

ORDINANCE NO. 2023-02

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
CORONADO, CALIFORNIA, AMENDING ~~SECTION~~
~~CHAPTER~~ 8.04 OF THE CITY OF CORONADO MUNICIPAL
CODE REGARDING PROCUREMENT REQUIREMENTS**

WHEREAS, ~~Section-Chapter~~ 8.04 of the City of Coronado Municipal Code (~~CMC~~) contains procurement ~~requirements-procedures~~ for the purchase of goods, services, and equipment; and

WHEREAS, ~~sub~~section ~~8.04.070(A)(3)~~ of ~~this code section~~~~the CMC~~ contains ~~the exemptions from certain procedures of Chapter 8.04~~~~exception commonly known as the “piggyback” exception~~, and provides that “one of more procedures in this chapter may be waived, at the discretion of the Purchasing Officer, and the purchase carried forward, when ... ~~-[t]he City purchases the supplies, equipment, or services through a cooperative purchasing agreement or program, or by using a competitively awarded agreement of another local, State, or Federal government agency or joint powers authority made up of government agencies to obtain the same supplies, equipment or services at the same or lower prices (commonly referred to as “piggybacking”) utilizing competitive bidding procedures that accomplish the purpose and intent of competitive bidding requirements under State law and that are not inconsistent or in conflict with any State statute~~~~[t]he goods, services, and/or equipment may be acquired from or in cooperation with another governmental agency that is acquiring or has acquired goods, services, and/or equipment through a cooperative purchasing plan or program which accomplishes the purposes of this chapter in accordance with State law;~~” and

WHEREAS, the City regularly uses this exception to acquire goods, services, and/or equipment, at the same or lower price paid by another public agency. This process ensures that the City receives the goods, services, and/or equipment at a competitive price, and also saves the City time, money, and resources that would otherwise be used to engage in a competitive bidding process; and

~~WHEREAS, the City would like to ensure that it has access to a full range of piggybacking opportunities, including, but not limited to, the use of competitive contracts entered into by the federal government and public agencies in other states; and~~

WHEREAS, California Government Code section 54202 provides that every city “shall adopt policies and procedures, including bidding regulations, governing purchases of supplies and equipment” and that “[p]urchases of supplies and equipment by the [city] shall be in accordance with said duly adopted policies and in accordance with all provisions of law governing same.”

The City Council of the City of Coronado, California, DOES HEREBY ORDAIN as follows:

SECTION 1. All of the above recitals are true and correct and are incorporated herein.

SECTION 2. The adoption of the ordinance is not subject to CEQA pursuant to Section 15060(c)(2) and 15060(c)(3) of the State CEQA Guidelines, because it will not result in a direct or reasonably foreseeable indirect physical change in the environment and is not a “project,” as defined in Section 15378 of the CEQA Guidelines.

SECTION 3. Sections 8.04.030, 8.04.040, 8.04.050 and 8.04.60 of the City of Coronado Municipal Code are is amended and hereby amended to read as follows (underlines are additions and strikeouts are deletions): restated in its entirety as follows

8.04.030 Purchase order.

A. A purchase order is to be used in both the basic and general purchasing procedures when payment will be made incrementally or over more than one fiscal year. A purchase order shall contain a description of what goods, services, and/or equipment the Purchasing Agent is attempting to obtain, the quality and/or quantity of the items sought, any product specifications, and the price per item.

B. A purchase order may be used as the primary contract document for certain purchases wherein the risk to the City is minimal and the terms and conditions on the purchase order are sufficient to manage the City’s risk as it relates to liability, prevailing wage compliance or any other relevant risk exposure.

~~B-C.~~ Except where specific authority is first obtained from the City Manager, a Purchasing Agent shall not purchase goods, services, and/or equipment unless there exists an unencumbered appropriation in the fund account against which the purchase is to be charged.

C. The Purchasing Agent shall ensure that sufficient documentation is submitted with the request for payment to demonstrate compliance with the procedures of this chapter and to justify the acquisition and acceptance of the goods, services, and/or equipment.

~~(Ord. 2011 § 2, 2010)~~

8.04.040 Basic purchase procedure – Less than ~~\$2,500~~\$10,000.

A. If the estimated aggregate price of the purchase of goods, services, and/or equipment is less than ~~\$2,500~~\$10,000, a Purchasing Agent may, to achieve the purposes of this chapter:

1. Without seeking competitive proposals, select a vendor with an established reputation for selling items of the required quality, at the market price, in a transaction that best meets the needs of the City;
2. Issue a purchase order, if required; or use an authorized credit card; and
3. Complete the purchase transaction.

B. The Purchasing Agent shall submit the invoice to the Director of Administrative Services or his/her designee for placement on the warrant list. (~~Ord. 2011 § 2, 2010~~)

8.04.050 Minor purchase procedure (informal bid) – ~~\$2,500 to \$30,000~~ \$10,000 to \$100,000.

A. If the estimated aggregate price of the purchase of goods, services, and/or equipment is ~~\$2,500~~\$10,000 or more, but less than ~~\$30,000~~\$100,000, the Purchasing Agent shall:

1. Solicit proposals from qualified vendors;
2. Obtain at least three proposals;
3. Selection.
 - a. If the goods, services, and/or equipment specified in the request are of a generic quality and a vendor with particular attributes is not required to meet the needs of the City and the purposes of this chapter, then the Purchasing Agent shall select the vendor whose proposal offers to sell the supplies/equipment at the lowest price.
 - b. If vendor reliability, experience, availability, or expertise are a component of meeting the needs of the City and the purposes of this chapter, then the Purchasing Agent need not necessarily purchase from the vendor proposing the lowest price;

4. Issue a purchase order, if required;
5. Complete the purchase transaction; and
6. Submit the invoice to the Director of Administrative Services or his/her designee for placement on the warrant list.

B. The Purchasing Agent shall have the option to purchase goods, services, and/or equipment in an amount of \$~~210,500~~00 or more, but less than \$~~30100~~,000 utilizing the formal bidding procedure set forth in CMC 8.04.060.

C. The Purchasing Agent shall have the right to reject any and all bids for any reason or for no reason at all. (~~Ord. 2011 § 2, 2010~~)

8.04.060 Major purchase procedure (formal bid) – ~~\$30,000~~\$100,000 or more.

If the estimated cost of the purchase is ~~\$30,000~~\$100,000 or more, the Purchasing Officer shall ensure there exists an unencumbered appropriation in the fund account against which the purchase is to be charged and that the following requirements are met:

A. A request for proposals and a notice is prepared. The notice shall contain:

1. A general description of the goods, services, and/or equipment sought;
2. The location where the request for proposals, specifications, and blank proposals may be obtained;
3. The requirement that the proposal be in writing and that it be sealed;
4. The time and place for opening proposals; and
5. The security required, if any.

B. The notice is:

1. Published in a newspaper of general circulation within the City, at least once, 10 days prior to the deadline for submitting proposals; and, if directed by the City Council to achieve the purposes of this chapter, published in one or more additional publications, prior to the deadline for submitting proposals; and

2. Posted on the City's website or bid platform no less than 10 days prior to the deadline for submitting proposals; and

3. Any other notice the Purchasing Agent may deem appropriate to obtain bids for the goods, services, and/or equipment.

C. The Purchasing Officer may require a security deposit to be submitted as a condition for considering the proposal. The amount of the security deposit shall be sufficient to reimburse the City for costs incurred if the vendor is successful but fails to execute the contract. When a security deposit is required, the requirement shall be identified in the public notice(s) soliciting proposals. Vendors shall be entitled to return of such security deposit; provided, however, that the first-selected vendor shall forfeit its security deposit upon refusal or failure to execute a contract within five days after the notice of award of a contract has been mailed, unless the City is responsible for a delay. The City Council may, on refusal or failure of the first-selected vendor to execute the contract, award it to another vendor. If the City Council awards the contract to the second-selected vendor, the amount of the first-selected vendor's security shall be applied to the City's costs and then to the difference between the first-selected vendor's proposed price and the price proposed by the second-selected vendor; and the remainder, if any, shall be returned to the first-selected vendor.

D. ~~The proposals shall be opened in public at the time and place stated in the notice.~~ The proposals shall be submitted digitally and opened in public at the time and place stated in the notice. Virtual openings are allowable if they create administrative or operational efficiencies for the City or bidders.

E. After the proposals are opened, an agenda item will be submitted to the City Council with the Purchasing Officer's recommendation regarding the award of the purchase contract.

F. Selection.

1. If the goods, services, and/or equipment specified in the formal bid are of a generic quality and a vendor with particular attributes is not required to meet the needs of the City and the purposes of this chapter, the City Council will award the contract to the vendor whose proposal offers to sell the goods, services, and/or equipment at the lowest price.

2. If vendor reliability, experience, availability, and/or expertise are a component of meeting the needs of the City and the purposes of this chapter, then the City Council need not necessarily award the contract to the vendor proposing the lowest price.

3. In either case, the City Council may reject all proposals presented.

G. If two or more proposals equally satisfy the purposes of this chapter, the City Council may direct the Purchasing Officer to further negotiate with the concerned vendors. Thereafter, the City Council may award the contract based on a negotiated proposal, or reject all proposals presented.

H. After the City Council awards the contract, the Purchasing Officer shall complete the purchase transaction.

I. After completion of the transaction, the Purchasing Officer shall submit the invoice to the Director of Administrative Services for placement on the warrant list. (~~Ord. 2011 § 2, 2010~~)

8.04.070 Exemptions.

A. Where otherwise required by this chapter, one or more procedures in this chapter may be waived, at the discretion of the Purchasing Officer, and the purchase carried forward, when:

1. A declared emergency within or outside the City of Coronado requires that the goods, services, and/or equipment be acquired from the nearest available vendor by a Purchasing Agent and/or immediate action is necessary to contain and control the emergency condition;
2. The goods, services, and/or equipment can be obtained from only one vendor;
3. The City purchases the supplies, equipment, or services through a cooperative purchasing agreement or program, or by using a competitively awarded agreement of another local, State, or Federal government agency or joint powers authority made up of government agencies to obtain the same supplies, equipment or services at the same or lower prices (commonly referred to as “piggybacking”) utilizing competitive bidding procedures that accomplish the purpose and intent of competitive bidding requirements under State law and that

are not inconsistent or in conflict with any State statute. Such cooperative purchasing programs and agreements include, but are not limited to, the California Multiple Award Schedules Program ("CMAS"), the U.S. General Services Administration ("GSA") Multiple Award Schedule Program, Sourcewell, the U.S. Communities Government Purchasing Alliance, and other similar programs;

4. The goods, services, and/or equipment is obtained from an authorized "reverse auction" wherein no less than two bids are received from suppliers pursuant to a request for quotation, and the contract is awarded to the lowest bidder; or

5. Sufficient, satisfactory proposals are not received.

B. When a waiver is granted in accordance with this section, the Purchasing Officer shall make a written record, which contains the facts and findings required to support the waiver. The record shall be filed with the request for warrants. (~~Ord. 2021-01 § 3, 2021; Ord. 2011 § 2, 2010~~)

8.04.080 Professional services.

Contracts for special professional services of an accountant, architect, engineer, land surveyor, appraiser, construction manager, land use planner, environmental specialist, or other specialized consultant shall be subject to the provisions of this section. Whenever feasible at least three proposals or qualifications shall be received for the professional service needed. The City Manager may waive the requirements for solicitation of multiple proposals or qualifications if in the Manager's opinion only one individual or firm can provide the professional service, or if the professional service constitutes an extension of professional services for a project for which a consultant has previously given professional services. The selection of the professional shall be based upon an analysis of demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required as well as the cost of the service consistent with Government Code Section [4526](#). This section shall not apply to the selection of City Attorney or other similar positions. The City, upon the advice of the City Manager and the City Attorney, may select special counsel without following the procedures specified in this section. (~~Ord. 2011 § 2, 2010~~)

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Coronado hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, phrase, or portion may be declared invalid or unconstitutional.

SECTION 5. This ordinance shall be effective thirty (30) days after its adoption. Within fifteen (15) days after its adoption, the City Clerk shall cause this ordinance to be published pursuant to state law.

~~Introduced and first read~~ **INTRODUCED AND FIRST READ** at a regular meeting of the City Council of the City of Coronado on August 15, 2023.

PASSED, ADOPTED, AND APPROVED by the City Council of the City of Coronado at a regular meeting on the fifteenth day of August 2023 by the following vote to wit:

AYES:

NAYS:

ABSTAIN:

ABSENT:

RICHARD BAILEY, Mayor of the
City of Coronado, California

ATTEST:

KELSEA HOLIAN, City Clerk of the
City of Coronado, California

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.
CITY OF CORONADO)

I, KELSEA HOLIAN, City Clerk of the City of Coronado, hereby certify that the foregoing ORDINANCE NO. 2023-02 passed at the regular meeting of the City Council of the City of Coronado held on the fifth day of September 2023 after having been read at the regular meeting of said City Council held on the fifteenth day of August 2023.

KELSEA HOLIAN, City Clerk of the
City of Coronado, California