

COUNCIL/ADMINISTRATIVE POLICY

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1. PURPOSE AND GENERAL PROVISIONS.

- 1.1 Purpose.** This policy provides for the authority for City employees to enter into certain contracts, and to sign other documents on the City's behalf.
- 1.2 Applicability.** This policy applies to the execution of documents by authorized City employees that are not otherwise provided for by Council action or other Council/Administrative Policies. The signature authority permitted under this Policy must be exercised consistent with the Purchasing Policy No. 10-7 (unless expressly stated otherwise in this Policy).

References in this policy to federal, state, or city regulations means the latest version of those regulations.

- 1.3 Delegation.** An employee authorized in this policy to sign a contract or other document may delegate that authority by notifying the Director of Finance and Information Systems and the City Attorney in writing by email or memorandum, naming the person to whom authority is delegated and for what period of time.
- 1.4 Record-keeping.** A signed original of each contract entered into under this policy shall be filed with the City Clerk's Office, except for a contract for the purchase of commodities, equipment or general services documented with a purchase order, which is filed with the Finance and Information Systems Department. Records must be retained in accordance with the City's Records Retention Policy No 00-04.
- 1.5 Definitions.** In this policy:

Amendment or change order means change, or modification, or addendum to a contract after it has been executed.

Contract means any agreement to do or not do a certain thing. *Contract, Agreement, Memorandum of Understanding* or *MOU* are synonymous. The term *contract* includes, among other things, a purchase order, a contract for services, and an addendum or change order.

- 2. CITY COUNCIL AUTHORITY.** City Council approval is required for each contract regulated by this policy unless authority to sign the contract is granted to another City officer under this policy. City officers and employees designated by the City Council to sign agreements by resolution or minute order are authorized to execute those documents. (Government Code section 40602.)

3. CITY MANAGER AUTHORITY.

- 3.1 General.** The City Manager is authorized to sign the following on behalf of the City, without the prior approval of the City Council:

3.1.1. \$50,000 or less. A contract which contains a maximum amount of \$50,000 or

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less per fiscal year up to a maximum contract amount of \$100,000. Cumulative additional amendments or change orders exceeding \$50,000 per fiscal year or more than \$100,000 in the aggregate must be approved by the City Council;

3.1.2 Indemnification. Indemnification and hold harmless agreements;

3.1.3 Assumption and/or Assignment. Assumption and/or assignment agreements between the City and a third party for the terms and conditions of an existing agreement being assumed by, and/or assigned to, another company, and there are no additional changes to the agreement that would otherwise require Council approval.

3.1.4 Real property. Documents related to real property, including:

3.1.4.1 Right of entry agreements by which the City is granting rights to enter and/or temporarily use City-owned real property and right of entry agreements by which the City is being granted rights to enter and/or temporarily use real properties owned by third parties, which agreements may include indemnification and hold harmless clauses;

3.1.4.2 Those accepting on behalf of the City an offer of dedication for the conveyance of real property for public use, a property exchange, or any other interest in real property.

3.1.4.3 Where the City is Landlord/Tenant, Licensee/Licensor, or for temporary use of a facility, where the total annual commitment does not exceed \$50,000.

3.1.4.4 Right of Way Certifications in connection with Measure C and locally funded road projects

3.1.5 Deposit and Indemnification Agreements; Development-Related

3.1.5.1 General. Development-related deposit and indemnification agreements between the City and a Developer, pursuant to a development project application or condition of approval, that requires reimbursement to City of expenses incurred during the processing of a development project.

3.1.5.2 Development-Related Services under a Deposit Agreement. A contract for City-managed, development-related services in an amount up to \$250,000 if the following criteria are met:

- a deposit and indemnification agreement exists;
- there is no cost to the City because an applicant for development entitlements has deposited the required amount under the contract with the City; and
- the funds are to be used for application processing costs or development-related studies, such as an environmental impact report

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3.1.6 Deposit and Indemnification Agreements; Non-Development Related

3.1.6.1 General. Non-development related deposit and indemnification agreements between the City and a third party, which require the reimbursement to City of expenses incurred for work undertaken by the City, or by City consultants and contractors.

3.1.6.2 Consultant and Contractor Agreements. A contract for consultants and contractors in an amount up to \$250,000, if the following criteria are met:

- a deposit and indemnification agreement exists; and
- there is no cost to the City because a third party has deposited the required amount under the contract with the City

3.1.7 Other documents. Other documents related to routine operations, regulations or reporting. Examples include:

3.1.7.1 Utilities. Regarding a utility company, as long as City's financial commitment can be reconsidered:

- paperwork for scheduling work; and/or
- approval of an estimate before the beginning of design work or construction; applications involving payment by the company to the City (incentives or cost savings; energy efficiency).

3.1.7.2 Letter in support or opposition. A letter of support or opposition for a proposed project in another jurisdiction, an organization, government entity, or legislation as long as the letter is not inconsistent with City policies. The letter must relate to:

- a position taken by the League of California Cities, unless the City Council has taken a contrary position.
- a position taken by an entity or organization to which the City is a member (for example the Contra Costa Transportation Authority or the California Association of Sanitary Agencies), so long as that position is not contrary to a previously approved City Council position or a position taken by the League of California Cities.
- legislation regarding a project approved by the City Council.
- a routine matter, experienced in the normal course of City business.
- a previously approved City Council position.

A copy of the letter of support or opposition will be sent to the Mayor and City Council (for information only).

3.1.7.3 Employment.

- **Disability retirement.** Submit application for disability retirement or initiate request for reinstatement; make determinations under Section

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21152(C) of the Government Code of disability and whether the disability is industrial, and to certify the determinations and all other necessary information to the Public Employees' Retirement System.

- **Employee Benefits.** Execute contracts for employee benefits with outside vendors that are included in a City Council-approved Memorandum of Understanding.

3.1.7.4 Notice of completion. File notice of completion for a project up to \$50,000 that was not awarded by the City Council.

3.1.7.5 Affordable housing.

- Provided that the documents are consistent with Municipal Code Chapter 17.725 Affordable Housing, if applicable and Health & Safety Code Section 33000, et seq. if applicable, execute contracts, resale controls, rent restrictions and other documents necessary to implement those provisions.
- Provided that the documents are consistent with the Council approved First Time Homebuyer's Program, execute loan agreements and other documents necessary to implement the terms and provisions of the Loan Agreements and the First Time Homebuyer's Program, subject to revisions approved to form by the City Attorney.

3.1.7.6 Financial.

- Sign credit applications after City Attorney review of the credit application;
- Sign and record liens in accordance with Municipal Code Section 1.12.110 and lien releases in accordance with Council/Administrative Policy 10-15, Collection Policy;
- Sign and record special assessments in accordance with Municipal Code Section 1.12.110;
- Write-off uncollectible receivables in accordance with Council/Administrative Policy 10-5, Budget and Fiscal Policies;
- Sign checks or other instruments for the withdrawal of moneys in the operating account, under Policy 10-11, authorized City Officials;
- Sign required escrow and/or banking documents regarding City deposits;
- Sign DMV paperwork to implement disposition of surplus property (Policy 10-7);

3.1.7.7 Grant applications. Sign grant application paperwork for grants that do not bind the City for more than \$10,000 annually, subject to the City Manager Grants and Rebates Policy No. 14.

3.1.7.8 Regulatory reporting. Examples:

- Signing as the "legally responsible officer" to report and certify data into the online database for the State Water Resources Control Board (SWRCB).
- Signing NPDES applications and permit renewal for the Wastewater Treatment Plant.

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3.2 Exceptions to City Manager authority in section 3.1:

3.2.1 Public project change order. Notwithstanding the maximum compensation limits set forth in subsection 3.1.1 above, for a public project awarded by City Council resolution, the City Manager may authorize a change order up to the contingency amount approved by the City Council when awarding the bid.

3.2.2 Settlement of claims. The City Manager is authorized to settle, approve or reject claims or litigation:

- in an amount not to exceed \$50,000; or
- for a higher amount as long as the City's deductible (with the City's insurer) is limited to \$50,000 or less.

3.3 Emergency. In a declared emergency (as defined in the Purchasing Policy, 10-7) endangering the lives, property or welfare of the people in the City or the property of the City, the City Manager may authorize the expenditure of up to \$1,000,000. (See also Purchasing Policy No. 10-7, Emergency Purchases.)

4. CITY ATTORNEY AUTHORITY.

4.1 General. For purposes related to legal services and the activities and functions of the City Attorney's Office, the City Attorney is granted the same authority as the City Manager as set forth in section 3.1.1, up to \$50,000.

The City Attorney reviews and approves contracts as to form, except the following:

- reviews, but does not approve, agreements for the purchase, installation, use, support, or maintenance of pre-packaged "Out of the Box" software as discussed in section 12.1 of the Purchasing Policy, as that section may be amended from time to time;
- amendments to Master Permits to use school district properties for police training.

4.2 Litigation. The City Attorney is authorized to sign pre-litigation and litigation procedural documents, such as requests for continuances, tolling agreements, conflict waivers, and joint defense agreements, where such documents do not result in a final settlement of the underlying litigation.

4.3 Development-related legal services. The City Attorney is granted the authority to execute contracts for City-managed professional legal services in an amount up to \$100,000 if the following criteria are met:

- a deposit and indemnification agreement exists;
- there is no cost to the City because an applicant for development entitlements has deposited the required amount under the contract with the City; and
- the funds are to be used for development-related legal services.

4.4 Letters. In addition to the correspondence typically signed by the City Attorney in the

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exercise of his or her authority, he or she is specifically authorized, in consultation with the City Manager, to sign the following legal briefs and/or letters related to:

- a position taken by the League of California Cities on a matter, unless the City Council has taken a contrary position.
- a position taken by an entity or organization to which the City is a member (for example the Contra Costa Transportation Authority or the California Association of Sanitary Agencies), so long as that position is not contrary to a previously approved City Council position or a position taken by the League of California Cities.
- requests for conflict of interest opinions from the Fair Political Practices Commission.
- projects approved by City Council.
- an Attorney General's Opinion, judicial proceeding or judicial opinion, when in his or her professional opinion the letter is in the best legal interests of the City of Brentwood.

5. **DEPARTMENT DIRECTOR AUTHORITY.** Department Directors are authorized to enter into and sign on behalf of the City, without the prior approval of the City Manager or City Council, a contract which is for the purchase or lease of commodities, equipment, general services; or professional services, but not for legal services; or where the City is a Landlord/Tenant, Licensee/Licenser, or for temporary use of a facility; and, for each of the contracts listed in this section, where a contract which contains a maximum amount of \$10,000 or less per fiscal year up to a maximum contract amount of \$30,000. Cumulative additional amendments or change orders exceeding \$10,000 per fiscal year or more than \$30,000 in the aggregate must be approved by the City Manager as set forth in section 3.1.1.