



Council Meeting: August 9, 2011

SUBJECT: Update of Council Policy 7.3.6 *Managing for Competitiveness*

BACKGROUND

In his budget message to Council dated May 5, 2011, the City Manager communicated his intent to approach a continuing structural deficit from four different angles: Increased organizational efficiencies; revenue enhancements; addressing personnel costs with bargaining units; *and the exploration of contracting out*. In part, he wrote: "The proposed update to the contracting out policy will be distributed for Council review shortly. With the cost of employee compensation, this must be in the toolbox as we evaluate the delivery of City services."

Adopted in 1999, the City's "Managing for Competitiveness Policy" (Attachment A) sets forth a framework for considering whether a City service should be provided by in-house staff or by an independent contractor. The policy notes that competition between service providers can result in greater efficiencies in service delivery, improved quality and quantity of service provided, and increased responsiveness to customers. This report seeks to modify (simplify and clarify) that policy, and to re-title it "Service Delivery Options".

EXISTING POLICY

Legislative Management Sub-Element:

Goal 7.3F Continually strive to enhance the quality, cost and customer satisfaction of service delivery.

Policy 7.3F.1 Provide a work environment that supports all staff in continually seeking ways to enhance the efficiency, effectiveness and quality of City services.

DISCUSSION

In keeping with the policies cited above, the City is responsible for regularly reviewing services provided to residents to ensure service delivery is as efficient and effective as possible. An extraordinarily difficult economic climate and the City's need to address a structural budget deficit simply underscore this responsibility. While that most often means reviewing the manner in which specific tasks are conducted, it also means periodic consideration of different service models and different service providers. There is no "one best method" of service delivery and circumstances change over time. As a result, a service previously determined to be best delivered by outside contract may today lend

itself to more effective and efficient delivery by City staff, and vice versa. Staff believes that flexibility with regard to employing different service models, and an efficient process for evaluating related options, is key to maintaining effective, efficient operations.

The City's six-page "Managing for Competitiveness" policy, developed over a decade ago, lays out a process for considering whether services should be provided internally or via external contract. However, that policy is wordy, confusing, and in some regards just plain nonsensical. Attachment A depicts the current policy, with portions italicized to illustrate why a revision is warranted.

Attachment B depicts a new policy proposed to replace Attachment A. Titled "Service Delivery Options", it outlines in two pages "policy guidelines for considering alternative methods of service delivery, whether that be the contracting of services currently provided by in-house staff, or bringing in-house a service currently provided by contract."

Staff met with the leadership of each of the City's six bargaining units to review this recommended change in policy, and Attachment C presents their feedback regarding staff's original draft proposal. Most of those comments are from the Service Employees International Union (SEIU) and Sunnyvale Employees Association (SEA), the two organizations most likely to be impacted to any significant degree by this policy. Many of their comments have been addressed in the final policy presented for Council's consideration (identified by bold language).

FISCAL IMPACT

There are no direct fiscal impacts associated with this report.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

ALTERNATIVES

1. Adopt Attachment B, Council Policy for considering *Service Delivery Options*.
2. Adopt Attachment B, Council Policy for considering *Service Delivery Options*, with modifications to be specified by Council
3. Do not adopt Attachment B, Council Policy for considering *Service Delivery Options*

RECOMMENDATION

To support the City's goal to deliver high quality services to the public in a cost-effective manner, staff recommends Alternative 1:

Adopt Attachment B, Council Policy for considering *Service Delivery Options*

The City's current competitiveness process is designed to stimulate creativity and innovation in delivering services. Council action as recommended by staff in this report would not modify this premise. Staff's recommended action would provide the City with a tool to assess, in a timely manner, current operations for potential improvements in efficiency and effectiveness.

The proposed policy places as high a value on the fair and reasonable treatment of City employees as it does on the commitment to operate as efficiently and effectively as possible. The City Manager would notify City Council and all affected bargaining units whenever the exploration of a change in service delivery methodology (from contract to in-house staff, or vice versa) was contemplated. Actual exploration of any contract (regardless of value) that could result in the layoff of City employees would occur only with Council's approval. City staff would be allowed to bid on proposed service contracts, and any contract awarded to an outside firm would require that displaced City employees be provided the right of first refusal for comparable contract positions. City policy governing the authority to enter into contracts would remain unchanged, requiring that any contract with a value in excess of \$100,000 be brought before the City Council for approval.

Reviewed by:

Robert Walker
Assistant City Manager

Approved by:

Gary M. Luebbers
City Manager

Attachments

- A. Council Policy 7.3.6 *Managing for Competitiveness*, with notations
- B. Proposed Council Policy for considering *Service Delivery Options*
- C. Input received from labor associations regarding proposed policy changes

Title is not intuitive.

Policy 7.3.6 Managing for Competitiveness.

POLICY PURPOSE:

The purpose of this policy is to set forth:

1. the goals and guiding principles for the managing for competitiveness effort;
2. the criteria for the selection of services for the managing for competitiveness process; and
3. general guidelines for conducting any managed competition process.

POLICY STATEMENT

Lots of verbiage here before the term "managing for competitiveness" is even defined.

Overview

It is the policy and practice of the City of Sunnyvale to seek to deliver quality services in the most cost-effective manner possible, within the context of other public policy goals and interests. Within the broad context of the City's continuous improvement effort, the City will implement a managing for competitiveness effort, where appropriate, to improve service to the public.

The managing for competitiveness effort begins with the competitive assessment of the selected in-house and/or contracted service. Competitive assessment includes benchmarking best-in-field practices of other organizations providing the same or similar service. In the competitive assessment phase, City employees providing the service have a specific period of time to implement achievable improvements prior to a decision to determine the most competitive method to deliver the service. The City retains the same service provider (City staff or external organization) if it is deemed competitive according to the measures set forth later in this policy. The managing for competitiveness effort will be implemented in accordance with the goals, guiding principles and criteria for service selection set forth in this policy.

Goals of Managing for Competitiveness

The overall goal of managing for competitiveness is to ensure competitive service delivery, regardless of the delivery method used. The goals of the competitiveness effort reflect the breadth of the qualities necessary to be competitive and broader public interest, rather than simply focus on cost savings. Accordingly, the goals of the managing for competitiveness effort are to:

- improve the quality and quantity of service provided;
- encourage creativity and innovation in the delivery of services;
- increase responsiveness to customers through flexible service delivery; reduce costs and/or avoid costs;
- identify opportunities to leverage resources; and
- ensure the City's mission and scope of services evolve with the changing environment.

Guidelines

The following guidelines form the basis for the development and implementation of the managing for competitiveness effort.

1. Competitiveness Produces Value.

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The premise of this policy is that competitive service delivery produces value for City residents and that either in-house or alternative service delivery methods may produce superior service value. Therefore the City may:

- review services that are currently provided in-house for their competitiveness;
- review services that are currently contracted out for their competitiveness; or
- propose to provide services to other government agencies; and,
- propose to provide services to the private sector, when it properly furthers an appropriate public purpose.

Clear to who? The City Manager? Labor? The "assessment team" referenced but not defined on page 3?

The City will continue to utilize continuous improvement practices to enhance in-house service delivery outside of this competitive effort. The City will also continue to use the private competitive bid process in which the City is not competing and/or other alternative delivery methods, without reference to the managing for competitiveness effort, in situations when the benefits to the City of alternative service delivery are clear and/or delivery of the service is time-sensitive.

2. Build Employee Partnerships.

A nice sentiment, but what does this really mean?

Fair and respectful treatment of staff is a cornerstone of the managing for competitiveness effort. To encourage staff input, the City will establish the appropriate support structure to ensure the ongoing participation of staff and employee associations throughout the development and implementation processes. However, final decisions relating to development and implementation of managing for competitiveness continue to reside within the purview of the City Council and the City Manager.

3. Commit to Employment Stability.

While the City cannot guarantee there will be no staff layoffs as a result of managing for competitiveness, the City is nevertheless committed to maintaining the maximum degree of employment stability possible for City staff adversely affected by the managing for competitiveness effort. To some extent, employment stability will be dependent on employee and the employee associations' commitment to the flexible redistribution of human resources, through alternative career paths, broadened class specifications and other measures, as may be appropriate, to allow affected staff to assume greater and/or different responsibilities in a cost-effective manner.

4. Promote Internal Competitiveness.

The City will make every reasonable effort to enhance the ability of employees to successfully provide competitive services on an ongoing basis. Examples of actions to accomplish this objective include:

- Continuing to utilize continuous improvement practices to enhance in-house effectiveness and efficiency on an ongoing basis.
- Providing specialized training to employees, as appropriate, to enhance specific skills and capabilities needed to improve service delivery.
- Purchasing equipment and/or technology, as appropriate, that will result in notable improvement in service delivery.

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- Providing competitiveness training to staff and employee association leadership. Training will include components such as benchmarking, re-engineering processes and procedures, preparing Requests for Proposals, preparing response to Request for Proposals, general business principles, and other areas as deemed appropriate.
- Involving internal support staff (e.g., budget, purchasing, information technology, human resources, etc.) in the managing for competitiveness effort and competitiveness training to the extent their operations are a cost factor.
- Removing internal barriers to competitiveness, such as outdated or unnecessary procurement, legal, human resources, financial and other operational procedures.
- Providing rewards (e.g., gainsharing, bonus programs, etc.) for successful staff efforts to reduce service costs and enhance service quality.

5. Utilize a Competitive Assessment Process.

Reflecting the preference for in-house service delivery, the managing for competitiveness effort will always start with a competitive assessment of any selected in-house service function. City staff providing the service will be given an opportunity, within a specific period of time, to develop and implement readily achievable cost and/or quality effectiveness improvements *prior* to any decision to pursue a managed competition process. Cost and quality effectiveness improvements shall include actions affecting both line staff and management, such as reducing management layers, and utilizing classification techniques that promote effectiveness and efficiency. The City will continue to deliver the service in-house in those cases where cost and quality effectiveness are equivalent to or greater than the alternative means or where the potential savings from outside service delivery is less than the projected cost of contract administration and basic transition costs for the same level of service. In general, ten percent (10%) is the percentage used in business to account for contract administration and basic transition costs. However, the percentage in each specific case evaluated by the City may vary based on the cost and the complexity of the service.

Based on the recommendation of an in-house competitiveness assessment team, the City Manager will decide if the service will remain in-house or be subject to a managed competition process. The City Manager's decision will be subject to City Council approval.

In situations involving currently contracted-out and new services, a similar process will be used to determine if the City can deliver the service competitively. In this situation, the assessment will be based on the expected costs to the City to provide the service rather than the actual costs. The external service provider will be retained unless City staff can demonstrate the cost and quality effectiveness are equivalent to or greater than the external service provider or where the potential savings from outside service delivery is greater than the projected cost of basic transition and ongoing service delivery costs for the same level of service. As with in-house services, a 10% differential will be the general expected saving, although each case will be judged on its own merits.

6. Consider Managed Competition as Only One of Several Tools to Enhance Competitiveness.

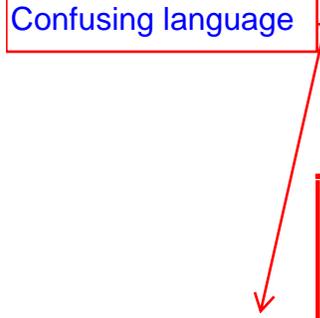
Providing this opportunity implies that staff is not always delivering service in what it believes to be the most efficient and effective manner, and that the threat of outsourcing may motivate them to further improvement. The reality is that the City Manager expects all employees to routinely deliver their best performance.

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The goal of the managing for competitiveness effort is not to reduce costs by reducing staff. Accordingly, within the context of this policy, it is anticipated that the *selective use* of a managed competition process will become an additional continuous improvement methodology among several (benchmarking, re-engineering services, problem-solving teams, etc.) that may sometimes be used to manage for competitiveness. To the extent that managed competition is used, it would be utilized only after:

- The identified service has been assessed for competitiveness through the use of benchmarking.
- There has been an opportunity to incorporate the best external practices into the identified service.
- There has been additional assessment or analysis as to the degree competitiveness has been enhanced through incorporating best practices or reengineering current processes and procedures.

Confusing language



In managing for competitiveness, the use of a managed competition process for a given City service would come only after City staff has had ample opportunity take the service to a higher level of competitiveness. It is further anticipated that benchmarking for competitiveness, incorporating best practices and/or re-engineering current practices to improve competitiveness, and not the managed competition process, will form the largest components of the managing for competitiveness effort. Nor is it anticipated that the managed competition process will be incorporated and regularly used throughout the entire City organization. To the extent that it is utilized, it will be selectively used as one of several tools in the managing for competitiveness effort.

7. Level the Playing Field.

Any managed competition process utilized by the City will not favor nor disadvantage any competitor in the process *to the degree consistent with public policy goals*. The following guidelines will apply to any public-private competition:

The evaluation process will include a review of employment practices of private sector proposals, which would include a review of employee complaint procedures and compliance with state and federal workplace standards.

Method for comparing costs will:

- be reasonable and unambiguous;
- seek the maximum degree of objectivity and integrity of the data; and
- ensure that all internal costs and gains associated with outside contracts are captured.

Performance standards and quality measures will be reasonable, quantifiable and unambiguous.

8. Conduct a Fair and Reasonable Process.

After competitive assessment and a reasonable opportunity to incorporate readily achievable improvements, should the City decide to subject any City service to a managed competition process, the City will maintain high ethical standards and will

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make every effort to avoid any actual or perceived conflict of interest in selecting service providers. To support the goal of a fair and reasonable process, the City will invite private sector participation in the development of the Request for Proposal for any service selected for managed competition and in the evaluation of any public or private responses to the Request for Proposal.

Any private sector organization involved in development of a RFP or evaluating responses to a RFP in a City managed competition process will not be eligible to submit a proposal in the same managed competition process. Private sector participant could be from the same or similar industry as the service covered in the RFP or could be a non-profit organization such as the Chamber of Commerce, the Silicon Valley Manufacturing Group or a similar local organization.

9. Maintain Long Term Competitiveness.

To ensure service delivery of competitive services to the public over the long term, the City will avoid actions that results in the creation of a “private monopoly,” in which only one private firm is likely to be viewed as a tenable provider of a particular service. If the creation of a private monopoly is likely, the City will consider contracting out only part of the service or not contracting out any of the service. The City will also monitor contract costs over the long term to ensure ongoing cost competitiveness.

10. Ensure Managing for Competitiveness Efforts Result in the Desired Service Outcomes.

Whether a service is retained in-house or delivered by an external service provider, the City should seek to ensure that desirable quality and cost outcomes are met. In order of priority, desired managed competition outcomes are:

- Better service at lower cost.
- Better service at equal cost.
- Equal service at lower cost.

Really? Is a little better service at a little lower cost really a higher priority than equal service at a much lower cost?

If at least one of the desired service outcomes cannot be clearly identified at the conclusion of a managed competition process, the current service provider (City staff or external provider) will retain the service.

Service Selection Criteria.

Unnecessarily restrictive. There is no reason to limit the exploration of service delivery options to any particular time of year.

As part of the annual non-routines process, the City Manager will identify services that will enter into the managing for competitiveness effort and the target dates for completing the competitive assessment phase and determining if the services will be subject to a managed competition process. Services may include those currently provided in-house, those currently contracted out and new services. The City Manager will solicit recommendations for services from the City Council, department directors and employee associations. The following criteria will be utilized to select services for the managing for competitiveness effort and any subsequent determination that a service should be subject to a managed competition process:

- Nature of the Service: The extent to which a service is a self-contained or a component of a larger service delivery system; is considered a core service versus an ancillary service;

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- can be subdivided geographically with respect to volume of work or duration of work; and can be measured in terms of quantity, quality and other performance standards.
- **Competitive marketplace:** The availability of a competitive market for the service, in which providers have an interest in competing for the service and the ability to provide the service in terms of skill sets and resources.
 - **Public Policy Acceptability:** The degree to which the City residents and/or the City Council can accept the concept of providing the service on a competitive basis and the possibility of alternative service delivery.
 - **Cost Savings Potential:** The degree to which managing competitively is likely to reduce or avoid future costs without compromising the quality of service.
 - **General and Enterprise Fund Enhancement:** The degree to which managing competitively is likely to have a positive effect on the general fund or enterprise funds, as appropriate.
 - **Quality of Service:** The degree to which performance standards can be defined for the quality and level of service. The degree to which managing competitively is likely to improve quality, customer satisfaction and/or responsiveness for the same or lower cost.
 - **Impact on City Staff:** The potential effects on City staff currently providing the service and on the City workforce in general with respect to issues such as work load, productivity, the availability of measures to mitigate negative impacts on individual employees, etc.
 - **Legal Restrictions:** The extent to which local, state and federal laws, regulations and funding guidelines restrict the method of service delivery or the competition process. The extent to which local ordinances can be changed to accommodate possible competition and alternate service delivery.
 - **Risk Factors:** The extent to which possible alternative service delivery presents risk to the City and the public in the areas of defaults, breach of contracts, service interruption, cost overruns and threats to public safety, health and welfare.
 - **Resource Issues:** The availability of government financial, human, technological and capital assets to provide the service as compared to the resources of possible external service providers.
 - **Degree of City Control Required:** The degree to which the City needs to exert control over the delivery of the service, can retain accountability for public funds, and has the ability to establish and maintain oversight of service quantity and quality through adequate contract management.

General Approach for Conducting a Managed Competition Process

The following is the general approach for determining and conducting a managed competition process:

Competitive Assessment

1. Select the service for a managing for competitiveness effort and identify dates for competition in the annual non-routines process.
2. Conduct competitive assessment of the service, including identifying and benchmarking best-in-field practices.
3. Implement quality and cost-effectiveness improvements by the targeted date.

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4. Prepare a report reviewing and evaluating competitiveness after improvements have been implemented.
5. Based on the assessed competitiveness of the service, determine if:
 - the service should be subject to a managed competition process; or
 - the City should not be in the business of directly delivering the service.
 - the service should be retained by the current service provider (whether in-house or external);

Managed Competition Process

If the decision is to conduct a managed competition process, the process will consist of the following phases:

Possibly develop and issue Requests for Qualifications (RFQ) and/or Requests for Information (RFI) to informally determine the qualifications and possible service delivery approaches of potential external service providers.

- Develop and issue a Request for Proposal (RFP).
- Conduct the RFP process.
- Select a provider.
- Monitor performance and costs.

Employment Options

It is *not* the goal of the managing for competitiveness effort to enhance service delivery quality and reduce service costs by simply reducing the number of City staff providing services. Throughout the managing for competitiveness effort, a primary goal will be the fair and respectful treatment of impacted City employees. Towards that goal, the City will be guided by the following guidelines:

Outside Contractor Employment

In the event the managing for competitiveness effort results in the external delivery of a service previously provided in-house, the City will do what it reasonably can, in conjunction with the meet and confer process, to create the opportunity for some or all of the impacted City staff to transition to other viable job opportunities. For example, to facilitate the transition to private employment, the City will explore the feasibility of having the successful outside contractors that create new jobs or have currently existing job vacancies to deliver a City service to first consider any qualified displaced City staff for employment.

Internal Placement

In the event that a managed competition results in external delivery of a service previously provided in-house or in-house improvement measures result in the displacement of City staff, the City will make every reasonable effort to provide any displaced employee with other employment within the City to avoid the need for layoffs. However, the City *cannot guarantee* that no layoffs will occur. Should layoffs become necessary, lay-off procedures under the appropriate Memorandum of Understanding or Civil Service Regulations will apply.

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The City will make every reasonable effort to avoid involuntary separation unless the impacted City staff is hired by the successful contractor or chooses layoff in lieu of internal placement. If an individual employee is retained by the City, the employee *will not* experience a reduction in current pay, although the employee may be transferred, assigned to a different classification, have salary “Y-rated” or capped, or have other opportunities for employment. The effort to internally place a City employee will not apply in situations other than reductions in positions resulting from a private-public competition or from contracting out without utilizing the public-private competition process. Internal placement efforts *will not* apply in situations involving position reductions due to general budget reductions.

In addition to the obligations in the Civil Service rules and the City’s Memoranda of Understanding, the City will attempt to mitigate the possible impacts of a change in service delivery with actions including, but not limited to, the following:

- Notifying the appropriate employee associations and the Human Resources Department (HRD) of the impending managed competition process;
- Meeting and conferring with employee associations as the sole representatives of the employees, as appropriate, in accordance with state statute.
- Identifying opportunities for moving displaced employees into other City positions with comparable benefits and salary levels without compromising current job standards.
- Assisting employees in transition by offering training and cross training.
- In the event an impacted employee elects not to accept a position within the City, the employee will be separated from City employment within 30 days, with any appropriate compensation, and the City will provide outplacement support services.

Meet and Confer Provision

For purposes of this policy, the meet and confer process will incorporate the following principles:

- The process will consider the competing interests of other stakeholders beyond the affected staff.
- Flexibility in the redistribution of human resources is necessary to establish internal placement options for affected staff.
- The process will attempt to coordinate solutions Citywide, not just in one bargaining unit.

(Adopted: RTC 99-004 (1/12/1999); (Clerical/clarity update, Policy Update Project 7/2005))

Lead Department: Office of the City Manager

Attachment B

Policy XXX Service Delivery Options

(Bold highlights added to depict language inserted in response to labor association input)

POLICY PURPOSE:

The purpose of this policy is to establish guidelines for considering alternative methods of service delivery, whether that be the contracting of services currently provided by in-house staff, or bringing in-house a service currently provided by contract.

The overall goal of the City of Sunnyvale is to provide **high quality**, effective and efficient municipal services. In part, Sunnyvale achieves this goal by:

- Maximizing responsiveness to customers through *flexible service delivery*;
- Supporting continuous improvement, **quality**, *cost reduction, cost avoidance, and efficiency*;
- *Exploring partnerships* with other agencies or organizations to leverage resources; and
- Ensuring the City's mission and scope of services *evolve with changing environments*.

POLICY STATEMENT

1. Commitment to Council and the Public

The premise of this policy is that competitive service delivery produces value for City residents and that either in-house or alternative service delivery methods may produce superior service value (e.g., better service at lower cost; better service at equal cost; or equal service at lower cost). Contracting, **bringing a service in-house**, or partnering for service provision are all tools the City may employ to **provide high quality, effective and efficient municipal services**.

- A. The city manager shall have authority to pursue the most effective and efficient delivery of service to the public – including the option to deliver service via City staff, by contract, or in partnership with other agencies, in accordance with all other requirements of this policy

B. To ensure consistent quality services to the public, **and in accordance with City Council's community vision**, any contract entered into for outsourcing City services shall **be consistent with the long term policies and goals identified in the City's General Plan and shall** specify the service, service quality measures, reporting requirements, regular meetings and complaint procedures. It may also specify performance-based incentives and/or fines.

C. **Prior to any award of contract that could result in the sale or divestment of City resources (e.g., equipment, materials), the City shall consider the fiscal impacts to the City should the external contract be terminated and the City subsequently choose to resume the service, and shall consider whether a mechanism to preserve the resources is prudent in the event a former or new City service requiring those resources will be necessary.**

2. Commitment to City Employees (above and beyond existing Civil Service Rules and Memorandum of Understanding)

A. The City Manager shall notify the City Council and all affected bargaining units of his/her intent to consider alternative methods of delivering a particular City service (i.e., move from contract to internal staff, enter into a partnership, or transition from internal staff to contract). **If the alternative being considered could result in the separation of classified or unclassified part-time City employees, such notification shall occur in the context of the City Manager's proposed annual budget, allowing Council the opportunity to approve or reject said exploration. If Council approves exploration of such an alternative, all affected bargaining groups shall be notified at least 90 days prior to the implementation of any contract for service. The City will meet with affected labor organizations over this 90 day period to discuss possible alternatives to contracting out, and will provide to City Council its response to any such alternatives prior to any final contract or alternative being implemented.**

B. Whenever the City considers contracting a service currently provided by City staff, the affected department shall be provided the opportunity to present its own **proposal or** bid to continue providing that service, and shall be treated throughout the competitive process as any other **proposer or** bidder.

- C. There is an intangible benefit to providing services with City staff (the vested interest of employees in working directly for the City, speedier response to City concerns, direct control of employees, etc.), as well as an added cost to delivering services by contract (contract administration). In recognition of these benefits and costs, any employee bid shall be reduced by 10% when comparing it against outside service delivery bids.**
- D. Whenever the City awards an outside contract for a service currently provided by City staff, the contract shall require that existing City staff currently performing that service be provided the right of first refusal for comparable positions employed by the new contract provider.
- E. The names of classified and unclassified part-time employees separated from employment shall be placed on a priority re-employment list consistent with the City's Administrative Policy.**
- F. Any contract resulting in the separation of classified or unclassified part-time employees shall be accompanied by:
 - o The identification of any opportunities for moving employees recommended to be displaced into other City positions
 - o the identification of any other assistance available to employees recommended to be displaced (e.g., job training)
- G. No contract in excess of limits established under the City's fiscal policy shall be executed without prior Council approval

3. Commitment to Potential Service Providers

- A. The City will maintain high ethical standards and will conduct a transparent service review, evaluation, and provider selection process that avoids any actual or perceived conflict of interest. An important part of the evaluation process is creating a competitively neutral environment in which public and private bidders are given a fair and equal opportunity to compete. This process will not favor nor disadvantage any competitor in the process.
- B. In comparing costs-of-service, overhead costs will be included to the extent appropriate.

(Adopted: RTC 99-004 (1/12/1999); (Clerical/clarity update, Policy Update Project 7/2005))

Lead Department: Office of the City Manager

Attachment C

Input Received from Labor Associations Regarding Proposed Policy Changes:

SEIU

1. SEIU Request: Section 2.A., page 2 of Attachment B: Requested that the notification of any intent to consider alternative methods of delivering a particular City service be provided “**90 days prior to implementation.**”

Staff Response: Establishing a timeline relative to this notification requirement is a good idea when considering a contract for services currently provided by City employees, so staff revised its proposed policy to state “**at least 90 days prior to implementation**”, allowing for even greater notification than requested.

2. SEIU Request: Section 2.B., page 2 of Attachment B: Requested additional language stating “The City will meet with affected labor organizations over this 90 day period to discuss possible alternatives to contracting out, and provide all relevant data from this process to Council on a regular basis.”

Staff Response: Agree that meeting with affected labor organizations during this time period, and informing Council regarding the results of those meetings, will be an important part of the process. The terms “relevant” and “regular” are subjective, however, and staff does not believe that frequent reporting to Council during discussions with labor is as important as informing Council as to the positions of all parties prior to implementing any action. As a result, staff has proposed the following language, which it believes addresses SEIU’s primary interest in this regard:

“The City will meet with affected labor organizations over this 90 day period to discuss possible alternatives to contracting out, and will provide to City Council its response to any such alternatives prior to any final contract or alternative being implemented.”

3. SEIU Request: Section 2.C., page 2 of Attachment B: Requested the following language be added: “In our continued commitment to high standards and service in the community we realize that City staff are the first and best choice for providing services in our Community. As part of the employee bid, employees will be given a 15% cost saving bump when being compared to outside contractors.”

Staff Response: Staff appreciates the general intent of this request, and has proposed the following language in response:

“There is an intangible benefit to providing services with City staff (the vested interest of employees working directly for the City, speedier response to City concerns, direct control of employees, etc.), as well as an added cost to delivering services by contract (contract administration). In recognition of these benefits and costs, any employee bid shall be reduced by 10% when comparing overall costs against outside service delivery bids.”

SEA

1. Section 1.B.: SEA requested this section be revised to read “To ensure consistent quality services to the public **and achieving City Council’s community vision to demonstrate regional leadership in environmental sustainability**, any contract entered into for outsourcing City services shall **be consistent with Council’s long term policies and goals identified in the City’s framework for sustainability** and specify the service....”

Staff Response: Agree with the spirit of this language, but do not feel that in the context of this policy “sustainability” should be afforded any more emphasis than any other General Plan goal. Other major goals of the City’s General Plan, such as “long-range planning”, an “attractive community”, “balanced transportation”, and a “robust economy” are equally important. In response to this request, therefore, staff revised the proposed policy to read:

To ensure consistent quality services to the public, **and in accordance with City Council’s community vision**, any contract entered into for outsourcing City services shall **be consistent with the long term policies and goals identified in the City’s General Plan** and specify the service....”

2. Section 2.E.: SEA requested additional language: “Displaced employees will be placed on a priority list for any vacancies that occur during the following 5 years.”

Staff Response: Staff proposes the following language “The names of classified and unclassified part-time employees separated from employment shall be placed on a priority re-employment list consistent with the City’s Administrative Policy” (currently requires the 5 years requested by SEA).

3. Section 2.G.: SEA requested this section be revised to read: “No contract in excess of **\$50,000** shall be executed without Council approval.

Staff response: Current fiscal policy allows the City Manager to execute contracts up to \$100,000 without Council approval. Staff recommends no

change, but if it is Council's desire to limit the City Manager's authority to \$50,000, staff would recommend this change be made to the City's fiscal policy rather than here.

4. Additional Language Requested under "Commitment to Council and City Employees": "Whenever the City considers contracting a service currently provided by City staff that could result in the sale or divestment of City resources (e.g. equipment, materials, etc.), prior to any award, the City shall conduct an analysis of the short, mid and long term fiscal impacts to the city should an external contract be terminated and the City reassumes the service."

Staff Response: Language was added under "Commitment to Council and the Public": Prior to any award of contract that could result in the sale or divestment of City resources (e.g., equipment, materials), the City shall consider the fiscal impacts to the City should the external contract be terminated and the City resume the service, and shall consider whether a mechanism to preserve the resources is prudent in the event a former or new City service requiring those resources will be necessary.

5. Additional Language Requested: "Whenever the City considers contracting a service currently provided by City staff that puts idle City resources (e.g. equipment, materials, etc.), rather than sell or divest the resources, the City should utilize a mechanism to preserve the resources (e.g. lease, rent, departmental transfer), so that in the event a former or new City service is necessary they are available without a financial barrier of acquiring new resources."

Staff Response: See Response to #4 above.

6. Additional Language Requested: "No contract shall be executed that displaces an individual City employee with a contract employee who will perform the same function."

Staff Response: Given that a primary purpose of this policy is to establish guidelines under which a contract might be executed for services currently provided by City employees, this request is a "non-starter".

7. Additional Language Requested: "Whenever the City considers contracting a service currently provided by City staff no contract shall be executed that has received less than three bids."

Staff Response: There is no reason to impose an arbitrary minimum number of bids. The City currently has the authority to reject bids or proposals for any number of reasons, including a limited number of responses proposing unfavorable terms. However, staff would also want to

preserve the right to award a bid or proposal despite limited responses if it felt that were in the best interests of the City.

8. Section 3.B. SEA requested this section be revised to read **“In comparing costs-of-service, overhead costs will be included to the extent appropriate and will adhere to the principle of provision of a living wage in relation to Sunnyvale.”**

Staff Response: The City is required by law to pay “prevailing wage”—a defined term—for Public Works construction projects, but there is no such requirement for ongoing operational service contracts. The concept of a “living wage” is less defined, and the policy implications of imposing such a condition on service contracts are quite complex. Staff does not recommend inclusion of this request, but if Council wishes to require that potential service providers base their bids on the provision of a “living wage”, that language should not be located under the heading of “Commitment to Potential Service Providers”, as most service providers would not be in favor of such a requirement.

SMA

The Sunnyvale Manager’s Association offered several suggestions, largely editorial in nature, and most of those have been incorporated into the proposed policy.