop and provide programs for increased knowledge, artistic expression, physical activity, social service assistance, youth and teen leadership, and enjoyment of the outdoors, either directly or in cooperation with the resources of the community;

(2) To manage the use, scheduling, and operation of municipal parks; playgrounds; open space preserves; swimming pools; community centers; camps; athletic centers, courts and fields; golf course; theaters; cultural centers; museums; interpretative centers; and activities connected therewith in a safe manner;

(3) To maintain landscaped areas, including district and neighborhood parks, mini-parks, athletic fields, and other city facilities in a safe and aesthetic manner; and to maintain open space preserves in a manner that is safe and protective of the natural environment;

(4) To plan, monitor, and commission public art associated with Municipal and Private Development projects;

(5) To prepare and recommend annual operating and capital improvement budgets; monitor expenditures and revenues; review and exercise final approval authority over all department expenditures; and review and analyze fee structure and fee collection;

(6) To provide staff advisory and technical assistance to the human relations commission, the public art commission, the parks and recreation commission and such similar groups that may be created or established;

(7) To perform or cause to be performed all duties required by this code or other law of the community services department; and

(8) To perform such other duties as may be required.

2.08.220 Department of Planning and Development Services.

(a) The department of planning and development services shall be under the control of a director of planning and development services who shall be accountable to the city manager to carry out the duties of this department. The duties of the department of planning and development services shall be as follows:

(1) Maintain, update and oversee implementation of the City's Comprehensive Plan;

(2) Prepare land use studies and analysis supporting policy recommendations to the City Council;

(3) Review and process development applications in accordance with applicable local, state and federal regulations or rulings, including all functions designated by law to the building official;

(4) Provide technical assistance and support to the Planning and Transportation Commission, Architectural Review Board and Historic Resources Board;

(5) Prepare and submit annual reports related to land use planning and the building industry as required by Council direction, local ordinance, state and federal laws;

(6) Identify staff to serve as and to implement the responsibilities of the ADA Coordinator as required by the Americans with Disabilities Act;

(7) Enforce the provisions of the municipal code related to land use planning and zoning, building regulations and other provisions as directed by the City Manager;

(8) Maintain records related land use planning and development, demographic and census information; support administrative functions; prepare balanced budgets; and foster an environment that promotes staff growth and professional development to advance department responsibilities and program objectives.

(9) Perform or cause to be performed all duties required by this code or other law of the building official, chief building official, building inspector, zoning administrator, director of planning, and director of planning and community environment; and,

(10) To perform other such duties as may be required.

2.08.230 Department of Libraries.

(a) The department of libraries shall be organized and administered under the control of a director of libraries who shall be accountable to the city manager to carry out the duties of the department. The duties of the department of libraries shall be as follows:

(1) To manage, operate, direct, and control a continuing municipal library system providing access to informational services for the residents of Palo Alto;

(2) To provide administrative support for the library advisory commission on matters relating to the department;

(3) To generate appropriate reports as may be required by county, state, and federal agencies or by law;

(4) To review and approve adult, teen, and children's service programs and activities;

(5) To review and approve technical services activities specified in Library Collection Development Policy;

(6) To recommend and monitor annual operating and capital improvement budgets, reviewing and exercising final approval authority over all library expenditures; establish and monitor inventory control systems for all library furnishings and material; and review and analyze fee structure and fee collection;

(7) To perform or cause to be performed all duties required by this code or other law of the director of libraries and the department of libraries; and

(8) To perform such other duties as may be required.

2.08.240 Department of Information Technology.

(a) The department of information technology shall be organized and administered under the direction of a director of information technology who shall be accountable to the city manager to carry out the duties of this department. The duties of the department of information technology shall be as follows:

(1) To provide leadership to the city council, city manager and directors on alignment of technology with city initiatives, policy and strategic objectives;

(2) To direct and manage interdepartmental technology governance, planning and coordination activities to accomplish specific city-wide objectives;

(3) To make presentations and prepare reports and plans;

(4) To coordinate with the city manager, directors and business managers to address problems and capitalize upon opportunities as they arise;

- (5) To develop and implement organizational policies and procedures regarding appropriate usage of technology within the organization;
- (6) To initiate and develop internal and external partnerships to leverage city technology investments;
- (7) To develop and present funding strategies to support technology investments;
- (8) To provide direct oversight and direction on mission critical city-wide technology;
- (9) To negotiate and review complex proposals and contracts for purchase of information technology (IT) products and services, and to develop partnership agreements;
- (10) To establish and maintain a working environment conducive to positive morale, individual style, quality, creativity, and teamwork;
- (11) To serve as a member of leadership team, and addresses city-wide policy, management and strategic issues, including information security and other cyber risks;
- (12) To formulate, recommend and administer policies and procedures governing the operation of the information technology (IT) department. Establish long-range goals and implementation plans for services provided by the IT department;
- (13) To plan, develop and direct a comprehensive long-term strategic plan for automated systems needs for the City of Palo Alto, including centralized computer applications, personal computers, and telecommunications functions;
- (14) To oversee automated systems within the city, including prioritizing requests for applications development or enhancement, hardware and software standards, equipment acquisition and replacement;
- (15) To coordinate technical staff placed within individual city departments;
- (16) To position the city to effectively respond to the rapidly changing technological environment;
- (17) To be responsible for planning, preparing and administering the information technology department budget, including operating and capital budgets;
- (18) To be responsible for the future direction of the information technology department, ensuring the coordination of the department's effort with the needs of the organization;
- (19) To manage projects to include oversight of funding allocations, oversight and coordination of resources;
- (20) To perform such other duties as may be required.

2.08.250 Reserved.

2.08.260 Office of Transportation.

(a) The office of transportation shall be under the direction of the chief transportation official who shall be accountable to the city manager. The duties of the office of transportation shall be as follows:

- (1) To be responsible for the functions of transportation planning, traffic engineering, parking management, and transit planning for the city;
- (2) To perform other such duties as may be required.

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SECTION 3. All references in the Palo Alto Municipal Code that refer to the Department of Planning and Community Environment shall mean the Department of Planning and Development Services. All references to the Director of Planning and Community Environment shall mean the Director of Planning and Development Services.

SECTION 4. Section 2.30.010 (Purposes) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows (~~striketrough~~ text is deleted, underlined text is added):

2.30.010 Purposes.

This chapter defines the contract procurement policies, procedures and requirements for public works construction, general services, professional services, wholesale utility commodities and services, and contracts, the performance for which the city receives substantial value. This chapter establishes the contracting authority of the City Manager, the Chief Procurement Officer (“Procurement Officer”), designated employees, ~~City Manager,~~ City Attorney, and City Council (“Council”). The purpose of this chapter is: to foster and encourage the use of best management practices in contracting and purchasing; to ensure quality and efficiency in the procurement of goods, services, equipment, materials and supplies at the lowest cost commensurate with the quality needed; to provide for a fair and equitable procurement process utilizing standardized solicitation procedures; and to maintain honesty and integrity in the procurement process.

SECTION 5. Section 2.30.020 (Scope) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.020 Scope.

(a) Contracts for public works construction, general services and professional services, information technology services, wholesale utility commodities and services and other energy related contracts, and contracts, price quotations or purchase orders for goods, materials, equipment and supplies shall be solicited and awarded pursuant to the procedures contained in this chapter.

(b) ~~Neither the~~ The solicitation ~~nor~~ and award policies, procedures and requirements contained in this chapter shall not apply to the following:

- (1) Subdivision agreements, improvement agreements, deferred parking agreements, development agreements and other land use contracts entered into between the city and property owners or developers pursuant to other parts of this municipal code;
- (2) Franchises and franchise agreements;
- (3) Contracts between the city and other public entities and public utilities for the city’s provision of services to the other entities and utilities;
- (4) Transactions involving the acquisition, assignment and disposal of interests in real property; and
- (5) Agreements to provide funds pursuant to the human services resource allocation process or community development block grant program.

SECTION 6. Section 2.30.040 (Centralized purchasing) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.040 Centralized purchasing.

All acquisitions and purchases shall be made by and through the Procurement Officer, except:

- (a) Purchases of goods and services made from petty cash funds made in conformance with this chapter and pursuant to control procedures approved by the City Manager and contained in the administrative policies and procedures manual maintained by the City Manager;
- (b) Emergency purchases made in conformance with this chapter and Federal Emergency Management Agency (“FEMA”) Public Assistance Program’s procurement orders, or other similar rules, regulations, guidelines and control procedures for cost reimbursement purposes approved by the City Manager and contained in the purchasing manual;
- (c) Contracts for legal services;
- (d) Purchases of goods and services, and in payment of public works services, by city procurement card (“P-card”) or other credit card, made in conformance with this chapter and pursuant to control procedures approved by the City Manager and contained in the purchasing manual;
- (e) Purchases, where the total expenditure by the city does not exceed \$10,000.00, made in conformance with this chapter and pursuant to control procedures approved by the City Manager and contained in the purchasing manual;
- (f) Transactions negotiated under master contracts for wholesale utility commodities and services, as described in Section 2.30.140 made in conformance with Section 2.30.340;
- (g) Mutual aid agreements; and
- (h) Delegations made according to Section 2.30.230.

SECTION 7. Section 2.30.120 (General services contract) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.120 General services contract.

A general services contract includes a contract providing for work, labor or services not requiring specialized experience, knowledge or training with or without the furnishing of goods, materials, supplies or equipment, including, without limitation:

- (a) Maintenance of public buildings, streets, parks and playgrounds and other public improvements;
- (b) Repair, modification and maintenance of equipment or other goods;
- (c) Licensing, installation and maintenance of or relating to information technology property, goods and services, including, without limitation, computer hardware and software, and ~~including the provision of~~ data storage services, unless the information technology services ~~that~~ would require specialized certification, knowledge, expertise, ~~knowledge~~, or training are needed and provided;;
- (d) Janitorial services, uniform cleaning, tree trimming, street sweeping, power washing and landscape maintenance;
- (e) Leasing or licensing of goods and other personal property for use by the city; and

(f) General class instruction, including, without limitation, recreation class instruction services.

SECTION 8. Section 2.30.150 (Contracts for dark fiber optics licensing services) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.150 Contracts for dark fiber optics licensing services.

A contract for dark fiber optics licensing services includes a contract with any person, including, without limitation, a telecommunications or non-telecommunications carrier, an internet services provider, a distributed antenna system services provider, or a small cell technology services provider for the licensing of city-owned, installed and maintained dark fiber optics and related facilities, if any, located in the public rights-of-way and public utility easements. A telecommunications carrier includes any person subject to the Telecommunications Act of 1996, as amended, or other federal law now or hereinafter in effect.

SECTION 9. Section 2.30.200 (Procurement officer contract award authority) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.200 Procurement officer contract award authority.

The Procurement Officer may award and sign the following contracts:

(a) Public Works Contracts. Public works contracts, where the term does not exceed three years, and the contract price and any price contingency established for change orders, but excluding sales tax or use tax, do not exceed \$85,000.00 in the first contract year, and do not exceed the sum of \$85,000.00 and any unexpended monies carried forward from a prior contract year, in any subsequent contract year.

(b) Contracts for Goods. Contracts to purchase goods, where the term does not exceed three years, and the contract price and any price contingency established for change orders, but excluding sales tax or use tax, do not exceed \$85,000.00 in the first year, and do not exceed the sum of \$85,000.00 and any unexpended monies carried forward from a prior contract year, in any subsequent contract year.

(c) General Services Contracts. General services contracts, where the term does not exceed three years, and the contract price and any price contingency established for change orders or additional services, but excluding sales tax or use tax, do not exceed \$85,000.00 in the first contract year, and do not exceed \$85,000.00 and any unexpended monies carried forward from a prior contract year, in any subsequent contract year.

(d) Professional Services Contracts. Professional services contracts, where the term does not exceed three years, and the contract price, and any price contingency established for additional services, but excluding sales tax or use tax, do not exceed the sum of \$85,000.00 in the first contract year, and do not exceed the sum of \$85,000.00 and any unexpended monies carried forward from a prior contract year, in any subsequent contract year.

(e) ~~Hardware Purchase, Licensing, and Maintenance~~ Software and Hardware Purchase, Licensing, and Support Contracts. Notwithstanding Subsection 2.30.200(c), the Procurement Officer may award and sign contracts other than general services agreements, including, without limitation, vendor-based standard form hardware and software purchase and licensing contracts, for the purchase of hardware and software, the licensing of software, and the maintenance and support of hardware and software, where the term of licensing or maintenance and support services does not exceed five years and the contract price, excluding sales tax or use tax, does not exceed \$85,000.00 per year in the first contract year and does not exceed the sum of \$85,000.00 and any unexpended monies carried forward from a prior contract year, in any subsequent contract year. The contracts referred to herein may include contracts for data storage services, which shall be subject to the city's information security policies, terms, conditions and other requirements established by the chief information officer with the concurrence and approval of the City Attorney.

SECTION 10. Section 2.30.210 (City Manager contract award authority) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.210 City ~~Manager~~ contract award authority.

The City Manager may award and sign the following contracts:

(a) Public Works Contracts. Public works contracts, where the term does not exceed three years, and the contract price and any price contingency established for change orders, but excluding sales tax or use tax, do not exceed \$250,000.00 in the first contract year, and do not exceed the sum of \$250,000.00 and any unexpended monies carried forward from a prior contract year, in any subsequent contract year.

(b) Contracts for Goods. Contracts to purchase goods, where the term does not exceed three years and the contract price and any contingency established for change orders, but excluding sales tax or use tax, do not exceed \$250,000.00 in the first contact year, and do not exceed the sum of \$250,000.00 and any unexpended monies carried forward from a prior contract year, in any subsequent contract year.

(c) General Services Contracts. Contracts for services associated with the leasing or licensing of personal property other than hardware or software, where the term does not exceed seven years, and the contract price and any price contingency established for change orders, but excluding sales tax or use tax, do not exceed \$85,000.00 in the first contract year, and do not exceed the sum of \$85,000.00 plus any unexpended monies carried forward from a prior contract year, in any subsequent contract year.

(d) Contracts for Studies and Services Related to Private Development. Professional services contracts for: (1) the preparation of environmental assessments or other studies deemed necessary by the director of planning and community environment for the processing of applications for private development projects, or (2) inspection and plan review services deemed necessary by the director of planning and community environment to evaluate conformity of private development projects with applicable building codes, regardless of the cost or term thereof, provided the applicant for the private development project agrees, in

writing, to bear responsibility for the entire contract cost, and the contract does not require the expenditure of city funds in any amount.

(e) Rewards. The City Manager may offer and pay rewards where the amount of the reward does not exceed \$25,000.00, in accordance with the procedures of Section 2.30.800.

(f) Emergency Contracts. The City Manager is authorized to expend city funds for emergency contracts, as defined in Section 2.30.160, without limitation on the contract cost or amount and without following the contract solicitation and award procedures otherwise required by this chapter, provided that any procurement of goods and services obtained during an emergency declared by the Federal Emergency Management Agency shall comply with applicable FEMA Public Assistance Program's procurement orders, rules, regulations, guidelines and control procedures for cost reimbursement purposes. Expenditures made during an emergency must be reported to the Council at the next regular meeting if approval for such expenditures would otherwise have been made by the Council. The City Manager may issue a verbal report to the Council before a written report is delivered.

(g) Contracts to Rent, Lease, License, Acquire, Transfer or Purchase Interests in Real Property from Other Parties. Contracts for the rental, leasing, licensing, or purchase by installment interests in real property from other parties for a term of seven years or less, where the contract price does not exceed \$85,000.00 per year, or to encumber or transfer any interest in real property from other parties for any term of years. The City Manager may enter into and sign a contract to acquire or purchase an interest in real property, where the contract price does not exceed \$85,000.00.

(h) Contracts to Rent, Lease, or License City Real Property to Other Parties. The authority granted under this Section is distinct from the authority of the director of community services to grant individuals and groups permits for the exclusive temporary use of buildings and facilities located in, and the areas of, city parks and open spaces, as described in Chapter 22.04 of this municipal code or in the park and open space regulations. The City Manager may award and sign contracts to rent, lease or license city real property to other parties regardless of the price for a term not exceeding three years. Notwithstanding the preceding sentence, the City Manager may enter into and sign contracts for the rental, lease or licensing of real property at the Cubberley Community Center for terms of up to five years.

(i) Contracts to Provide Municipal Services to other Public Entities or Utilities. A contract to provide municipal services and functions to any other public agency, public utility or other public entity in any amount for a term not exceeding three years, provided the contract is in compliance with all Council-adopted policies covering such contracts. The authority granted herein does not include the authority of the City Manager to add permanent employee positions.

(j) Contracts Providing for Indemnity or Risk of Loss. The City Manager, with the concurrence and approval of the City Attorney and the insurance risk manager, may enter into and sign contracts, otherwise within the limits of his or her authority under Section 2.08.140 of this municipal code, that provide for the city or its officers or employees to defend, indemnify, or assume the risk of damage, loss, or liability for, or subrogate to any other contracting party respecting claims, demands, actions, losses or liabilities arising from the city's performance or non-performance under the contract.

(k) Wholesale Utility Commodities and Services Contracts. Wholesale utility commodities and services contracts, where the term does not exceed five years and the contract price does not exceed \$250,000.00 in any contract year.

(l) Software and Hardware Purchase, Licensing, ~~and Maintenance~~ and Support Contracts. Notwithstanding Subsection 2.30.210(c), the City Manager may award and sign contracts other than general services agreements, including, without limitation, vendor-based standard form hardware and software purchase and licensing contracts, for the purchase of hardware and software, the licensing of software, and the maintenance and support of hardware and software, where the term of licensing or maintenance and support services does not exceed seven years and the contract price, excluding sales tax or use tax, does not exceed \$85,000.00 per year in the first contract or fiscal year and does not exceed the sum of \$85,000.00 and any unexpended monies carried forward from a prior fiscal year, in any subsequent contract or fiscal year. The contracts referred to herein may include contracts for data storage services, which shall be subject to the city's information security policies, terms, conditions and other requirements established by the chief information officer with the concurrence and approval of the City Attorney.

(m) Other Contracts. All other types of contracts for which the contract term does not exceed three years and the total expenditure by the city does not exceed \$85,000.00 in the first contract or fiscal year, and does not exceed the sum of \$85,000.00 and any unexpended monies carried forward from a prior fiscal year, in any subsequent contract or fiscal year.

SECTION 11. Section 2.30.220 (City Attorney contract award authority) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows):

2.30.220 City ~~a~~Attorney contract award authority.

The City Attorney may award and sign contracts for legal services, including, without limitation, services provided by outside counsel, investigators, consultants and other experts needed for litigation or other administrative and legal proceedings, to be provided to the city for any time period, where the contract price and any contingency established for additional services, but excluding sales tax or use tax, do not exceed the sum of \$85,000.00 in the first contract or fiscal year, and do not exceed the sum of \$85,000.00 and any unexpended monies carried forward from a prior fiscal year, in any subsequent contract or fiscal year. In addition to the authority described herein, the City Attorney may sign contracts, where the contract price exceeds the amounts set forth above, provided the Council has first approved the use of such services.

SECTION 12. Section 2.30.225 (Wholesale utility commodity transactions) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.225 Wholesale utility commodity transactions.

The City Manager, the director of utilities and their designated employees may enter into and execute transactions for wholesale utilities commodities and services in accordance with the

authority, limits and procedures set forth in the Energy Risk Management Policies Guidelines and Procedures Manual, as amended from time to time. Employees authorized under this Section shall be authorized in writing and the written authorizations shall be kept on file by the Procurement Officer.

SECTION 13. Section 2.30.230 (Designated employee purchases of \$10,000.00 or less) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.230 Designated employee purchases of \$10,000.00 or less.

Employees authorized, ~~in writing,~~ by their department heads may award and sign contracts for the purchase of goods and the procurement of general services, where the contract price does not exceed \$10,000.00 and the contract term does not exceed one year. All purchases and procurements shall be made in accordance with the contracting procedures and requirements contained in this chapter and in the purchasing manual. The written authorizations of department heads shall be kept on file by the Procurement Officer.

SECTION 14. Section 2.30.240 (Designated employees' use of petty cash, and city credit card) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.240 Designated employees' use of petty cash, P-card or other ~~and city credit card.~~

Employees ~~authorized~~ designated in writing by their department heads, including by completed P-card authorization request form, may make purchases by using petty cash or make payments by using a city P-card or other credit card. All purchases shall be made in accordance with the contracting procedures and requirements contained in this chapter and in the purchasing manual. The written authorizations of department heads shall be kept on file by the Procurement Officer ~~or other designated employee.~~

SECTION 15. Section 2.30.280 (Authority to modify and terminate contracts not approved or awarded by the Council) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.280 Authority to modify and terminate contracts not approved or awarded by the Council.

(a) Each employee with contracting authority conferred by this chapter may authorize and sign amendments or change orders to contracts he or she awarded under the authority granted in this chapter subject to the following:

(1) All modifications to contracts, including, without limitation, changes to the scope of work, quantity of goods, price or term shall be made in writing and accomplished in accordance with the terms of the original contract;

(2) The amendment or change order to a contract shall not cause the contract, as modified, to exceed the monetary or term limits of that city employee's contracting authority, as described in this chapter, except that the city employee may extend the term of a contract,

with no increase in the compensation payable, for a period not to exceed six consecutive months beyond the term limits of his or her contracting authority; and

(3) For contracts awarded under an exemption from competitive solicitation pursuant to Section 2.30.360 or by Council action, the amendment or change order to a contract shall not cause the contract, as modified, to exceed the scope of the exemption from competitive solicitation.

(b) Each city employee with contacting authority conferred by this chapter shall have the authority to terminate the contract in accordance with the contract's terms and conditions.

SECTION 16. Section 2.30.300 (Public works contracts) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.300 Public works contracts.

Public works contracts that are not exempt from the competitive solicitation requirements under Section 2.30.360 or by eCouncil action shall be solicited, as follows:

(a) Public works contracts, providing for an estimated expenditure of \$85,000.00 or less, and not otherwise required to be formally bid by the Charter, shall be solicited by informal invitation for bids in accordance with Section 2.30.400.

(b) Public works contracts, providing for an estimated expenditure exceeding \$85,000.00, shall be solicited by formal invitation for bids in accordance with Section 2.30.420.

(c) Article VII, Section 6 of the City Charter requires formal bidding for public works contracts funded by bonded indebtedness of the city or by assessment against particular property in Palo Alto. Section 2.30.300 requires the formal bidding of all public works contracts exceeding \$85,000.00, unless an exemption is provided by Section 2.30.360 or is otherwise authorized by Council under Section 2.30.300(d).

(d) Design-build contracts, to the extent debt financing limitations do not apply, that provide for an expenditure of more than \$85,000.00 shall be solicited by requests for proposals in accordance with Section 2.30.490. Despite any law to the contrary, the design-build method of delivery may be used for any public works contract, including, without limitation, any design-build-operate contracts, where the City Manager determines, in writing, the delivery method will best fulfill the requirements of the public works project.

(e) The Council may determine that a particular public works project may be solicited and contracted for by using alternate project delivery methods, including, without limitation, construction manager at-risk or competitive negotiation. Any Council action authorizing an alternate project delivery method shall set forth the reasons and factual basis supporting the use of the alternate project delivery method for the project and describe the solicitation method to be used and the criteria for determining the successful bidder, to whom the public works contract should be awarded.

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SECTION 17. Section 2.30.310 (Contracts for goods) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows):

2.30.310 Contracts for goods.

Contracts for goods, not exempt from the competitive solicitation requirements under Section 2.30.360 or by Council action, shall be solicited, as follows:

(a) Contracts for goods, providing for an estimated expenditure by the city of \$50,000.00 or less, shall be solicited by informal invitation for bids in accordance with the provisions of Section 2.30.400; and

(b) Contracts for goods, providing for an estimated expenditure by the city exceeding \$50,000.00, shall be solicited by formal invitation for bids in accordance with the provisions of Section 2.30.420.

SECTION 18. Section 2.30.320 (General services contracts) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.320 General services contracts.

General services contracts, not exempt from the competitive solicitation requirements under Section 2.30.360 or by Council action, shall be solicited, as follows:

(a) General services contracts, providing for an estimated expenditure by the city not exceeding \$50,000.00, shall be solicited by informal invitation for bids or informal request for proposals in accordance with Section 2.30.400.

(b) General services contracts, providing for an estimated expenditure by the city exceeding \$50,000.00 shall be solicited by formal invitation for bids in accordance with Section 2.30.420 or by formal request for proposals in accordance with Section 2.30.410.

(c) The Procurement Officer shall determine, after consideration of whether the needs of the city or the circumstances require that a contract should be awarded based on significant factors in addition to price, whether the services subject to a general services contract shall be solicited by bid or request for proposals.

SECTION 19. Section 2.30.330 (Professional services contracts) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows):

2.30.330 Professional services contracts.

Professional services contracts, not exempt from the competitive solicitation requirements under Section 2.30.360 or by Council action, shall be solicited, as follows:

(a) Professional services contracts, providing for an estimated expenditure by the city not exceeding \$85,000.00, shall be solicited by informal request for proposals in accordance with Section 2.30.400.

(b) Professional services contracts, providing for an estimated expenditure by the city exceeding \$85,000.00, shall be solicited by formal request for proposals in accordance with Section 2.30.410.

(c) In lieu of the solicitation requirements set forth in Subsections (a) and (b), professional services contracts in any amount may be awarded from a list of qualified professionals to be created and maintained by the Procurement Officer, so long as the list is created and the award of contract to an entity on the list is in compliance with procedures contained in this chapter and in the purchasing manual.

SECTION 20. Section 2.30.340 (Contracts for wholesale utility commodities and services) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows):

2.30.340 Contracts for wholesale utility commodities and services.

(a) Solicitation of Contracts.

(1) Contracts for the purchase or sale-incidental-to-purchase of wholesale utility commodities and services, providing for an estimated expenditure not exceeding \$85,000.00, shall be solicited by informal invitation for bids or informal request for proposals in accordance with Section 2.30.400. Contracts for the purchase or sale-incidental-to-purchase of wholesale utility commodities and services, providing for an estimated expenditure exceeding \$85,000.00, shall be solicited by formal invitation for bids, formal request for proposals, or combination thereof, in accordance with Section 2.30.410, 2.30.420 or 2.30.430 or through solicitation of counterparties enabled to transact under a Council-approved master agreement in accordance with Section 2.30.340(a)(3).

(2) Council shall pre-approve standard form master agreement templates for wholesale utility commodities and services and such agreement shall be made publicly available.

(3) Whenever the city desires to award a contract under a Council-approved master agreement for wholesale utility commodities and services, any counterparty which has executed a Council-approved master agreement with the city, and is otherwise eligible to bid for or propose in regard to the particular transaction in accordance with the Energy Risk Management Policy, Guidelines, and Procedures Manual, may be solicited in writing. The counterparty offering the price and other required product and performance terms and conditions for wholesale utility commodities and services deemed to be the most advantageous to the city shall be eligible for an award of contract respecting the transaction.

(b) Delegation of Master Agreement Terms and Conditions. For master agreements and other contracts for wholesale utility commodities and services not otherwise within the City Manager's authority to award, the Council may authorize the City Manager to award and sign contracts with qualified, eligible counterparties. The Council authorization shall specify the limits of the authority delegated, including the maximum expenditure limit of the authority and the terms of the contracts and/or transactions that may be executed under the delegation of authority.

(1) Electricity master agreements. Any Council action delegating authority to the City Manager to contract for electricity commodities and services shall specify generally at least the following terms and conditions: quantity and the description of energy and energy services to be procured, including, without limitation: on-peak and off-peak energy and ancillary services; term, specifying a not-to-exceed period of time; period of delivery denoted in years or months or years and months; and point of delivery.

(2) Gas master agreements. Any Council action delegating the authority to contract for gas commodities and services shall specify generally at least the following terms and conditions: quantity and the description of gas services to be procured, including, without limitation: scheduled gas and gas transportation services; term, specifying a not-to-exceed period of time; period of delivery denoted in years or months or years and months; and point of delivery of the locus on the interstate transmission system at which transfer of title is made.

(c) Required Contract Terms for Wholesale Utilities Commodities and Services Contracts. The city shall use standard form contracts, as practicable, including, without limitation, form contracts copyrighted by the Edison Electric Institute, the Western States Power Pool Inc., Inc., the North American Energy Standards Board, Inc, and contracts used by the city's "feed-in tariff" energy program. Unless waived by Council action, a contract for gas or electricity wholesale utility commodities and services, and any amendment to that contract, shall not be awarded by the city and executed by the duly authorized representatives of the city, unless the following terms and conditions are required: (1) governing law shall be the laws of the ~~s~~State of California; (2) choice of venue shall be the county of Santa Clara; and (3) a counterparty shall obtain and maintain during the term of the contract the minimum credit rating established as of the date of award of contract of not less than a BBB- credit rating established by Standard & Poor's and a Baa3 credit rating established by Moody's Investors Services.

(d) Public Agency Contracts. The city may procure and make sales-incidental-to-purchase of wholesale utility commodities and services from energy counterparties through public agencies, including, without limitation, the Northern California Power Agency and the federal Western Area Power Administration.

(1) The city may engage the public agency to act as the agent of the city to procure wholesale utility commodities and services, provided that the public agency conducts a competitive selection process and awards one or more contracts in substantial compliance with the contract procurement procedures and requirements of this chapter, unless such substantial compliance is waived by the Council action accompanied by findings in support of the waiver.

(2) The City Attorney shall determine whether the contract procurement process of the public agency substantially complies with the provisions of this chapter. For the purposes of this Section 2.30.340, the public agency's competitive selection process, if any, shall be deemed to substantially comply if the public agency:

- a. conducts a formal or an informal invitation for bids ~~ding~~ or request for proposals process to solicit bids or proposals for the provision of wholesale utility commodities and services;
- b. executes a standard form contract, including, without limitation, a form contract copyrighted by the Edison Electric Institute, the Western States Power Pool, Inc. Inc., or the North American Energy Standards Board, Inc.; and
- c. unless waived by the Council, the standard form contract requires or specifies:
 1. the governing law shall be the law of the ~~s~~State of California;
 2. the choice of venue shall be identified according to either the county in which such public agency does business, or the preference for federal or state court jurisdiction over the public agency, the energy counterparty, and the contract; and
 3. the energy counterparty shall obtain and maintain during the term of the contract the minimum credit rating established as of the date of award of contract of not less than a BBB-

credit rating established by Standard & Poor's and a Baa3 credit rating established by Moody's Investors Services.

(e) Energy Risk Management Policy, Guidelines and Procedures Manual. All procurement of wholesale utility commodities and services, shall conform to the requirements of the Energy Risk Management Policy, Guidelines and Procedures Manual.

SECTION 21. Section 2.30.360 (Exemptions from competitive solicitation requirements) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.360 Exemptions from competitive solicitation requirements.

The following are exemptions from the informal and formal competitive solicitation requirements of this chapter, except as otherwise provided. These exemptions will be narrowly interpreted and applied. The department requesting an exemption shall provide all relevant information supporting the application of the exemption to the Procurement Officer. Based upon this information, the Procurement Officer shall make a recommendation to the City Manager and the City Manager shall determine whether an exemption from the competitive solicitation requirements applies. Nothing herein is intended to preclude the use of competitive solicitations, as practicable.

(a) Emergency Contracts, provided that any procurement of goods and services obtained during an emergency declared by the Federal Emergency Management Agency shall comply with applicable FEMA Public Assistance Program's orders, rules, regulations, guidelines and control procedures for cost reimbursement purposes.

(b) Whenever solicitations of bids or proposals would for any reason be impracticable, unavailing or impossible, provided that in the case of a public works project, the project is not otherwise required by the charter to be formally bid. These situations are those where solicitations of bids or proposals would not be useful or produce any operational or financial advantage for the city. Situations where solicitations of bids or proposals would be impracticable, unavailing or impossible, include, without limitation, the following:

(1) Contract specifications cannot be drawn in a way that would enable more than one vendor, consultant or contractor to meet them;

(2) Due to circumstances beyond the control of the city, the time necessary to use the competitive solicitation process, procedures and requirements would result in a substantial economic loss to the city or the substantial interference with a required city operation;

(3) Special conditions attached to a grant, donation or gift requires the use of particular goods and/or services.

All requests for exemptions under this subsection shall be supported by written documentation (facsimile or electronic mail may be used), approved by the department head and the Procurement Officer.

(c) Where competitive bids or requests for proposals have been solicited and no bid or proposal has been received, or where no bid or proposal meeting the requirements of the invitation to bid or request for proposals has been received, provided that, in the case of a public works project, the project is not otherwise required by the charter to be formally bid.

(d) Contracts for goods, wholesale commodities and services, general services or professional services available from only one source, where the Procurement Officer has determined, in writing, there is no adequate substitute or equivalent provider. Examples of acceptable sole source acquisitions or purchases may include, without limitation: equipment or services for equipment, for which there is no comparable competitive product or service except that provided by the equipment manufacturer, distributor or dealer; proprietary products sold directly by the manufacturer; a component or replacement part, for which there is no commercially available substitute and which can be obtained only from the manufacturer; goods where there is only one authorized distributor in the area; and goods where compatibility with goods in use by the city is an overriding consideration. All requests for sole source acquisitions or purchases shall be supported by written documentation (facsimile or electronic mail may be used), approved by the office or department head, and forwarded to the Procurement Officer.

(e) Contracts for goods where, pursuant to Section 2.30.900, the City Manager has determined that standardization of the supplies, materials or equipment is permissible.

(f) Placement of insurance coverage and surety bonds.

(g) Legal services contracts, including, without limitation, the services of outside counsel, consultants and other experts needed for litigation, administrative or other legal proceedings.

(h) Professional services contracts for private development related studies and services whenever the services are funded wholly by private developers.

(i) Professional services contracts, where the estimated total expenditure by the city, regardless of term, does not exceed \$50,000.00.

(j) Cooperative purchases, with one or more other public agencies or through a cooperative purchasing agency, provided: (i) the services are solicited using methods substantially similar to those required by this chapter, as determined by the Procurement Officer; and (ii) the contract is consistent with the requirements specified in this municipal code.

(k) The use of another governmental or public agency's contract or substantially the same contract terms provided: (i) the agency uses a solicitation method substantially similar to the method required by this chapter; (ii) the contract is consistent with the requirements specified in this municipal code; and (iii) the Procurement Officer determines that the city will realize overall value to utilizing the other agency's contract or contract terms compared to the city performing its own solicitation.

(l) Contracts with, or solicited on the city's behalf by, Northern California Power Agency, Transmission Agency of Northern California, and Western Area Power Administration to procure wholesale utility commodities and services that meet the requirements of Section 2.30.340(d) or 2.30.340(k).

(m) Contracts with Pacific Gas and Electric Company and the California Independent System Operator Corporation for energy transmission services to the extent necessary and expedient to provide for the general health, safety and welfare of the city's utility customers.

(n) Contracts with any public agency or governmental body to construct a public work, where the Procurement Officer determines the public agency or governmental body has used methods similar to those required by this chapter to contract for the public work.

(o) Contracts with any public utility holding a certificate of public convenience and necessity or any entity holding a cable service or video service franchise pursuant to chapter 2.10 of this

municipal code to construct a public works, where such works involves property of such public utility or cable service or video service franchisee and is otherwise of direct concern to both the city and such public utility or cable service or video service franchisee, provided that the project is not otherwise required by the charter to be formally bid.

(p) Contracts with private developers to construct public improvements in connection with their development projects, even if the city contributes funds to the improvement project, provided that the projects are not otherwise required by the charter to be formally bid.

(q) Projects, where the public work is performed by the city with its own employees.

(r) Contracts, where the estimated total expenditure by the city does not exceed \$10,000.00.

(s) Contracts with entities to procure at wholesale prices utility commodities and services under a city "feed-in tariff" energy program that meets the requirements of Section 2.30.340(c).

(t) Professional services contracts in relation to personnel matters for: recruitment consultants, workplace investigations, threat assessments, conflict intervention, and industrial safety.

SECTION 22. Section 2.30.400 (Informal bids or proposals) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.400 Informal invitation for bids or request for proposals.

(a) An informal invitation for bids or request for proposals may be solicited by any reasonable means, including, without limitation, mail, telephone, facsimile transmission, e-mail or posting to the city's web site. Quotations shall be solicited from a minimum of three bidders or proposers; if quotations from three bidders or proposers cannot be obtained by the exercise of due diligence, quotations shall be solicited from less than three bidders or proposers, as practicable. The Procurement Officer shall maintain a record of all informal invitations for bids and informal requests for proposals received by the city for a period of time in compliance with California law and the city's records retention schedule.

(b) An informal invitation for bids shall be awarded to the lowest responsive and responsible bidders, as described in Section 2.30.440.

(c) An informal request for proposals shall be awarded on the basis of the proposal deemed most advantageous to the city based on the factors set forth in Section 2.30.410(e).

(d) If a contract, price quotation, or purchase order is made or awarded to other than the consultant or contractor submitting the lowest price in its quotation, bid or proposal, the Procurement Officer shall prepare the record of the transaction, in writing, containing the reasons or grounds for the decision to award the contract.

SECTION 23. Section 2.30.410 (Formal request for proposals) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.410 Formal request for proposals.

(a) Advertising. Contracts that must be solicited by formal request for proposals shall be solicited by notice requesting proposals by advertising the notices requesting proposals on the City's website for no fewer than five days prior to the date set for the submission of proposals. As practicable, proposals shall be solicited from a minimum of three proposers.

(b) Proposal submittal. The request for proposals shall specify the date, time and place for submitting proposals and describe the scope and time frame for the delivery of the proposed solution requested, the information to be submitted by the proposer, and the criteria for evaluating the proposal.

(c) Proposal opening. Proposals received after the specified date and time shall not be accepted and shall be returned unopened unless opening is necessary for identification purposes.

(d) Award. The contract shall be awarded on the basis of the proposal deemed most advantageous to the city.

(e) The following factors shall be considered in determining the proposal deemed most advantageous to the city:

- (1) Quality of the proposal;
- (2) Quality, performance and effectiveness of the solution, goods and/or services to be provided by the consultant or the contractor;
- (3) Consultant or contractor's experience, including the experience of staff to be assigned to the project, with engagements of similar scope and complexity;
- (4) Cost to the city;
- (5) Consultant or contractor's financial condition and stability;
- (6) Consultant or contractor's ability to perform the contract within the time specified;
- (7) Consultant or contractor's prior record of performance with the city or other local, county or state agency, if applicable;
- (8) Consultant or contractor's ability to provide in the future any maintenance, repairs, parts and/or services, if applicable;
- (9) Consultant or contractor's compliance with applicable laws, regulations, policies (including city ~~Council~~ policies), guidelines and orders governing prior or existing contracts performed by the consultant or contractor; and
- (10) Any other factor or factors the city deems relevant as specified in the request for proposals.

SECTION 24. Section 2.30.420 (Formal bids – Notice, submittal, opening) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.420 Formal invitation for bids – Notice, submittal, opening.

(a) Advertising. Contracts that must be solicited by formal invitation for bids shall be solicited by notices inviting bids by advertising the notices inviting bids on the City's website for no fewer than five days prior to the date set for receiving bids. As practicable, bids shall be solicited from a minimum of three bidders.

(b) Notice. The notices inviting bids shall generally describe the goods and/or services to be purchased or acquired or the public works to be constructed, identify the place where the bid proposal form, specifications and other contract documents may be obtained, and specify the date, time and place when and where bids will be opened.

(c) Bid Submittal. All bids shall be sealed. All bids shall be submitted at the place, and at or before the date and time, specified in the notice inviting bids. Bids received after the specified

date and time shall not be accepted and shall be returned to the bidder unopened unless the opening is necessary for identification purposes.

(d) Bid Opening. Bids timely received shall be opened in public, at the date, time and place specified in the notice inviting bids, and the aggregate bid of each bidder shall be announced.

SECTION 25. Section 2.30.430 of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows):

2.30.430 Combined request for proposals and invitation for bids.

(a) Nothing in Part 5 of this chapter shall prohibit the city from conducting a competitive solicitation process which combines the elements of the request for proposals and invitation for bids processes in a single process in order to award a contract for wholesale utility commodities and services or design-build contracts.

SECTION 26. Section 2.30.440 (Determination of lowest responsive/responsible bidder) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows):

2.30.440 Determination of lowest responsive/responsible bidder.

The awarding authority shall award contracts required to be formally bid to the lowest responsive and responsible bidder. As used in this chapter “awarding authority” means the city officer or employee with the authority to award and sign the particular contract, as provided in part three of this chapter, or the Council.

(a) Low Bid. The low bid shall be the bid offering the lowest total cost to the city.

(1) The determination of lowest total cost shall be made after applying relevant policies adopted by resolution of the Council that may provide for a price preference.

(2) Where ‘add alternate’ or ‘deduct alternate’ items are included in the specifications, the determination of lowest total cost shall be made in accordance with the procedure for considering the ‘add alternate’ and ‘deduct alternate’ items as set forth in the bid specifications.

(3) The determination of lowest total cost may include the effect of factors such as trade discounts, delivery costs and life cycle costs, when these are included in the specifications.

(b) Responsive Bidder. A responsive bidder is a bidder determined by the awarding authority to ~~have submitted a bid that~~ conforms in all material respects to the requirements of the bid documents.

(c) Responsible Bidder. A responsible bidder is a bidder determined by the awarding authority:

(1) To have demonstrated the attribute of trustworthiness, and to have the quality, fitness ~~have the ability,~~ capacity, experience, and skill to satisfactorily perform the work, or provide the goods and/or services called for in accordance with the invitation for bids specifications;

(2) To have the ability to perform the contract within the time specified;

(3) To have the equipment, facilities and resources of such capacity and location to enable the bidder to perform the contract;

(4) To have the ability to provide, as required, future maintenance, repair, parts and service for the use of goods purchased;

(5) To have a record of satisfactory or better performance under prior contracts with the city or others; and

(6) To have complied with applicable laws, regulations, policies (including city Council policies), guidelines and orders governing prior or existing contracts performed by the bidder.

SECTION 27. Section 2.30.485 (Delegation of awarding authority determinations) is hereby added to Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code to read as follows:

2.30.485 Delegation of awarding authority determinations.

The awarding authority may delegate to the Procurement Officer the implementation of a determination by the awarding authority under Sections 2.30.440; 2.30.450; 2.30.470(b); and 2.30.480 of this chapter. Where the awarding authority is Council, Council hereby delegates to the Procurement Officer the implementation of determinations by Council as the awarding authority under Sections 2.30.440; 2.30.450; 2.30.470(b); and 2.30.480 of this chapter.

SECTION 28. Section 2.30.490 (Design-build contract procurement procedures) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows):

2.30.490 Design-build contract procurement procedures.

This Section establishes the exclusive procedures for the award of wholly or partially city-funded design-build contracts, to the extent debt financing limitations do not apply, and supersedes in their entirety all statutory provisions pertaining to local agency design-build construction, as set forth in chapter 4 of part 3 of division 2 of the California Public Contract Code, Section 22160 et seq., as amended from time to time.

(a) Bridging documents shall be prepared by a qualified, licensed design professional, identifying the scope and estimated price or costs of the public works project and including additional requirements or information necessary to adequately describe the city's needs for the project. These may include, without limitation, the size, type, and desired design character of the project, the performance specifications covering the quality of supplies, materials, equipment, and workmanship, or preliminary plans or building layout plans. The design professional, which prepares the bridging documents, may not subsequently submit or participate in the proposal submitted for an award of design-build contract, or have any financial interest in any design-build entity or team which submits a design-build contract construction proposal or which provides the design-build services.

(b) A formal request for proposals may be posted and advertised in manner provided for in Section 2.30.410(a), or by targeted distribution to three or more design-build entities or teams which the Procurement Officer determines possesses demonstrated skills, experience, and financial qualifications to provide the required design-build services.

(c) A formal request for proposals shall comply with the requirements of Section 2.30.410(a) and shall include: the bridging documents prepared according to

Section 2.30.490(a); a request for qualifications; and the design-build contract documents approved by the City Attorney as required by this chapter.

(d) Design-build entities and teams may be required to pre-qualify in order to be eligible to submit a proposal for the design-build project by responding to the request for qualifications in advance of the date set for the submission of proposals. The Procurement Officer may determine and will provide notice that the statement of qualifications may be submitted concurrently with the proposals.

(e) The design-build contract may be awarded to the responsive, responsible design-build entity or team on the basis of either the lowest lump-sum price or the 'best value' provided, as defined in the formal request for proposals. A design-build contract that is awarded on the 'best value' basis will be evaluated based solely on the selection criteria and procedures set forth in the formal request for proposals.

(f) The design-build contract shall require the design-build entity or team and its subcontractors of every tier to comply with the requirements of Section 22164(c) of the California Public Contract Code, as amended.

SECTION 29. Section 2.30.500 (Bid security, bonds and insurance) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.500 Bid security, bonds and insurance.

(a) When Required. The Procurement Officer is authorized to require bid security and surety bonds, including payment and performance bonds, as well as specific types and amounts of insurance coverage in connection with contracts for public works, goods, general services, professional services, and wholesale utility commodities and services to the extent required by California or federal law, or this chapter, or upon a determination that it is in the best interest of the city to do so by the City Manager or, if the City Manager does not make a determination, by the Procurement Officer in consultation with the City Attorney.

(b) Bid Security. Bid security shall be submitted with the bid and shall be in the form of a certified check, cashier's check or surety bond. Any surety bond shall be issued by an admitted surety authorized to conduct business in the State of California and shall be in a form acceptable to the City Attorney and as specified in the solicitation for bids document. If a bidder fails to submit the required bid security with the bid, the bid shall be deemed nonresponsive. After bids are opened, bid security shall be irrevocable for the period specified in the invitation for bids. If the successful bidder fails to execute the contract within the time specified, the total amount of the bid security shall be forfeited to the city. The bid security of an unsuccessful bidder shall be returned to the bidder by no later than sixty days from the date of contract award. Bids for public works projects costing in excess of \$85,000.00 shall require the submission of bid security in an amount equal to at least ten percent of the bid. On public works projects costing \$85,000.00 or less, and all other procurements of goods and services without regard to price, the Procurement Officer is authorized to determine whether any bid security in any amount shall be required on a project-by-project basis.

(c) Surety bonds. Payment and performance security shall be required of contractors and take the form of surety bonds acceptable to the City Attorney and issued by an admitted surety

authorized to conduct business in the ~~s~~State of California. ~~Invitations for bids~~Contracts for public works projects costing in excess of \$25,000.00 shall require the submission of payment bond and performance bond, each in an amount equal to one hundred percent of the contract price at the time the contract is executed. Where the contract is with a governmental agency or a public utility the requirement for performance and payment security may be waived, in writing, by the Procurement Officer if the contracting governmental agency or public utility agrees, in writing, that, to the extent all work is not to be done by its own employees, it will require any and all contractors it awards contracts for the performance of any of the work to provide, before commencement of the work, the payment bond and performance bond, on terms and conditions it establishes, which is satisfactory to the Procurement Officer and complying with the provisions of applicable California law. Payment bond and performance bond for public works projects shall be extended in the full amount of the contract for a one-year warranty period beyond the date of acceptance of the public works project by the city. On public work projects costing \$25,000.00 or less, and on all acquisitions of goods and services without regard to price, the Procurement Officer is authorized to determine whether any payment and performance security in any amount shall be required on a case-by-case basis.

(d) Form of Bonds. The only bonds acceptable to the city shall be those executed on forms approved by the City Attorney and as specified in the invitation for bids or request for proposals.

(e) Insurance. The insurance risk manager acting on behalf of the City Manager by the authority conferred by Section 2.28.170 of this municipal code shall determine the insurance requirements to be imposed upon any third party doing business with the city pursuant to this chapter. The successful bidder or proposer shall submit certificates of insurance and endorsement forms, as applicable, as evidence that it has obtained and will maintain the types and amounts of insurance coverages required by the bid or proposal solicitation documents. Such evidence shall be submitted to the Procurement Officer promptly upon request and shall be issued by an admitted insurer authorized to conduct business in the ~~s~~State of California and is acceptable to the city. The insurance risk manager may waive the insurance requirement where the contract is an intergovernmental agency contract or a city-public utility contract, and the governmental, public or quasi-public agency or the public utility, to whom the contract is awarded, agrees, in writing, that it will obtain and maintain and provide evidence of the required insurance coverage before the commencement of work, naming the city, its officials, officers, employees and agents as additional insureds to such policy.

SECTION 30. Section 2.30.610 (Preparation of bid or proposal documents) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.610 Preparation of bid or proposal documents.

In accordance with State conflict of interest law, a contractor or consultant that prepares, advises or assists in the preparation of plans and/or specifications that will be included as part of an invitation for bids or request for proposals shall be ineligible: (i) to submit a bid or proposal under that invitation for bids or request for proposals; (ii) to be a subcontractor or sub-consultant under a bid or proposal under that invitation for bids or request for proposals;

and (iii) to be a subcontractor or sub-consultant under (or have any interest in) a contract arising from that invitation for bids or request for proposals. This ineligibility shall not apply where a single entity acts as both the designer and builder of the same project pursuant to a design-build procurement contract or other alternative procurement method-based contract as may be permitted by law. Nothing in this Section is intended to differ from State conflict of interest law, as may be amended from time to time, and in the event of a conflict between this Section and State conflict of interest law, State conflict of interest law shall control.

~~A person, entity or team, with whom the city has a contract to prepare, advise or assist in the preparation of plans and/or specifications that will be included as part of the contract terms and conditions in bid or proposal documents, shall be ineligible to submit a bid or proposal for that contract or be a named consultant or contractor or sub-consultant or sub-contractor in that bid or proposal, if the contract with the city was in effect for a period of one year prior to, or is or will be in effect at the time of, the contract that is the subject of the bid or proposal. This ineligibility shall not preclude the award of a contract, calling for the design and construction of a public works project, to the consultant or the contractor pursuant to a design-build contract or other alternative procurement method-based contract.~~

SECTION 31. Section 2.30.630 (Council approval required for contracts, agreements, grant applications and donations involving surveillance technology) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.630 Council approval required for contracts, agreements, grant applications and donations involving surveillance technology.

The ~~€~~Council shall approve each of the following:

- (a) Applications for grants, acceptance of state or federal funds, or acceptance of in-kind or other donations of surveillance technology;
- (b) Notwithstanding any delegation of authority to award contracts in this chapter, contracts of any type and any amount that include acquisition of new surveillance technology;
- (c) Use of ~~€~~Council-approved surveillance technology for a purpose, in a manner, or in a location outside the scope of prior ~~€~~Council approval; or
- (d) Agreements with a non-city entity to acquire, share, or otherwise use surveillance technology or the information it provides.

SECTION 32. Section 2.30.640 (Council approval of surveillance use policy) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.640 Council approval of surveillance use policy.

The ~~€~~Council shall approve a surveillance use policy addressing each activity that it approves that is listed in Section 2.30.630. If no current surveillance use policy covers an approved activity, ~~€~~Council shall adopt a new policy or amend an existing policy to address the new activity.

SECTION 33. Section 2.30.650 (Information required) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.650 Information required.

Unless it is not reasonably possible or feasible to do so, before the Council approves a new activity listed in Section 2.30.630, the city should make available to the public a surveillance evaluation and a proposed surveillance use policy for the proposed activity.

SECTION 34. Section 2.30.660 (Determination by council that benefits outweigh costs and concerns) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.660 Determination by Council that benefits outweigh costs and concerns.

Before approving any new activity listed in Section 2.30.630, the Council shall assess whether the benefits of the surveillance technology outweigh its costs. The Council should consider all relevant factors, including financial and operational impacts, enhancements to services and programs, and impacts on privacy, civil liberties, and civil rights.

SECTION 35. Section 2.30.670 (Oversight following council approval) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows):

2.30.670 Oversight following Council approval.

Beginning after the close of fiscal year 2019 and annually thereafter, the city shall produce and make available to the public an annual surveillance report. The annual surveillance report should be noticed as an informational report to the Council. The Council may calendar the annual surveillance report or any specific technology included in the report for further discussion or action, and may direct that (a) use of the surveillance technology be modified or ended; (b) the surveillance use policy be modified; or (c) other steps be taken to address Council and community concerns.

SECTION 36. Section 2.30.680 (Definitions) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.680 Definitions.

The following definitions apply to this section:

- (a) "Annual surveillance report" means a written report, submitted after the close of the fiscal year and that includes the following information with respect to the prior fiscal year:
 - (1) A description of how each Council-approved surveillance technology was used, including whether it captured images, sound, or information regarding members of the public who are not suspected of engaging in unlawful conduct;
 - (2) Whether and how often data acquired through the use of the surveillance technology was shared with outside entities, the name of any recipient entity, the types of data disclosed, and the reason for the disclosure;

- (3) A summary of any community complaints or concerns about the surveillance technology;
- (4) Non-privileged and non-confidential information regarding the results of any internal audits, information about violations of the surveillance use policy, and any actions taken in response;
- (5) Whether the surveillance technology has been effective at achieving its identified purpose;
- (6) The number and nature of Public Records Act requests relating to the surveillance technology;
- (7) Annual costs for the surveillance technology and for compliance with this surveillance and privacy protection ordinance, including personnel and other ongoing costs, and sources of funding; and
- (8) Other relevant information as determined by the ~~€~~City ~~¶~~Manager.

The annual surveillance report will not include information that may compromise the integrity or limit the effectiveness of a law enforcement investigation.

(b) "Surveillance evaluation" means written information, including as part of a staff report, including:

- (1) A description of the surveillance technology, including how it works and what information it captures;
- (2) Information on the proposed purpose, use and benefits of the surveillance technology;
- (3) The location or locations where the surveillance technology may be used;
- (4) Existing federal, state and local laws and regulations applicable to the surveillance technology and the information it captures; the potential impacts on civil liberties and privacy; and proposals to mitigate and manage any impacts;
- (5) The costs for the surveillance technology, including acquisition, maintenance, personnel and other costs, and current or potential sources of funding.

(c) "Surveillance technology" means any device or system primarily designed and actually used or intended to be used to collect and retain audio, electronic, visual, location, or similar information constituting personally identifiable information associated with any specific individual or group of specific individuals, for the purpose of tracking, monitoring or analysis associated with that individual or group of individuals. Examples of surveillance technology include drones with cameras or monitoring capabilities, automated license plate readers, closed-circuit cameras/televisions, cell-site simulators, biometrics-identification technology and facial-recognition technology. For the purposes of this chapter, "surveillance technology" does not include:

- (1) Any technology that collects information exclusively on or regarding city employees or contractors;
- (2) Standard word-processing software; publicly available databases; and standard message tools and equipment, such as voicemail, email, and text message tools;
- (3) Information security tools such as web filtering, virus detection software;
- (4) Audio and visual recording equipment used exclusively at open and public events, or with the consent of members of the public;
- (5) Medical devices and equipment used to diagnose, treat, or prevent disease or injury.

(d) "Surveillance use policy" means a stand-alone policy or a section in a comprehensive policy that is approved by ~~€~~Council and contains:

- (1) The intended purpose of the surveillance technology.
- (2) Uses that are authorized, any conditions on uses, and uses that are prohibited.
- (3) The information that can be collected by the surveillance technology.
- (4) The safeguards that protect information from unauthorized access, including, but not limited to, encryption, access- control, and access oversight mechanisms.
- (5) The time period for which information collected by the surveillance technology will be routinely retained; the process by which the information is regularly deleted after that period lapses; and conditions and procedures for retaining information beyond that period.
- (6) If and how non-city entities can access or use the information, including conditions and rationales for sharing information, and any obligations imposed on the recipient of the information.
- (7) A description of compliance procedures, including functions and roles of city officials, internal recordkeeping, measures to monitor for errors or misuse, and corrective procedures that may apply.

SECTION 37. Section 2.30.700 (Records, public inspection) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.700 Records, public inspection.

(a) Records Maintenance. The Procurement Officer shall maintain written records for each contract, price quotation, purchase order, document or other agreement awarded or entered into by the city, which shall include, at a minimum: the request from the department; the bid or proposal documents received for the contract, if any; all bids or proposals received; the basis on which the contract award was made; and a copy of any and all contracts awarded. The Procurement Officer shall maintain and retain written records of any determination to cancel solicitation documents and of an awarding authority's decision to reject bids or proposals. Such records shall be retained for a period of time in compliance with California law and the city's records retention schedule, and the records shall be made available for public inspection during normal city business hours. The foregoing provisions shall not apply to records of wholesale utility commodities and services transactions retained under master agreements referred to in Section 2.30.140, which shall be maintained by the department of utilities.

(b) Public Inspection. Bids shall be available for public inspection following the date and time set for receipt of bids. ~~Proposals shall be available for public inspection following the public announcement of the selection of a proposer for award of contract.~~ Proposals shall be available for public inspection consistent with State public records law, as may be amended from time to time. This Section shall not be construed to require the disclosure of records that are otherwise exempt from inspection and copying by law.

SECTION 38. Section 2.30.710 (City manager reports) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows:

2.30.710 City ~~m~~Manager reports.

(a) City Manager shall make a biannual report to the Council of all contracts for professional services or general services awarded by the City Manager, the Procurement Officer or other

designated employees, the costs of which exceed \$25,000.00, and of all contracts awarded by the City Manager for public works and goods, the costs of which exceed \$85,000.00.

(b) The City Manager shall prepare and deliver an annual report to the Council of all leases, licenses and rentals of city real property with third parties, approved by the City Manager.

SECTION 39. Section 2.30.800 (Rewards relating to arrest and conviction) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows):

2.30.800 Rewards relating to arrest and conviction.

The authority to offer and pay a reward leading to the arrest and conviction of a criminal is reasonably contemplated by this chapter to the extent an expenditure of city funds in return for valuable information can be considered payment for the rendering of services to the city, as contemplated by Section 2.30.010.

(a) The City Manager is authorized to offer and pay a reward of up to \$25,000.00 for information leading to the arrest and conviction of any person or persons whose willful conduct causes unlawful injury or death to another person, or whose willful misconduct results in unlawful damage or destruction of personal property of the city or another person. The City Manager shall cause the reward offer to be publicized and reported to the ~~city~~ Council.

(b) A reward shall not be paid unless the information is received by the Palo Alto Police Department within ninety days of publication of the reward offer.

(c) Conviction of the person or persons found responsible for the crime shall be required for payment of a reward unless the City Manager makes a written finding that the conviction, determination of guilt, or finding of responsibility was impossible due to the death of the criminal.

(d) Reward claims shall be made, in writing, and the claimant shall provide his or her name, address and telephone number. Unless disclosure is authorized by the claimant, this information shall be deemed confidential and protected from public disclosure to the maximum extent permitted by California law.

(e) Each reward offer shall be made, in writing, and shall be valid only if approved in advance as to form and in compliance with this Section by the City Attorney.

SECTION 40. Section 2.30.900 (Standardization) of Chapter 2.30 (Contracts and Purchasing Procedures) of the Palo Alto Municipal Code is hereby amended as follows):

2.30.900 Standardization.

Where the City Manager has determined that it is required by the health, safety or welfare of the people or employees of the city, or that significant costs savings have been demonstrated, the standardization of supplies, materials or equipment, including, without limitation, information technology property, for purchase or to be used in a public works project is permitted and the supplies, materials or equipment specifications may specify a single brand or trade name. The City Manager ~~or the Procurement Officer~~ may be considered the following factors in determining to standardize on a single brand or trade name:

(a) Repair and maintenance costs would be minimized;

- (b) User personnel training would be facilitated thereby;
- (c) Supplies or spare parts would be minimized;
- (d) Modifications to existing equipment would not be necessary;
- (e) Training of repair and maintenance personnel would be minimized; and
- (f) Matching existing supplies, materials or equipment is required for proper operation of a function or program.

SECTION 41. Subsection (a) of Section 10.50.020 (Definitions) of Chapter 10.50 (Residential Preferential Parking) of Title 10 (Vehicles and Traffic) of the Palo Alto Municipal Code is hereby amended as follows:

(a) "Director" shall mean the ~~director of planning and community environment~~ chief transportation official.

SECTION 42. Subsection (b) of Section 10.50.050 (Initiation by neighborhood petition) of Chapter 10.50 (Residential Preferential Parking) of Title 10 (Vehicles and Traffic) of the Palo Alto Municipal Code is hereby amended as follows:

(b) Timing and Review of Applications. Each calendar year, the director ~~of planning and community environment~~ shall review all applications received prior to March 31st of that year to determine whether the RPP District criteria established in this Chapter are met.

SECTION 43. Subsection (b) of Section 10.50.090 (Modification or termination of districts) of Chapter 10.50 (Residential Preferential Parking) of Title 10 (Vehicles and Traffic) of the Palo Alto Municipal Code is hereby amended as follows:

(b) Timing and Review of Opt Out Applications. Each calendar year, the director ~~of planning and community environment~~ shall review all opt out applications received prior to March 31st of the year to determine whether the opt out criteria established in the administrative guidelines are met.

SECTION 44. Section 10.51.020 (Definitions) of Chapter 10.51 (Crescent Park No Overnight Parking Program) of the Palo Alto Municipal Code is hereby amended as follows:

10.51.020 Definitions.

The following words and phrases as used in this chapter shall have the following meanings.

(a) "Crescent Park" means the area bound by Edgewood Drive on the northeast, Channing Avenue on the south, Lincoln Avenue on the west, University Avenue on the northwest and including the entirety of Crescent Drive.

(b) "Director" shall mean the chief transportation official.

(~~b~~c) "Dwelling unit" shall mean any self-contained house, apartment, stock cooperative, or condominium occupied solely for residential purposes.

(~~e~~d) "Restricted parking area" shall mean a residential area upon which the council imposes overnight parking limitations pursuant to the authority granted by this chapter.

(de) "Resident" shall mean any person who lives in a dwelling unit located in a residential restricted parking area.

(ef) "Overnight residential parking permit" shall mean a permit issued under this chapter which, when displayed upon a motor vehicle, as described herein, shall exempt said motor vehicle from parking time restrictions established pursuant to this chapter.

(fg) "Guest" shall mean a person visiting residents living in a residential preferential parking zone.

(gh) "Guest parking permit" shall mean a parking permit issued pursuant to this chapter or an ordinance or resolution enacted pursuant to authority granted herein, which when displayed upon a motor vehicle, as described herein, shall exempt the motor vehicle from parking time restrictions established pursuant to this chapter.

SECTION 45. Section 10.51.065 (Modification or termination of restricted parking areas) of Chapter 10.51 (Crescent Park No Overnight Parking Program) of the Palo Alto Municipal Code is hereby amended as follows:

10.51.065 Modification or termination of restricted parking areas.

(a) Opting out. After final adoption of a designated restricted parking area, an application to opt out may be filed with the director ~~of planning and community environment~~, subject to the following:

(1) The minimum number of blocks and percentage of dwelling units supporting the opt-out shall be specified by the director in the administrative guidelines.

(2) Each legal dwelling unit, as defined in Section 18.04.030(b)(46) of this code, shall be entitled to one vote towards the determination of support.

(3) Applications for opting out shall be made in the form and manner prescribed by the director and shall be acted upon by the director.

(b) Dissolution. The city council, following a noticed public hearing, may adopt a resolution dissolving a designated restricted parking area:

(1) Upon receipt and verification of a signed petition representing fifty percent or more of the affected dwelling units within a designated restricted parking area; or

(2) Upon findings by the city council that the criteria for designating the restricted parking area are no longer satisfied.

SECTION 46. Severability. If any provision, clause, sentence or paragraph of this ordinance, or the application to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are hereby declared to be severable.

SECTION 47. CEQA. The City Council finds and determines that this Ordinance is not a "project" within the meaning of section 15378 of the California Environmental Quality Act (CEQA) Guidelines because it has no potential for resulting in physical change in the environment, either directly or ultimately.

SECTION 48. Effective Date. This ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

APPROVED:

City Clerk

Mayor

APPROVED AS TO FORM:

City Attorney or Designee

City Manager

Director of Administrative Services

Chief Transportation Official

Director of Planning and Development
Services

NOT YET APPROVED

Ordinance No. _____
Ordinance of the Council of the City of Palo Alto Amending Five Sections of Title
18 (Zoning) of the Palo Alto Municipal Code.

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Section 18.01.080 of Chapter 18.01 (Adoption, Purposes, and Enforcement) of the Palo Alto Municipal Code is hereby amended as follows (~~strikethrough~~ text is deleted, underlined text is added):

18.01.080 Violations - Penalties

~~—Any person, firm, or corporation violating any provision of this title is guilty of a misdemeanor, and upon conviction thereof shall be punishable as provided in Section 1.08.010 of this code. Such person, firm, or corporation is guilty of a separate offense for each and every day during any portion of which such violation of this title is committed, continued, or permitted by such person, firm, or corporation and shall be punishable as provided in this section.~~

It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this Chapter or any permits, conditions, or variances granted under this Chapter, and shall be subject to any penalty or penalties authorized by law, including but not limited to: administrative enforcement pursuant to Chapters 1.12 and 1.16 of this code; and criminal enforcement pursuant to Chapter 1.08 of this code. Each separate day or any portion thereof during which any violation of this chapter occurs or continues shall be deemed to constitute a separate offense.

When the code enforcement officer determines that a violation of this Chapter has occurred, he/she may record a notice of pendency of code violation with the Office of the County Recorder stating the address and owner of the property involved. When the violation has been corrected, the code enforcement officer shall issue and record a release of the notice of pendency of code violation.

SECTION 2. Section 18.01.085 of Chapter 18.01 (Adoption, Purposes, and Enforcement) of the Palo Alto Municipal Code is hereby amended as follows:

18.01.085 Enforcement - Criminal Enforcement Citation Authority

~~—The following designated employee positions may enforce the provisions of this chapter by the issuance of citations. Persons employed in such positions are authorized to exercise the authority provided in Penal Code Section 836.5 and are authorized to issue citations for violations of this chapter. The designated employee positions are: chief building official, plan check engineer; ordinance compliance inspector.~~

The employee positions designated in this section are authorized to exercise the authority provided in California Penal Code section 836.5 for violations of this Chapter. The designated employee positions are: (1) chief building official; and (2) code enforcement officer.

SECTION 3. Subsection (a)(44.8) of section 18.04.030 (Definitions), of Chapter 18.04 (Definitions) of the Palo Alto Municipal Code is hereby amended as follows:

(a)(44.8) "Director" means the director of planning and development services ~~community environment~~, unless indicated otherwise.

SECTION 4. Section 18.40.170 of Chapter 18.40 (General Standards and Exceptions) of the Palo Alto Municipal Code is hereby amended as follows:

18.40.170 Deferral of Director's Action

The director shall have the authority to forward projects to City Council for final action in the circumstances listed below. No ~~action decision~~ by the Director shall be required, and the appeal process and or request for hearing process shall not apply to such referred actions, provided, however, that the Director may seek a recommendation from the Architectural Review Board or Planning and Transportation Commission prior to action by the City Council.

(a) In the case of projects having multiple entitlements, where one requires City Council approval, all entitlements may be referred to City Council for final action;

(b) Projects involving leases or agreements for the use of City-owned property;

(c) Projects requiring a statement of overriding considerations, pursuant to Section 18.31.010; and

(ed) Projects, as deemed appropriate by the director.

SECTION 5. Subsection (c)(4) of section 18.77.060 (Standard Staff Review Process), of Chapter 18.77 (Processing of Permits and Approvals) of the Palo Alto Municipal Code is hereby amended as follows:

(4) Any party, including the applicant, may request a hearing of the planning and transportation commission on the proposed director's decision by filing a written request with the planning division. ~~There shall be no fee required for requesting such a hearing.~~

SECTION 6. Severability. If any provision, clause, sentence or paragraph of this ordinance, or the application to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are hereby declared to be severable.

SECTION 7. CEQA. The City Council finds and determines that this Ordinance is not a "project" within the meaning of section 15378 of the California Environmental Quality Act (CEQA) Guidelines because it has no potential for resulting in physical change in the environment, either directly or ultimately.

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NOT YET APPROVED

SECTION 8. Effective Date. This ordinance shall be effective on the thirty-first date after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

APPROVED:

City Clerk

Mayor

APPROVED AS TO FORM:

City Attorney or Designee

City Manager

Director of Planning and Development
Services