
 City of Berkley, Michigan ADMINISTRATIVE DIRECTIVE	Directive #: 2016 - 01	Effective Date: November 7, 2016	Page 1 of 27
	Supersedes: Procurement Directive 2015-01		
Approved by:  Matthew C. Baumgarten City Manager	Subject: PROCUREMENT		

OVERVIEW:

The purpose of this directive is to provide general guidance to Department Heads and other City employees involved in purchasing goods and services for use by the City of Berkley. This directive shall be used in conjunction with, but does not supersede, amendments to Chapter 2 Administration, Article IV Finance, Division 2 Purchases, Contracts and Sales revisions to the Purchasing Ordinance of the City's Purchasing Procedures and Regulations, as adopted on October 6, 2014. City employees are responsible for understanding and satisfying all aspects and requirements of this directive.

In accordance with the City Charter, the city manager (or designee) is the purchasing agent for the city, responsible for purchasing all supplies and materials for the city. In addition, the city manager conducts all sales of personal property belonging to the city, which the City Council deems unfit or unnecessary for the city's use. The city manager may delegate these duties to some other officer or employee of the city however, the city manager is responsible for the proper execution of such duties.

IMPORTANT NOTE:

The guidelines noted in this directive do not supersede the legal requirements for purchases made using funds from federal, state, county or other grant sources. Department directors and authorized employees are expected to understand and fully comply with the terms dictated by City policies and the funding source when purchases are made with non-city funds. Corrective actions will be taken, (up to and including termination of employment), when violations occur.

DEFINITIONS:

- Purchase - to buy a product, goods, services or real property.
- Purchasing Agent - an administrator who facilitates or assists in the solicitation, selection and purchase of goods and services by gathering information about products, prices and suppliers; may also solicit bids from vendors and award purchasing contracts.
- Authorized Signature - the signature of the employee who is authorized to sign or otherwise approve payments for a given department. This would include the city manager, director or other staff designated by the director.
- Purchase agreement (service agreement, service contract) - a legal document recording the final understanding of a purchaser who agrees to buy and a seller who agrees to sell specified items or services under stated terms and conditions.
- Competitive bid - a transparent procurement method where bids from competing contractors, suppliers or vendors are invited by openly advertising the scope, specifications, terms and conditions of the proposed contract as well as the criteria by which the bids will be evaluated.

Title:

PROCUREMENT

- Sealed bid - a document enclosed in a sealed envelope and submitted in response to an invitation to bid.
- Invitation to bid - a written invitation to prospective suppliers to submit a bid or proposal for materials, goods or services (also called a request for proposal or RFP). An invitation to bid includes the submission due date, time and place of filing and bid opening.
- Award - acceptance of a bid or proposal for a contract
- Emergency - for purchasing purposes, an emergency is defined as an unforeseen situation where there is a breakdown of city service and an urgent need exists to restore such service in order to avoid serious and adverse consequences affecting the life, health, welfare or property of the citizens of Berkley or City facilities.
- Emergency Purchase - a purchase required in order to respond to an emergency (as defined in this directive) and there is insufficient time for competitive bidding.

RESPONSIBILITY:

- A.** As purchasing agent for the city manager is responsible for overseeing purchasing processes conducted by all city departments and implementing corrective actions when ordinance provisions are compromised or violated. Corrective actions may consist of (but is not limited to) cancellation of unauthorized purchases, suspension or other disciplinary action including termination of employment.
- B.** Department Directors are responsible for ensuring that goods, materials and services needed for successful department operations are procured in accordance with the purchasing ordinance. Budgeted expenditures up to \$3,000 can be made without advance approval from the city manager; however, the director must confirm funds are available before initiating the purchase or bid process. This would include compliance with the guidelines documented in this directive along with identifying and properly managing the financial resources appropriated for routine and capital purchases.

In addition, department directors shall:

- I. Ensure department compliance with all aspects of the purchasing ordinance and guidelines.
- II. Obtain city manager approval before initiating purchases for goods and services greater than \$7,500.00.
- III. Obtain city manager approval before purchasing items that are not included in the annual budget and before initiating emergency purchases. Requests for such purchases must be made in writing.
- IV. Work with the Finance Director to confirm funding is available and resolve other related financial concerns before bids are solicited or items are purchased.
- V. Develop and issue RFPs and require sealed bids for all purchases greater than \$7,500.00. Submit copy of bid documents to city manager's office for review before distribution.

Title:

PROCUREMENT

- VI. When appropriate, and as required, develop and issue request for proposals (RFPs) or sealed competitive bids in accordance with the ordinance when the cost of goods or services are greater than \$3,000.00.
 - VII. Draft and advertise RFPs and support documents in a timely manner.
 - VIII. Review RFP responses and recommend a vendor to perform the required work. Submit vendor recommendations to the city manager in writing and include:
 - 1. A summary of the bids received
 - 2. The selected vendor's name and contact information
 - 3. Specific reason(s) why the vendor was selected
 - 4. The specific accounts where funds have been allocated
 - IX. Work with the city attorney to ensure that RFPs, contracts, service agreements and other purchase documents are executed properly and in accordance with city ordinances and the laws of the State of Michigan.
 - X. Ensure that contracted work does not commence before both city manager approval and City Council authorization has been obtained.
 - XI. Process vendor payments as dictated by the purchasing agreements. Provide the city manager and Finance Department with the necessary payment documents, written quotes, vendor selection, contracts, etc., for approval and/or payment according to established procedures.
- C.** The Finance Director is responsible for working with department directors to address financial and related budgetary needs. The Finance Director shall:
- I. Collaborate with department directors during the budget process to ensure the funds needed for successful operations are appropriated accordingly.
 - II. Review purchase agreements and service contracts to confirm payment terms and schedules do no conflict with City policies.
 - III. Advise department directors and the city manager, when there is insufficient funding for a planned or scheduled purchase.
 - IV. Submit budget amendments to the city manager for City Council consideration and approval.
 - V. Collaborate with department directors and the city manager when emergency purchases are required.
 - VI. As directed by the city manager, shall assist with the design, implementation and internal controls over the procurement process.
 - VII. Inform the city manager of purchasing irregularities when identified by routine reconciliation practices, through the audit process or by other means.
- D.** The City Attorney is responsible for reviewing all RFPs, service agreements, contracts and other legal documents related to the procurement of goods and services as authorized by the City Council.
- E.** The City Council is responsible for authorizing the city manager to execute contracts or other purchasing documents on behalf of the City. Upon receipt of the bid tabulation and recommended vendor, the council may reject the bids or determine the lowest responsible bidders and award contracts accordingly. Contracts or purchases covered by this ordinance shall not be executed without Council approval. Contracted work shall not commence until Council authorization is obtained.

Title:

PROCUREMENT

F. The City Clerk is responsible for:

- I. Maintaining the official record of all motions, resolutions and contracts related to goods and services purchased as authorized by City Council.
- II. Informing department directors when contracts have expired
- III. Complying with record retention requirements for all official City documents.
- IV. Notifying departments when their respective vendor contracts and service agreements expire.

GENERAL PROVISIONS: *Procurement Process Workflow Exhibits appear on page 5-8 of this directive.*

As purchasing agent for the City of Berkley, the city manager shall approve all purchases of equipment, materials, supplies and services for the city, in accordance with the procedures established by the City Council.

City manager approval is required before all purchases greater than \$7,500.00.

All contracts, service agreements and purchase orders must be signed by the city manager unless other arrangements have been approved in advance and in writing.

Budgeted expenditures up to \$7,500 can be made without City Council authorization. City manager approval is required before such purchases are made. The department director must confirm that funds are available before initiating the purchase or bid process.

Sealed, competitive bids are mandatory for all purchases greater than \$7,500.00. City manager approval is required before RFP's or related documents are advertised.

The City Attorney shall review all service agreements, contracts and other legal documents associated with purchases before such matters are placed on the City Council agenda for consideration. Additional provisions are listed below.

1. Purchase of supplies, services, materials, equipment or parts costing less than \$500.00 do not require sealed competitive bids. Such purchases shall be based on competitive quotations obtained from prospective vendors. **See Procurement Process Workflow Exhibit 1.**
2. Purchases greater than \$500.00, but less than \$3,000.00, require competitive quotations in writing. The City may advertise for competitive quotations or take sealed competitive bids for such purchases if deemed to be in the best interests of the city. The transaction is finalized with a signed purchase order or agreement when funds are appropriated and available in the budget. The city manager (or designee) must sign any purchase orders and agreements in accordance with the purchasing ordinance. **See Procurement Process Workflow Exhibit 2.**
3. Sealed competitive bids are required for all purchases greater than \$7,500.00. Notices inviting sealed competitive bids must be published in an official newspaper, electronically on the internet or through a bid notification system such as the Michigan Intergovernmental Trade Network (MITN) or similar internet site (including the City's website) for at least five calendar days. After giving due notice inviting proposals, a

Directive #: 2016 - 01	Effective Date: November 7, 2016	Page 5 of 27
Title: PROCUREMENT		

responding vendor is selected. A formal request for approval is submitted to the city manager along with the proposed service agreement. The recommended vendor information, along with the proposed contract or service agreement is then submitted to the City Council for authorization. **See Procurement Process Workflow Exhibit 3.**

4. Emergency purchases require approval from the city manager based on the results of three written quotes. The requesting department is responsible for documenting the need and recommending a qualified, cost effective vendor to provide the goods or services. Emergency purchases shall not be made without city manager approval. **See Procurement Process Workflow Exhibit 4.**
5. No contract, purchase or invoice shall be artificially divided to circumvent the procedures defined by the purchasing ordinance.
6. Modifications to the terms of any contract or service agreement must be reviewed by the City Attorney, approved by the city manager and then submitted to City Council for authorization. No such pricing changes, modified work or both will be effective until the modified contract has been agreed upon in writing, signed by the vendor and the city manager and then authorized by the City Council. A copy the proceedings authorizing the modifications is certified by the City Clerk and attached to the original contract on file in the City Clerk's Office.

Attached to this directive is a sample of the preferred format for RFPs (Sample 1) and service agreements (Sample 2). Microsoft Word templates for both documents will be provided upon request from the city manager's Office. Contact the city manager's Office if there are questions regarding the purchasing ordinance of this directive.

DSL



EXHIBIT 1

BUDGETED PURCHASE LESS THAN \$500

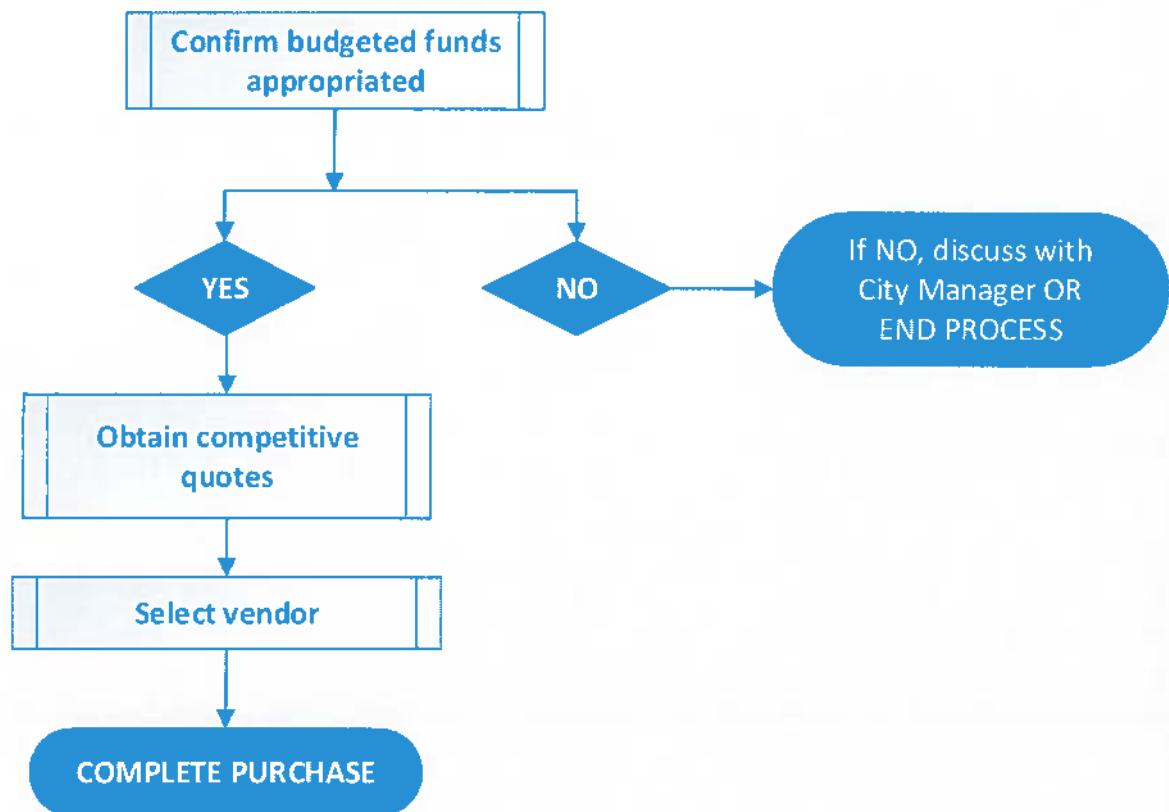




EXHIBIT 2

BUDGETED PURCHASE GREATER THAN \$500 BUT LESS THAN \$3,000

City Manager approval required for all purchases greater than \$3,000

OPTIONAL: *May request sealed bids for purchase greater than \$3,000*

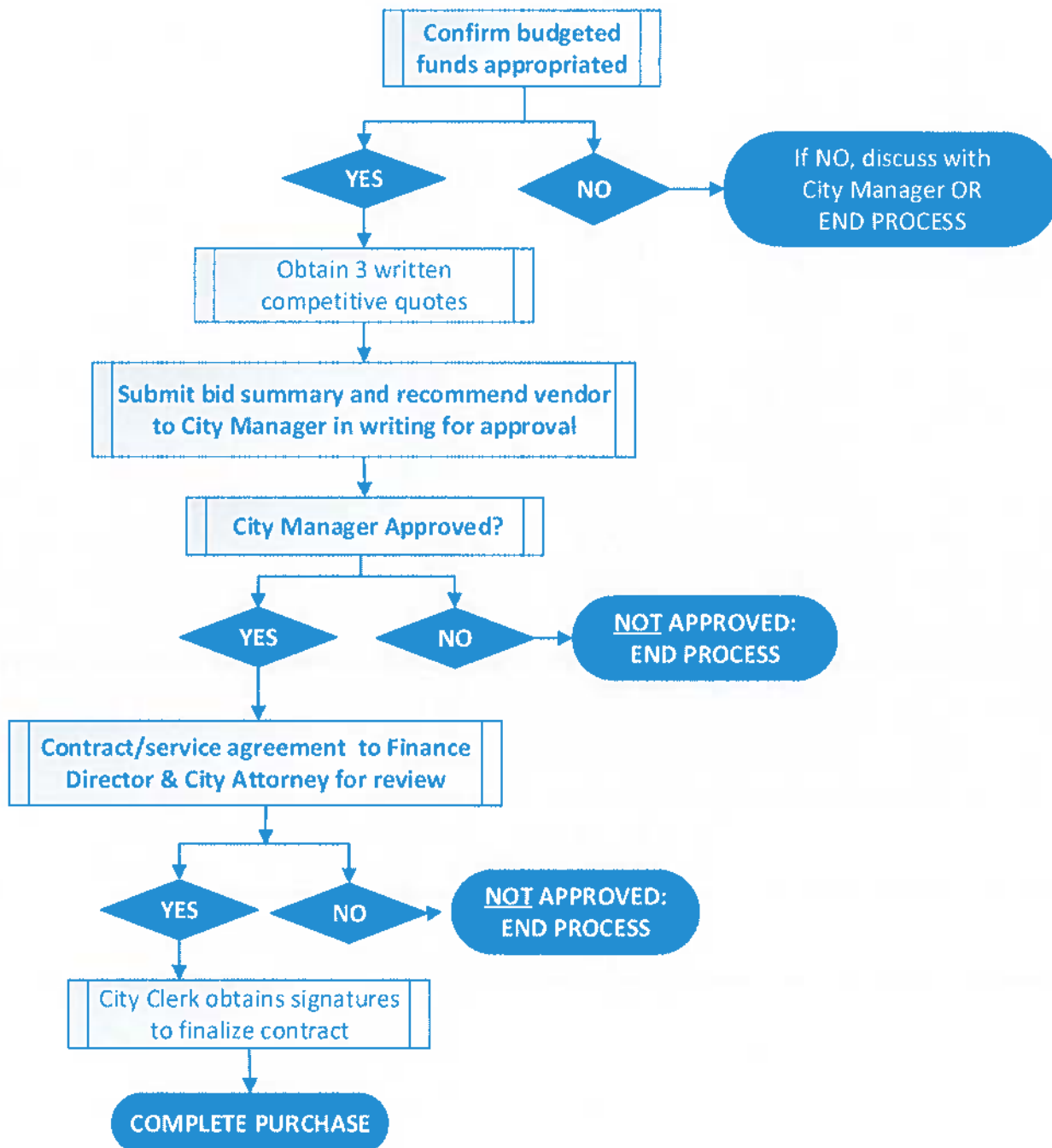
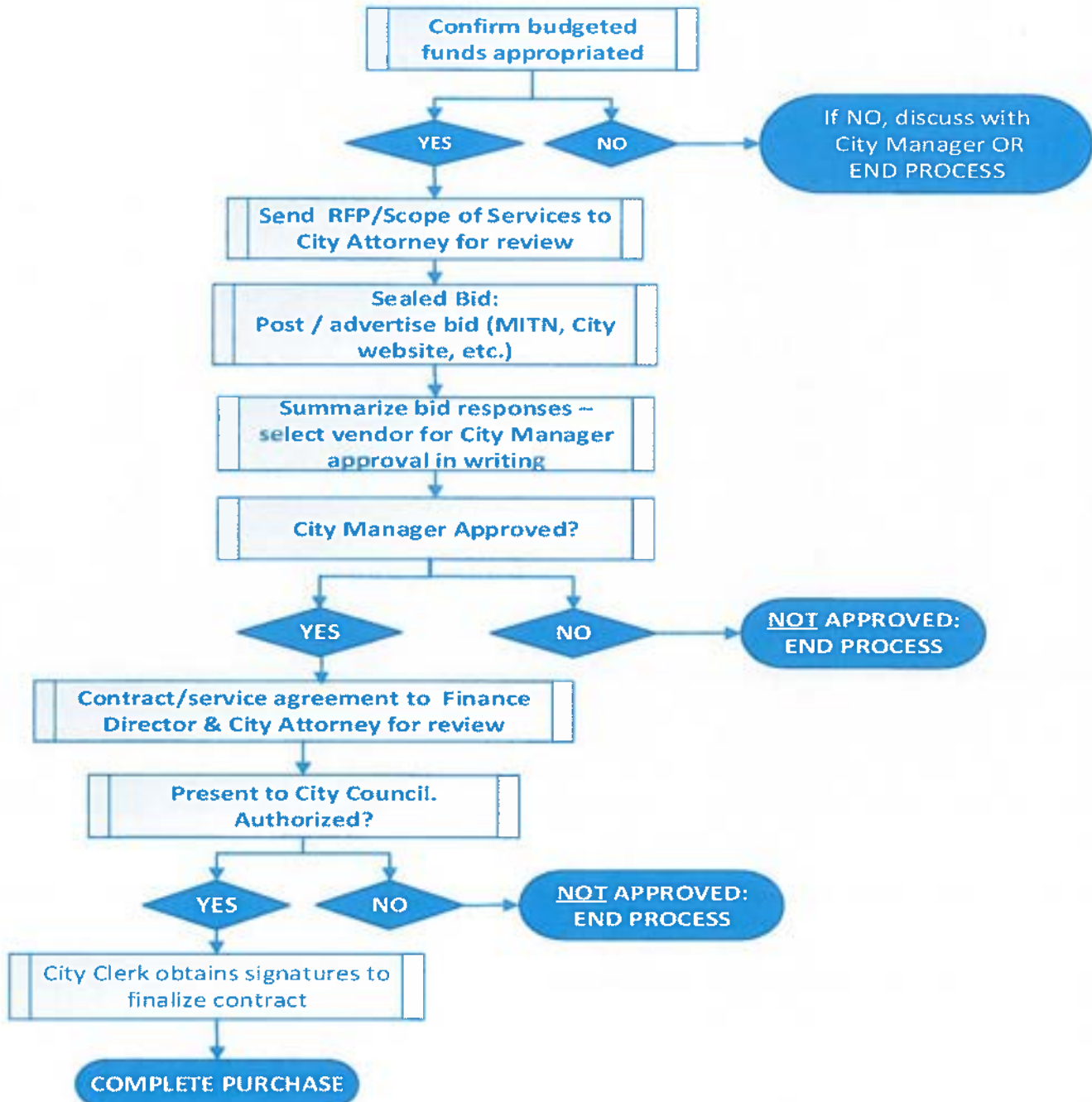




EXHIBIT 3

BUDGETED PURCHASE GREATER THAN \$7,500

Sealed bids submitted to City Clerk according to ordinance

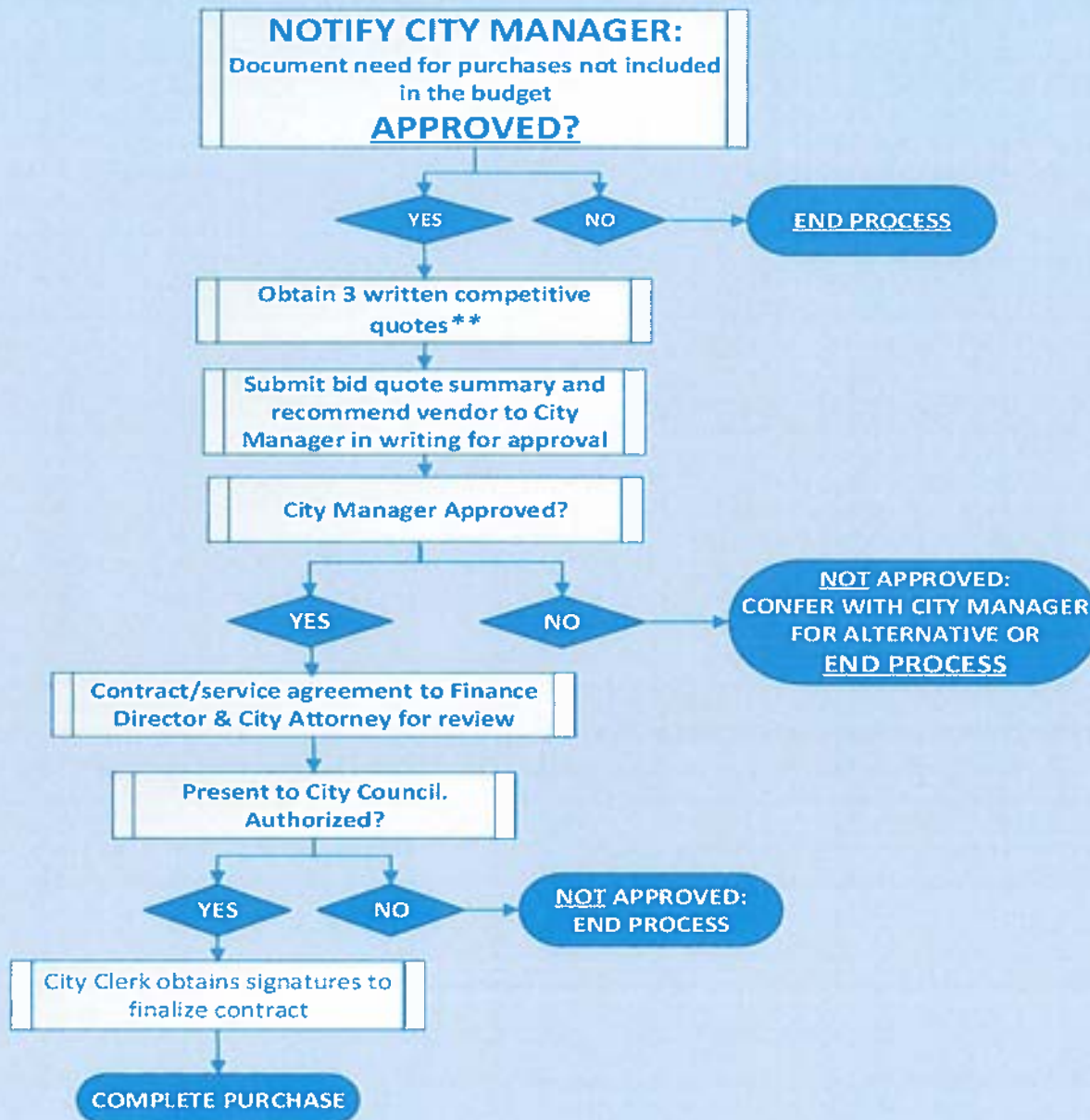




PROCUREMENT PROCESS WORK FLOW

EXHIBIT 4

EMERGENCY OR OTHER PURCHASE NOT INCLUDED IN ADOPTED BUDGET **



****NOTE:** When possible, Workflow steps may vary based on degree of urgency.

**SAMPLE 1:
REQUEST FOR PROPOSAL**

REQUEST FOR PROPOSAL



CITY OF BERKLEY MICHIGAN

NAME OF PROJECT REQUEST FOR PROPOSAL

The City of Berkley is soliciting bids from qualified vendors to provide _____ for _____ Department. Bids will be accepted at the office of the City Clerk, 3338 Coolidge Highway until (time) on (date). Bids should be sealed and clearly labeled as follows:

Vendor (Company) Name
Address
"CITY OF BERKLEY BID FOR _____"

Further information and specifications may be obtained from the city manager's Office, 3338 Coolidge, Berkley, Michigan 48072 during the hours of 8:30 AM to 5:00 PM (closed for lunch from 1 PM - 2 PM daily).

The City of Berkley does not discriminate in its employment or any other programs or activities based on sex, race, color, age, height, weight, marital status, national origin, religion, arrest record, or disability.

We provide reasonable accommodation for qualified individuals with a disability, if requested.

The City reserves the right to accept or reject any, all or portions of bids and to waive any formal defects or irregularities in the bids, when deemed to be in the best interest of the City. The right is further reserved to accept a bid higher than the low bid when, in the opinion of the City Council, the public interest will be better served.

Matthew C. Baumgarten
City Manager
Berkley, Michigan 48072



SAMPLE SERVICE AGREEMENT

CITY OF BERKLEY REQUEST FOR PROPOSAL NAME OF PROJECT OR RFP

SCOPE OF SERVICES: The successful bidder agrees to provide (describe items or service; include department name and address)

- Customized list of specific list of goods or services required.
- Identify functionality of goods and services to include industry standards, legal requirements or descriptive information.
- Itemized list of needed goods or service components
- Include or reference to minimum / maximum quantities or product warranties and discounts if applicable.
- Indicate acceptable substitutions if brand name items are listed.
- Attach other specifications or diagrams if required
- Indicate proposed project duration or completion date if applicable

The following sections must be included in the RFP with details specific to the required goods or service.

VENDOR REQUIREMENTS:

- A. Submit cost estimates using the Basis of Award sheet attached.
- B. Provide quotes for the items listed. Bids submitted for alternate brands with comparable function, esthetics, durability, quality and comfort, will (or will not) be considered.
- C. Provide picture (or brochure) along with manufacturer warrantee for each items included in the bid submission
- D. The selected vendor will deliver and assemble all furniture at either City Hall or the Public Safety Building.
- E. Provide estimated delivery and assembly dates and specify if multiple deliveries are required.
- F. Invoices should be sent to the Berkley city manager's Office after all items have been delivered, assembled and installed.

VENDOR RESPONSIBILITIES:

1. All work shall be performed in a professional, courteous manner using quality equipment and materials, all of which must be maintained and operated with the highest standards as well as meeting all OSHA and MIOSHA safety standards.
2. The Contractor guarantees the reimbursement, repair or replacement and restoration of any area damaged by careless or negligent work.
3. The Contractor shall not sublet, assign or transfer the contract or any portion or any payment due thereunder, without the written consent of the City.
4. All invoices must be received within 30 days of the date of service.

CONTRACTOR QUALIFICATIONS:

1. EXPERIENCE

No award will be made to a vendor that is in violation of any State law or local ordinance. Bids will be accepted from vendors that have been in the office furniture business for a minimum of two years. Please indicate the years of experience in this work in the space provided on the page entitled Office Furniture - Basis of Award.

2. EQUIPMENT

The successful bidder must have equipment and supplies adequate to perform the work.

3. INSURANCE REQUIREMENTS

All vendors bidding on this contract shall maintain in force the following insurance from an insurance carrier(s) licensed and admitted to do business in Michigan and shall provide the City of Berkley proof of insurance at the time of awarding the contract. Insurance requirements include the following:

- a. MOTOR VEHICLE LIABILITY INSURANCE/COMMERCIAL GENERAL LIABILITY INSURANCE – The Vendor shall carry motor vehicle liability insurance, including applicable no-fault coverages, with limits of liability not less than one million dollars (\$1,000,000). The Vendor shall also carry commercial general liability insurance on an "occurrence

basis" with limits of liability not less than one million dollars (\$1,000,000) per occurrence and/or combined single limit, Personal Injury, Bodily Injury and Property Damage. Motor Vehicle Liability and Commercial General Liability insurances shall name the CITY as an additional insured and certificates showing such insurance to be in force for the life of this contract shall be deposited with the City Clerk at the time this contract is executed.

- b. WORKER'S COMPENSATION – Vendor shall procure and maintain during the life of this contract statutory Michigan Workers' Compensation Insurance, including Employer's Liability Insurance.
- c. Vendor shall furnish to the CITY a certificate of insurance evidencing the foregoing and which shall provide for 30 days' advance written notice to the CITY in the event of cancellation, expiration or material change in coverage.
- d. The Vendor shall not commence work under this contract until it has obtained the insurance required under this section, nor shall the Vendor permit any subcontractor to commence work on its subcontract until the insurance required of the subcontractor has been obtained.

4. INDEMNIFICATION

To the fullest extent permitted by law, the Vendor expressly agrees to defend, indemnify and hold harmless the City, its elected and appointed officials, its employees and volunteers and others working on behalf of the City, from and against all loss, cost, expense, damage, liability or claims (whether groundless or not) arising out of bodily injury, sickness or disease (including death resulting at any time there from) which may be sustained or claimed by any person or persons. This includes damage or destruction of any property (including loss of use) based on any act or omission (negligent or otherwise) of the Vendor or anyone acting on its behalf in connection with or incident to this agreement. The Vendor shall, at its own cost and expense, defend any such claim and any suit, action, or proceeding which may be commenced hereunder. In the event of any suit, action or proceeding, the Vendor shall pay any and all judgments which may be recovered, and any and all expenses, including, but not limited to, costs, attorneys' fees and settlement expenses which may be incurred.

5. LICENSE TO DO BUSINESS IN MICHIGAN

At the time of awarding the contract, successful vendor must provide proof to the City of Berkley that the firm/company is licensed to do business within the State of Michigan.

PROPOSAL SUBMISSION REQUIREMENTS:

Proposals must include the following:

- 1. Must clearly identify the responsible party or the primary contact for business purposes. The name, title, mailing address, phone number and email address for this individual must be provided.
- 2. Signature of the employee or agent authorized to bind the company contractually.
- 3. A list of three (3) references the Vendor has served in the same capacity as this proposal including the name, address and phone number of the primary contact person.

4. A completed Non-collusive Affidavit (attached).
5. A completed Hold Harmless and Indemnity Form (attached).
6. A final "fixed price" bid for this contract. This contract will be with the understanding that this price will not be exceeded unless the scope of the project significantly changes and both parties are in agreement.
7. Disclose all existing and potential conflicts of interest you may have with the City, its elected officials, employees or other representatives using the attached Conflict of Interest Form.

Submit four (4) copies of the proposal on 8 ½" X 11" paper. It must include all information and attachments as noted in the "Vendor Requirements" section on page 2 of this RFP package.. Incomplete proposals will not be considered.

Proposals documents must be submitted on or before 4:00 PM on October 15, 2014, in a sealed envelope addressed to the City Clerk; 3338 Coolidge; Berkley, Michigan 48072 and labeled "City of Berkley, Bid for Office Furniture."

Proposals received after the specified time and date will not be considered. Faxed and emailed responses will not be accepted.

Bids will be valid for at least ninety (90) days after the open date.

The proposal may be withdrawn by respondents in writing only; signed by the individual or authorized party of the responding firm.

The City of Berkley reserves the right to reject any, all or portions of bids and all proposals received as a result of this request for proposal. The City reserves the right to re-bid this service if deemed necessary. The right is further reserved to accept a bid higher than the low bid, when in the opinion of the City, the public interest will be better served.

The City of Berkley reserves the right to request any additional information, which might be deemed necessary after the proposal has been received. The City may interview firms/individuals as part of the selection process.

Freedom of Information: Information submitted in this proposal is subject to the Michigan Freedom of Information Act and may not be held in confidence after the proposal is opened. The proposal will be available for review after staff has evaluated it or fifteen (15) business days after the opening date, whichever comes first.

Questions or other concerns regarding this RFP should be directed in writing to:

Contact Person
Department Name
Address
Berkley, MI 48072
248-658-XXXX
Email: XXXXXX@berkleymich.net



Provide the name, title and contact information for the individual authorized to represent your company. Enter the amount of the bid in the spaces provided below. If alternate brand items are included in this bid submission, provide the requested information as noted in the "Vendor Requirements" section on page 2 of the RFP document.

EMAIL ADDRESS



CITY OF BERKLEY MICHIGAN
NAME OF PROJECT OR RFP
Vendor References

Use this form to provide the names, and contact information for three references (firms) for whom similar services have been provided in the past 2 years. Failure to provide qualified references may be grounds for disqualification of this bid.

REFERENCE 1:

COMPANY NAME: _____

ADDRESS: _____

TELEPHONE: _____

CONTACT PERSON: _____

CONTRACT DATE: _____

DESCRIPTION OF WORK: _____

REFERENCE 2:

COMPANY NAME: _____

ADDRESS: _____

TELEPHONE: _____

CONTACT PERSON: _____

CONTRACT DATE: _____

DESCRIPTION OF WORK: _____

REFERENCE 3:

COMPANY NAME: _____

ADDRESS: _____

TELEPHONE: _____

CONTACT PERSON: _____

CONTRACT DATE: _____

DESCRIPTION OF WORK: _____



CITY OF BERKLEY MICHIGAN NON-COLLUSIVE AFFIDAVIT

**THIS AFFIDAVIT SHALL BE SUBMITTED WITH AND MADE A PART OF EACH AND EVERY BID
PROPOSAL TO THE CITY OF BERKLEY, MICHIGAN**

STATE OF MICHIGAN
COUNTY OF OAKLAND

_____, BEING DULY SWORN
deposes and says that:

1. The bid has been arrived at by the bidder independently and has been submitted without collusion with, and without any agreement, understanding, or planned common course of action with any other vendor of materials, supplies, equipment, or services described in the invitation to bid, designed to limit independent bidding or competition; and
2. The contents of the bid have not been communicated by the bidder or its employees or agents to any person not an employee or agent of the bidder or its surety on any bond furnished with the bid and will not be communicated to any such person prior to the official opening of the bid.
3. The undersigned is duly authorized to execute this affidavit on behalf of the bidder.

Authorized Signature

Printed Name of Signatory

Subscribed and sworn to before me this

_____ day of _____ 20____
a notary public in and for said County.

Company Name

Address

Notary Public

My commission expires: _____

City State Zip Code

Area Code & Phone Number



CITY OF BERKLEY MICHIGAN CONFLICT OF INTEREST DISCLOSURE FORM

Please note: City of Berkley employees cannot notarize this document.

	Date:
Name:	Title:
Company:	Address:

Please describe any relationships, transactions, positions you hold (as owner, director or volunteer of a for profit or nonprofit organization) or other circumstances you believe could contribute to an actual or perceived conflict of interest between the City of Berkley and your personal interest. (Use additional paper if necessary.)

_____ I have the following conflict of interest to report.

_____ I have the following potential conflict of interest to report.

_____ I have no circumstances that I believe could contribute to an actual or perceived conflict of interest.

Signature: _____

Date: _____



CITY OF BERKLEY MICHIGAN HOLD HARMLESS AND INDEMNITY FORM

PURPOSE:

To the fullest extent permitted by law, the Contractor expressly agrees to indemnify and hold harmless the City of Berkley (City), its elected and appointed officials, its employees and volunteers and others working on behalf of the City, from and against all loss, cost, expense, damage, liability or claims (whether groundless or not) arising out of bodily injury, sickness or disease (including death resulting at any time there from) which may be sustained or claimed by any person or persons.

This includes damage or destruction of any property (including loss of use) based on any act or omission (negligent or otherwise) of the Contractor or anyone acting on its behalf in connection with or incident to this agreement.

The Contractor shall, at its own cost and expense, defend any such claim and any suit, action, or proceeding which may be commenced hereunder. In the event of any suit, action or proceeding, the Contractor shall pay:

- Any and all judgments which may be recovered.
- Any and all expenses, including, but not limited to, costs, attorneys' fees and settlement expenses which may be incurred.

The Contractor shall not be responsible to the City on indemnity for damages caused by or resulting from the City's sole negligence.

PLEASE PRINT:

CONTRACTOR NAME _____

**AUTHORIZED
REPRESENTATIVE** _____

SIGNATURE _____

CONTRACTOR ADDRESS _____

PHONE _____

WITNESS _____

DATE _____

This form **must** be completed and returned with your proposal.



CITY OF BERKLEY MICHIGAN

Iran Business Relationship Affidavit

Effective April 1, 2013 all bids, proposals and/or qualification statements received in the State of Michigan must comply with the "Iran Economic Sanctions Act". The following certification is to be signed and submitted with the other required documents included in the request for proposal:

Pursuant to the Michigan Iran Economic Sanctions Act, 2012 P.A. 517, by submitting a bid, proposal or response, the respondent certifies, under civil penalty for false certification, that it is not an "Iran linked business," as that term is defined in the Act.

Signature

Title

Company

Date

SAMPLE 2: SERVICE CONTRACT

SAMPLE SERVICE AGREEMENT



CITY OF BERKLEY MICHIGAN PROFESSIONAL SERVICE AGREEMENT

(NAME OF SERVICE)

This professional service agreement for a *(general description of service)* is between the City of Berkley, a Michigan municipal corporation, located at 3338 Coolidge Highway, Berkley, Michigan ("City") and the *(company name)* located at *(company address)*.

The City desires to engage (COMPANY NAME) to conduct a *(name of service)* for the City; and (COMPANY NAME) desires to provide such services to the City. THEREFORE, the City and (COMPANY NAME) agree:

1. (COMPANY NAME) will conduct a *(name of service)* for the City commencing *(proposed service start date)* or on the approval date designated by the City Council, whichever date is later. Unless terminated sooner in accordance with this Agreement, (COMPANY NAME) shall satisfactorily complete its services and submit all deliverables to the City *(document the completion date or describe the duration of the agreement)*.

2. (COMPANY NAME) shall perform for the City the professional services set forth in the attached Scope of Services attached as Exhibit 1.

For the complete and satisfactory performance of the services set forth in the Scope of Services, the City shall pay (COMPANY NAME) a fixed fee not to exceed \$24,000.00. A retainer of 30% (\$7,200.00), is payable when the performance of services commences. The remaining balance is due when the services are satisfactorily completed and all deliverables have been provided to the City. For additional services outside of the scope of services, (COMPANY NAME) shall charge a rate to be agreed to in advance. Such additional services shall not be performed or charged for unless requested by the City in advance and in writing.

(COMPANY NAME) shall submit an invoice for the retainer to the City when the performance of services commences and a final invoice within 30 days after the completed (name of service), including all components listed in the scope of services, has been delivered to the City. Invoices shall be submitted to the City Of Berkley, city manager's Office, 3338 Coolidge Hwy, Berkley MI 48072.

3. All requested services performed by (COMPANY NAME) for the City up to the date of completion or termination shall be paid for by the City in accordance with this agreement. The City reserves the right to terminate the contract immediately if (COMPANY NAME) materially breaches this Agreement or fails to fully and timely provide to the satisfaction of the City the services set forth in the Scope of Services.

4. Any claim or dispute arising out of or relating to this Agreement or the alleged breach thereof shall be settled by arbitration, in Oakland County, in accordance with the laws of the State of Michigan and the rules of the American Arbitration Association. The arbitrator's decision shall be binding on both parties and, if appropriate, a judgment embodying such decision may be entered in a court of competent jurisdiction. Either party may resort to such court for enforcement of the arbitrator's decision.

5. To the fullest extent permitted by law, (COMPANY NAME) shall defend, indemnify and save harmless the City, its officers, officials, employees and agents from and against any and all claims, demands, suits, actions, proceedings, judgments, costs, losses, expenses, attorney fees, or damages for property damage (including loss of use), personal injury, bodily injury or death of any person(s) arising out of or resulting from any negligent, tortuous or deliberate act, error or omission on the part of (COMPANY NAME), or other party whose services are engaged by (COMPANY NAME), or anyone employed, subcontracted or controlled by either of them in the performance of services under this Agreement. Insurance coverage specified herein constitutes the minimum requirements and said requirements shall in no way lessen or limit the liability of (COMPANY NAME) under this Section. (COMPANY NAME) shall not commence services under this

contract until it has obtained the insurance required under this section, nor shall the CONTRACT permit any subcontractor to commence work on its subcontract until the insurance required of the subcontractor has been obtained.

6. (COMPANY NAME) shall also carry commercial general liability insurance in an amount of not less than one million dollars (\$1,000,000) per person and per occurrence as more particularly described in the RFP. All insurance shall name the CITY as an additional insured and certificates showing such insurance to be in force for the life of this contract shall be deposited with the City Clerk at the time this contract is executed.

7. (COMPANY NAME) is an independent contractor and is not an employee of City and therefore not entitled to any employee benefits from the City.

8. Upon completion, the study and any materials used to complete the city, are the property of the City of Berkley and (COMPANY NAME) will return these items to the City of Berkley. Study data may not be used by (COMPANY NAME) without written permission from the City.

9. This Agreement contains the entire understanding and agreement between the City and (COMPANY NAME) and supersedes any prior agreement or understanding. No amendment or modification of this Agreement shall be enforceable unless reduced to writing, signed and dated by authorized representatives of both parties.

10. Any notice required to be sent by either party shall be effective when deposited in the United States mail, postage fully prepaid, addressed to such party at their current mailing addresses.

11. This Agreement shall be governed by Michigan law. In the event that any provision in of this Agreement shall be or shall become void or unenforceable, the remaining provisions of this Agreement shall nevertheless be binding.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below.

CITY OF BERKLEY, a Michigan municipal
corporation
By: _____
Matthew C. Baumgarten Date: _____
Its: City Manager

(COMPANY NAME)
By: _____
Company Representative Date: _____
Its: Title

EXHIBIT 1: SCOPE OF SERVICES

The requested (*general description of name of service*) will provide the following services as follows:

Provide the scope of services from the RFP below.

1. Conduct _____.
2. Update _____.
3. Survey _____.
4. Evaluate _____.

**** Add additional requirements or detailed specifications if needed.**