

PURCHASING EXCEPTION REQUEST FORM
(For purchases greater than \$5,000)

Per **NMC 2.91.050**, the City may enter into a contract for a "specialty item," provided that the City Manager makes a written determination of the following:

1. Item(s) to be purchased:

2. Please provide explanation as to why vendor is the only one able to provide the requested goods or services:

<input type="checkbox"/>	Specialty	Only known manufacturer of this product.
<input type="checkbox"/>	No Substitute	The requested product has unique design/performance specification or quality requirements which are essential to department operations and not available in comparable products.
<input type="checkbox"/>	Compatibility	The requested product is an integral repair part or accessory compatible with existing equipment and the item/service can be obtained from only one vendor.
<input type="checkbox"/>	Software Upgrade	Upgrade to existing software. Available only from the producer of this software.
<input type="checkbox"/>	Inadequate Competition	After solicitation of several sources, competition is determined inadequate (record of source contacts attached).
<input type="checkbox"/>	Special Training	The requested product is one with which staff have specialized training and/or extensive expertise. Retraining would incur substantial cost in time and/or money.
<input type="checkbox"/>	Other	Please explain: _____

3. I affirm this request conforms with NMC Section 2.91.050.

Completed by: _____ Department: _____

Type name. Signature only required for City Manager approval.

For Requests over \$75,000:

City Manager

Date

NMC 2.91.010 D. Consistent with the requirements of the City Charter, including City Charter Sections 100 through 105, this Chapter establishes the parameters by which representatives of the City may enter into contractual obligations on behalf of the City. It is the goal of the City that any administrative regulations adopted to implement this Chapter, and any City contract, will meet the following goals:

1. Obtain the most cost effective result for the City, which avoids improvidence, extravagance, and any other waste of public funds or public property, and which also achieves an appropriate balance between the costs and benefits of maximizing quality within available resources.
2. Takes into consideration all reasonably available relevant information regarding the range of types, effectiveness, quality, and costs of potential property, services, public projects, and contractors available to achieve the City's project goals. Depending upon the particular requirements of the project (and the more particular procedures identified in this chapter), the information to be considered may include data gathered from one or more of the following sources: similar City projects, other public agencies, professional journals, private businesses, outreach to potential contractors, and private businesses, competitive bids, formal or informal quotes, proposals, or qualification statements.
3. Guards against favoritism, fraud, corruption, and conflicts of interest.
4. Efficiently uses City resources in the preparation, approval, administration, and enforcement of contracts which are effective tools in achieving the City's goals.

NMC 2.91.030 B. Execution and administration of contracts

1. The City Manager is authorized to take any steps necessary to prepare contract documents, prior to final approval of the contract, in accordance with the procedures set forth in this Chapter, including: requesting proposals, inviting bids, applying for grants, and negotiating contract terms.
2. The City Manager is authorized to execute any contract on behalf of the City provided that: (a) pursuant to City Charter Section 100, the contract is in writing and approved as to form by the City Attorney; and (b) the contract is covered by sufficient unencumbered funds appropriated in the adopted budget, and (to the extent required by City Charter Section 100) the contract is endorsed by the City Auditor; and (c) the contract is prepared in accordance with all other requirements of this Code and the administrative regulations; and (d) the contract is covered by any one of the following categories: (i) the City Council has separately authorized the City Manager to execute on behalf of the City pursuant to an ordinance, resolution, or other Council action, or (ii) the City's commitments under the contract are in an amount less than or equal to the amount established by the Controller of the State of California for formal bidding procedures as required by California Public Contract Code Sections 22020 and 22032(c) (as of January 1, 2009, this amount is established at \$125,000), or (iii) the contract is necessary to resolve an emergency pursuant to Section 2.91.040 of this Chapter or pursuant to Chapter 2.89 of this Code. It shall be unlawful to split, or separate into smaller contracts, any contract for the purpose of evading the dollar amounts identified in this chapter.
3. The City Manager is authorized to implement and enforce each contractor's compliance with contract requirements, including inspections and acceptance of complete performance, and termination of the contract, all in accordance with the requirements of the contract.

NMC 2.91.050 Exceptions for Specialty Items

A. The City may enter into a contract for a "specialty item," in accordance with this section, without further complying with the requirements of this Code, provided that the City Manager makes a written determination of the following:

1. The project need which the City intends to satisfy through the contract for the specialty item. This includes a functional description (or performance criteria) of the City's needs.
2. The types of property or service which are available (or used by other similarly situated private or public agencies) to meet this need (or similar needs), and the contractors which are available to provide the property or service. This includes documentation of the steps the City has taken to evaluate the types of property, service, and contractors potentially available to serve the City's needs.
3. The reasons why a similar property or service cannot meet the City's needs (including considerations of compatibility with other City property and services regarding maintenance, repair, training, quality, price, or similar considerations), or why the City's needs can only be met by one type of property or service (the specialty item).
4. By entering into a contract for the specialty item from the proposed contractor, the City will meet the purpose and goals identified in Section 2.91.010 of this Chapter.
5. The contract complies with the requirements of Section 2.91.030 (B) of this Chapter.

B. The City Council hereby determines that compliance with the requirements of this Section shall satisfy the requirement to award City contracts to the lowest and best bidder, pursuant to City Charter Section 101.