

SECOND READING AND ADOPTION

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING
CHAPTER 2.56 OF THE CHULA VISTA MUNICIPAL CODE –
“PURCHASING SYSTEM” - REGARDING CONTRACT
LIMITS AND AUTHORITIES ASSOCIATED WITH CITY
PROCUREMENT PRACTICES

WHEREAS, on November, 4, 2014, Chula Vista voters approved modifications to City Charter Sections 1009, 1010 and 1011 (Measure A) that delegated the authority to the City Council to make procurement rules for awarding City public works contracts and other types of City contracts; and

WHEREAS, the modifications were related to the City Charter’s outdated provisions governing public works contract limits which required City Council approval; and

WHEREAS, the Charter amendments enabled future purchasing limits/requirements to be established by ordinance, allowing for the City to keep up with “best practices;” and

WHEREAS, the currently proposed amendments to the purchasing ordinance are consistent with the Charter amendment and would enhance the efficiency and flexibility of the City’s procurement practices while preserving appropriate checks and balances; and

WHEREAS, in order to maintain transparency, staff will submit to the City Council a list of CIP projects and the associated public works contracts as part of the Finance Departments Quarterly Fiscal Report; and

WHEREAS, staff recommends increasing the limits for all public works contracts and cooperative purchasing agreements annually based on the Engineering News Record (ENR) Construction Index. These limits would increase starting on October 1, 2018, and on each October 1st thereafter, based on the one-year change (from July to July) in the Los Angeles Construction Cost Index as published monthly in the Engineering News Record (“LA ENR CCI”) by rounding up to the nearest \$1,000; and

WHEREAS, the proposed changes to the Purchasing Ordinance are summarized as follows:

Maximum Contract Amount		Bid Process	Awarding Authority
Proposed	Current		
General Supplies, Services & Equipment			
> \$ 250k	\$ 100k	Formal Competitive Bid (2.56.070 & 080)	City Council (2.56.080.E.)
\$ 100k+ to ≤ \$ 250k	\$ 50 - \$ 100k	Formal Competitive Bid (2.56.070 & 080)	City Manager (2.56.080.E.)
\$ 10k+ to ≤ \$ 100k	\$ 10 ≤ \$ 50k	Informal Bidding/ three bids (2.56.090.A.)	Purchasing Agent (2.56.090.A.)
≤ \$ 10k	No Change	Based on market rates/competence (2.56.090.B.I.)	Purchasing Agent (2.56.090.A.)

Emergency Services			
ALL	No Change	Open Market (2.56.100.A.)	City Manager or Purchasing Agent (2.56.100.A.)
≤ \$ 100k	No Change	Per Purchasing Agent Procedures (2.56.100.B.)	Using Department, with prior consent of City Manager or Purchasing Agent (2.56.100.B.)
Professional Services			
No Change	\$ 50k	Selection Committee (2.56.110.C.)	City Council (2.56.110.A.3)
No Change	\$ 10 - \$ 50k	Informal Solicitation (2.56.110.D.)	City Manager (2.56.110.A.3)
No Change	< \$ 10k	Informal Solicitation (2.56.110.D.)	Purchasing Agent (2.56.110.A.3.)
No Change	No Change	Demonstrated Competence (2.56.110.H.1.)	Purchasing Agent (2.56.110.A.3.)
Legal Services			
No Change	\$ 50k	Competitive Solicitation (2.56.110.F.)	City Council (2.56.110.F.)
No Change	\$ 50k	Competitive Solicitation (2.56.110.F.)	City Attorney (2.56.110.F.)
Public Works Contracts (non-CIP)*			
> \$ 250k	> \$ 25k	Competitive Bid (2.56.160.A.; 2.56.070.A. & 2.56.080)	City Council (2.56.160.B.)
\$ 100k+ to ≤ \$ 250k	≤ \$ 25k	Informal Bid (2.56.160.A.; 2.56.090.A.)	City Manager (2.56.160.B.)
≤ \$ 100k	N/A	Informal Bid (2.56.160.A.; 2.56.090.A.)	Purchasing Agent (2.56.160.B.)
Public Workc Contracts - CIP Projects*			
> \$ 2 million	N/A	Per 2.56.160.A., based on contract value	City Council (2.56.160.C.1.)
≤ \$ 2 million	N/A	Per 2.56.160.A., based on contract value	Purchasing Agent (2.56.160.C.1.)
Change Orders			
\$ remaining in CIP project	N/A	Quote with existing contractor	Director of Public Works or City Engineer
Cooperative Purchasing Agreements*			
> \$ 2 million	> \$ 100k	Per 2.56.140, based on contract value	City Council (2.56.140)
≤ \$ 2 million	≤ \$ 100k	Per 2.56.140, based on contract value	Purchasing Agent (2.56.140)
*Subject to automatic annual adjustment based on the Engineering News Record (ENR) Construction Index each fiscal year (rounded to the nearest \$1,000).			

NOW THEREFORE the City Council of the City of Chula Vista does ordain as follows:

Section I. Chapter 2.56 of the Chula Vista Municipal Code – “Purchasing System” - Regarding Contract Limits and Authorities associated with City procurement practices is amended to read as follows:

Chapter 2.56

PURCHASING SYSTEM

Sections:

- 2.56.010 Centralized purchasing system established.
- 2.56.020 Purchasing Agent – Appointment – Powers, duties, and authority.
- 2.56.030 Option to delegate authority for purchases of supplies, services, and equipment.
- 2.56.040 Requisitions or estimates – Required revisory changes permitted.
- 2.56.050 Required contract forms – City Attorney.
- 2.56.060 Budget, availability of funds required.
- 2.56.070 Contracts for supplies, equipment, or services, exceeding \$100,000 – Formal competitive bid procedure required.
- 2.56.080 Contracts for supplies, equipment, or services, exceeding \$100,000 – Competitive bidding process; City Manager/City Council approval required.
- 2.56.090 Contracts for supplies, equipment, or services, of \$100,000 or less – Open market procedure and Purchasing Agent/City Manager approval required.
- 2.56.100 Emergency purchases.
- 2.56.110 Professional Services Exception – Selection process for architectural, engineering, environmental, land surveying, legal, construction project management, and other professional services.
- 2.56.120 Supplies, materials, and equipment no longer used – Disposition procedure.
- 2.56.130 Sale of real property – Procedure.
- 2.56.140 Cooperative purchasing agreements.
- 2.56.150 Reports to City Council.
- 2.56.160 Contracts on Public Works.
- 2.56.170. Automatic Indexed Adjustments.

2.56.010 Centralized purchasing system established.

Pursuant to Section 1010 of the City Charter, there is established a centralized purchasing system for City departments, offices, and agencies, in order to (1) establish procedures for the purchase, lease or other acquisition of services, supplies, and equipment, at the lowest possible cost commensurate with quality needed, (2) exercise positive financial control over purchases, (3) clearly define authority for the purchasing function, and (4) assure the quality of purchases.

2.56.020 Purchasing Agent – Appointment – Powers, duties, and authority.

The Director of Finance shall appoint, in accordance with Section 507 of the Charter, a Purchasing Agent, who shall be in the unclassified service as provided in Section 500 of the City Charter, and such deputies as may be necessary. The Purchasing Agent shall be the head of the purchasing division of the Finance Department and shall conduct a centralized purchasing system. The Purchasing Agent shall have the power, and it shall be his or her duty, to purchase or contract for all supplies, equipment, and services needed by any and all departments, offices, and agencies of the City, subject to the terms and conditions provided for in this chapter. The Purchasing Agent shall have the authority to:

- A. Negotiate, purchase, and obtain supplies, equipment, and contractual services used by the City in accordance with City and State law, and such rules and regulations as are prescribed by the Director of Finance, subject to the review of the City Manager or by the City Council;
- B. Act to procure for the City the needed quality in supplies, equipment, and contractual services, at least expense to the City;
- C. Endeavor to obtain as full and open competition as possible on all purchases and sales;
- D. Prepare and recommend to the Director of Finance rules, regulations and procedures governing the purchase of supplies, equipment, and services for the City and, amendments thereto as necessary;
- E. Keep informed of current developments in the field of purchasing, prices, market conditions, and new products, and secure for the City the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations having national recognition, and by private businesses and organizations;
- F. Prescribe and maintain such standardized contracts, subject to the approval of the City Attorney, and other rules and regulations as are reasonably necessary for the operation of the purchasing system;
- G. Prepare and adopt a standard purchasing nomenclature for City departments and suppliers;
- H. Exploit the possibilities of various cost-effective purchasing strategies, such as buying “in bulk” and cooperative purchasing, to take full advantage of favorable pricing;
- I. Recommend the transfer of surplus or unused supplies and equipment between departments as needed and the sale of all supplies and equipment which cannot be used by any department or which have become unsuitable for City use and the scrapping or surveying of unsalable surplus items;
- J. Take such other actions consistent with the provisions of this chapter, all other applicable laws, and current good purchasing practices that are reasonable and appropriate to effectively operate the City’s centralized purchasing system;
- K. Control and supervise all existing and future storerooms and warehouses of regularly purchased City supplies and equipment.

2.56.030 Option to delegate authority for purchases of supplies and equipment.

The Purchasing Agent may authorize a department, office, or City agency to purchase supplies, services, and equipment directly when he or she determines that direct purchasing can improve efficiency and/or reduce costs and is in the best overall interests of the City. All direct purchasing authorized by the Purchasing Agent under this section shall be carried out in compliance with the procedures established by this chapter and on such forms or through such purchasing mechanisms as shall be determined by the Purchasing Agent. Direct purchases may be effected through the use of procurement cards or other similar mechanisms.

2.56.040 Requisitions or estimates – Required revisory changes permitted.

All City departments and offices shall file with the Purchasing Agent detailed requisitions or written estimates of their requirements for supplies, equipment, and services, in such manner, and at such times, as the Purchasing Agent shall prescribe. The Purchasing Agent shall examine

each requisition or estimate and shall have the authority to revise it as to quantity, quality, or estimated cost; provided, however, that a change in quality will not vary substantially from the standards of the using department or office; and provided further, that the using department head, or designee, is first consulted.

2.56.050 Required contract forms – City Attorney.

All purchase orders and contracts for purchase of supplies, equipment or services shall be on forms prescribed or approved by the Purchasing Agent and City Attorney.

2.56.060 Budget, availability of funds required.

For all purchases or contracts for services, the Purchasing Agent shall certify that (1) the required purchase price or compensation is provided for in the budget of the using department or has been approved by the City Council by resolution, and (2) there is to the credit of each using department concerned a sufficient and appropriate unencumbered balance in excess of all unpaid obligations to defray the cost of such purchase or contract.

2.56.070 Contracts for supplies, equipment, or services, exceeding \$100,000 – Formal competitive bid procedure.

A. In General. All supplies, equipment, and services (except professional services per section 2.56.110), when the maximum amount to be paid by the City during the term of the contract (including all optional term extensions and scope of work expansions), as determined by the Purchasing Agent, after consultation with the Director of the procuring department, (the “Maximum Contract Amount”) exceeds \$100,000, shall be awarded to the lowest responsive and responsible bidder submitting the best bid in accordance with the competitive bidding process set forth in CVMC 2.56.080.

B. Exceptions. The following purchases contain exceptions to the standard competitive bidding requirements:

1. Public Works. Contracts on Public Works are governed by Section 1009 of the Charter, as implemented by CVMC section 2.56.160, City Council policies, and departmental procedures.
2. Professional Services. Contracts for certain professional services are governed by CVMC 2.56.110.
3. City Council Waiver. The City Council may waive the competitive bidding requirements if determined by resolution of the City Council that the competitive bidding requirements as applied to that contract are impractical, impossible or that City interests would be materially better served by applying a different purchasing procedure approved by the Purchasing Agent as being consistent with good purchasing practices.
4. Single/Sole Source. A commodity or service available from only one known source as the result of unique performance capabilities, manufacturing processes, compatibility requirements or market conditions, or as the result of a single, unsolicited proposal, shall not be subject to competitive bidding requirements, in the discretion of the Purchasing Agent, after consultation with the Director of the procuring department.
5. Emergency. Emergency purchases are governed by CVMC 2.56.100.

6. Design-Build Projects. Projects for which the City is utilizing a design-build process, as defined in Charter section 1009, shall adhere to the alternative processes set forth in applicable City ordinances, policies, procedures, and standards.

2.56.080 Contracts for supplies, equipment, or services, exceeding \$100,000 – Competitive bidding process; City Council or City Manager Approval Required.

The following competitive bidding and award process shall apply to contracts for supplies, equipment and services with a Maximum Contract Amount in excess of \$100,000:

A. Notice Inviting Bids. Notices inviting bids shall include a general description of the article or service, and shall be published by the Purchasing Agent at least once on the City's Internet web site, or in a newspaper of general circulation in the City, and any other method of advertising that is determined by the Purchasing Agent to be in the City's best interest, at least 10 days prior to the bid opening date.

B. Bidder's Security. The Purchasing Agent may require a bidder's security in an amount equal to 10 percent of the bid, either in cash, certified or cashier's check, or surety bond approved by the City Attorney and the Risk Manager. In the event a bidder's security is required, no bid shall be considered unless the required security is submitted therewith. All bidder's security is refundable, except in the case of a successful bidder who shall forfeit this security if the bidder fails to execute a contract within 10 days after the notice of award has been mailed or personally delivered, or otherwise fails to comply with the requirements to complete the transaction.

C. Bid Opening. Sealed bids shall be submitted to the Purchasing Agent, who shall open them in public at the time and place stated in the public notices. A secure, Internet-based system or other appropriate medium may be used in lieu of sealed bids opened in public; provided, that the Purchasing Agent has approved the system for accuracy, confidentiality, and reliability. A tabulation of all bids received shall be available for public inspection in the office of the Purchasing Agent, or on the City's Internet web site, for a period of not less than 30 calendar days after the bid opening. The Purchasing Agent may delegate this responsibility hereunder to responsible assistants and deputies.

D. Compilation of Bids and Recommendations. Following the opening of formal bids, the Purchasing Agent shall compile all of the bids and submit them to the requesting department head, together with a recommendation as to which bid he or she considers best, taking into consideration the amount of money bid, compliance with specifications, and responsiveness and responsibility of the bidder. The responsiveness of the bidder shall be determined by comparing the bid to the bid specifications and bid submittal requirements. In determining the responsibility of the bidder, the Purchasing Agent will be guided by, but not limited to, a consideration of the following factors:

1. The experience of the City in dealing with the low bidder;
2. The experience of other governmental agencies known to the Purchasing Agent in their previous transactions with the low bidder;
3. Knowledge of the quality and fitness of the product offered by the low bidder, substantiated by reports of using departments within the City or other governmental agencies;

4. Options to renew contracts for continuing purchases at the same bid price or with reasonable fixed or capped increases, in those circumstances where price increases are expected or have been experienced in the past;

5. Financial stability and business standing of the low bidder.

The requesting department head shall forward the compilation of bids and his or her recommendation with respect to an award to the City Manager, who in turn, will forward a recommendation for award to the City Council. The Purchasing Agent may reject any or all bids, or any one or more commodities or contractual services included in the proposed contract, if it is determined that the public interest will be served thereby.

E. Contract Awarding Authority. The City Council shall be the authority responsible for awarding contracts (“Awarding Authority”) with a Maximum Contract Amount over \$250,000 or above; the City Manager shall be the authority responsible for awarding contracts with a Maximum Contract Amount over \$100,000 and up to \$250,000. (For purposes of this Chapter, City Manager authority shall include the City Manager’s designation of authority to the Purchasing Agent, or other designee, in accordance with an administrative City policy.) The Awarding Authority may make an award of contract to the lowest responsive and responsible bidder submitting the best bid in all respects.

F. Rejection of Bids – Alternative Procedures. The Awarding Authority may reject any or all bids, direct City forces to provide the required commodity or service, authorize the readvertising of bids, or authorize the purchase of supplies or services pursuant to the open market procedure set forth in CVMC 2.56.090.

G. Tie Bids. In the event two or more bids are received which are for the same total amount or unit price and in all other respects are equal, the contract shall be awarded to a local bidder. In the event, however, that such tie bids are all from vendors either wholly inside or all outside of the City, then the contract shall be awarded by drawing lots in public.

H. Performance Bond. The Purchasing Agent shall have authority to require a performance bond in such amount as he or she shall find reasonably necessary to protect the best interests of the City.

2.56.090 Contracts for supplies, equipment, or services, of \$100,000 or less – Open market procedure and Purchasing Agent approval required.

A. In General. Purchases of supplies, equipment, and services (except Professional Services, pursuant to section 2.56.110) with a Maximum Contract Amount in the amount of \$100,000 or less may be made by the Purchasing Agent in the open market without observing the formal bidding procedure prescribed in CVMC 2.56.080. Notwithstanding the foregoing, for contracts in excess of \$10,000, informal bidding shall be required, and, whenever practical, be based on at least three bids.

Contracts shall be awarded to the lowest responsive and responsible bidder submitting the best bid in all respects, except as provided below. Responsiveness and responsibility shall be determined pursuant to the standards set forth in CVMC 2.56.080(D). The Purchasing Agent shall keep a record of all open market orders and the bids submitted in competition thereon, and such records shall also be open to public inspection.

B. Exceptions. The following purchases shall be exempt from the requirements in section 2.56.090.A.:

1. Ten Thousand Dollars or Less. Contracts for a commodity or service costing \$10,000 or less, in which case the contract may be awarded by the Purchasing Agent based upon suitability of the item and market rates in the case of a commodity, and demonstrated competence at reasonable fees in the case of services;
2. Impractical or Impossible. When it is determined by the Purchasing Agent that the competitive bidding requirements are impractical, or impossible, or that City interests would be materially better served by applying a different purchasing procedure, the Purchasing Agent may award the contract consistent with best purchasing practices;
3. Certain CVMC 2.56.070 Exemptions. Those exemptions set forth in CVMC 2.56.070(B)(1), (2), (4) and (5) shall also apply to contracts of \$100,000 or less.

2.56.100 Emergency purchases.

A. By City Manager or Purchasing Agent Permitted When. In case of an emergency which poses an immediate threat to public health, safety or welfare and which requires immediate purchase of supplies, equipment, or contractual services, the City Manager or Purchasing Agent are authorized to secure in the open market at the lowest obtainable price any supplies, equipment, or contractual services, regardless of the amount of the expenditure; provided, however, that a full explanation of the circumstances of such emergency shall be entered in the minutes of the council at the first available meeting following the commitment to the expenditure and shall be open to public inspection.

B. By Using Department – Procedure. In case of an emergency, and with the prior consent of the City Manager or Purchasing Agent, any using department may purchase directly any supplies, equipment, or services when the Maximum Contract Amount thereof does not exceed \$100,000, whose immediate procurement is essential to prevent delays in the work of the using department which may affect the life, health, or public safety of citizens. The head of such using department shall send to the Purchasing Agent a copy of the delivery record, together with a full written explanation of the circumstances of the emergency, which shall be filed by the Purchasing Agent as a permanent and public record of the purchase. The Purchasing Agent shall, by rules and regulations, prescribe the procedures under which such emergency purchases may be made.

2.56.110 Professional Services Exception – Selection process for architectural, engineering, environmental, land surveying, legal, construction project management, and other professional services.

A. In General.

1. Except as otherwise provided in this section, architectural, engineering, environmental, land surveying, legal, construction project management, and other professional consultant services (collectively “Professional Services”) provided to the City shall not be governed by the bidding requirements set forth in CVMC 2.56.080 or 2.56.090, but shall be negotiated on the basis of demonstrated competence and qualifications for the services required and at fair and reasonable fees in accordance with the procedures set forth in this section. Notwithstanding the foregoing, once demonstrated competence and qualifications have been established, expense may be considered as one factor in the selection of a consultant hereunder.
2. Notwithstanding the above requirement, the Purchasing Agent may require competitive bidding, pursuant to the requirements of CVMC 2.56.080 or 2.56.090, upon a finding by the Purchasing Agent after consultation with the Director of the procuring department, that the

professional services required are of more of a technical nature or involve little professional judgment, and requiring bids would be in the public interest.

3. If the Maximum Contract Amount of the professional services contract exceeds \$50,000, it shall be awarded by the City Council after compliance with the procedures specified in subsection (C) of this section. Contracts for professional services with a Maximum Contract Amount of \$50,000 or less may be awarded pursuant to subsection (D) of this section. The Awarding Authority for such contracts in excess of \$50,000 shall be the City Council; for contracts in the amount of \$50,000 or less, the Awarding Authority shall be the City Manager.

B. Definitions. For purposes of this chapter, the following terms have the following meanings:

1. "Architectural, engineering, environmental, and land surveying services" includes those professional services of an architectural, engineering, environmental, or land surveying nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform.

2. "Construction project management" means those services provided by a licensed architect, registered engineer, or licensed general contractor which meet the requirements of Government Code Section 4529.5 for management and supervision of work performed on construction projects.

3. "Environmental services" means those services performed in connection with project development and permit processing in order to comply with federal and state environmental impact laws, and the analysis of hazardous material.

4. "Legal services" are those of a specialized legal nature as determined by the city attorney.

5. "Other professional services" include services which provide intellectual products of a specialized nature unique to a given situation or requirement.

C. Selection Process for Contracts of Greater than \$50,000.

1. Any department head desiring to enter into a contract for professional consultant services whose Maximum Contract Amount exceeds \$50,000 shall first analyze the cost effectiveness of having the proposed service completed.

2. Public announcement of all projects of an estimated cost in excess of \$50,000 requiring architectural, engineering, environmental, land surveying, construction project management, or other professional consultant services shall be made by the city through notice to the respective professional societies, advertisement on the city's Internet web site, or publication in a newspaper of general circulation, and any other method of advertising that is determined by the Purchasing Agent to be in the City's best interest. The notice shall invite service providers to submit letters of interest for specific projects.

3. The recommendation to City Council for the award of the contract shall be made by a selection committee. The responsible department head, or designee, and two or more staff members shall perform the duties of the selection committee.

4. After reviewing all proposals submitted, the selection committee may choose the most qualified firms for personal interviews to discuss anticipated concepts and the relative utility

of alternative methods of approach for furnishing the required services. The selection committee shall evaluate and rank the firms based upon criteria established in advance by the City. Cost comparisons between service providers may also be considered as a factor. A list containing the ranking information will be sent to the responsible department head.

5. The responsible department head shall negotiate a contract with the firm ranked the highest by the selection committee at a price determined to be fair and reasonable to the city. The agreement shall define the conditions of the contract scope, work plan, schedule, costs, method of payment, duration, insurance, indemnification and other appropriate matters.

6. If the department head is unable to negotiate a satisfactory contract with the highest ranked firm, negotiations shall be formally terminated.

7. The department head shall then undertake negotiations with the next highest ranked firm. This process shall continue until a satisfactory contract is negotiated.

8. If the list of qualified firms is exhausted without a contract being negotiated, the selection committee shall choose additional firms, and the process shall continue until a satisfactory contract is negotiated.

D. Selection Process for Contracts of \$50,000 or Less. Purchases of professional services with a Maximum Contract Amount of \$50,000 or less shall be made after informal solicitation of proposals, in accordance with the same standards and exceptions set forth in CVMC 2.56.090.

E. Prequalification Lists. Solicitations may be made using prequalification lists maintained approved by the Purchasing Agent. The Purchasing Agent shall review types of services required and determine for which types of services prequalification lists would be appropriate. Prequalification lists may be used in lieu of open advertisement.

F. Legal Services. In accordance with Section 503 of the City Charter, the City Attorney oversees contracts for legal and related professional services. Whenever practical, and in consultation with the Purchasing Agent, requests for outside attorney or professional services shall be based on a competitive solicitation of proposals. Otherwise, justification shall be provided based on unique qualifications or performance characteristics of the attorney or consultant recommended. Except for contracts for the retention of special counsel pursuant to Chapter 2.52 CVMC, Contracts for legal and related professional services in excess of \$50,000 shall be approved by the City Council. Contracts for the retention of special counsel pursuant to Chapter 2.52 CVMC in excess of \$100,000 shall be approved by the city council.

G. Unlawful Acts and Conflicts of Interest Prohibited.

1. In the selection and award of professional consultant contracts pursuant to this exception, all unlawful activity, including, but not limited to, rebates, kickbacks, or other unlawful consideration, is prohibited.

2. No city officer or employee shall be a member of a selection committee, or otherwise participate in the selection process, when they have a relationship with a person or business entity seeking a contract which would constitute a conflict of interest under Government Code Section 87100 or under city conflict of interest rules.

H. Exceptions. The following purchases shall be exempt from the requirements in sections 2.56.100.C. and D.

1. Ten Thousand Dollars or Less. Contracts for professional service contracts with a Maximum Contract Amount of \$10,000 or less may be awarded by the Purchasing Agent based upon demonstrated competence at reasonable fees;
2. Impractical or Impossible. When it is determined by the Purchasing Agent (for contracts with a Maximum Contract Amount of \$100,000 or less) or by resolution of the City Council (for contracts with a Maximum Contract Amount in excess of \$100,000) that the competitive bidding requirements are impractical, or impossible, or that City interests would be materially better served by applying a different purchasing procedure, the Purchasing Agent or City Council, respectively, may award the contract utilizing alternative procedures consistent with best purchasing practices;
3. Certain CVMC 2.56.070 Exemptions. Those purchases exempted under CVMC 2.56.070(B)(1), (2), (4) and (5).

2.56.120 Supplies, materials, and equipment no longer used – Disposition procedure.

A. General Procedures. All using departments shall submit to the Purchasing Agent, at such times and in such form as he or she shall prescribe, reports showing stocks of all supplies, materials, and equipment which are no longer used or which have become obsolete, worn out, or scrapped. The Purchasing Agent may transfer such stock to other departments which have need for and can use it. The Purchasing Agent shall also have the power to sell all supplies, materials, and equipment which have been unsuitable for public use, or to exchange for, or trade-in the same on, new supplies, materials, and equipment.

B. Approval Required – Competitive Process. Where the value of an item, or a group of items expected to be sold to one bidder, exceeds \$100,000, such sale must be approved by resolution of the City Council. Any such sale, exchange, or trade-in shall be made to the highest responsive and responsible bidder, in accordance with the competitive bid procedures established by the Purchasing Agent.

C. Donations. Supplies, materials, and equipment, when the estimated value involved is \$10,000 or less, may be donated, or sold for less than fair market value, to local civic or social organizations, where it is deemed by the city manager that such a disposition of property would best serve the city's public interests. Such donations or discounted sale of items valued in excess of \$10,000 must be approved by resolution of the city council.

D. Worthless Property. In the case of scrap or survey items having no estimated or appraised value and which have not been desired by any civic or social organization, the Purchasing Agent may dispose of such items in any manner he or she deems appropriate, keeping full records of such disposition.

E. Special Procedures for Disposition of Library Materials. The City Librarian shall submit to the Purchasing Agent reports showing used, damaged, or unneeded library materials and indicating disposition thereof. The librarian may, at his or her discretion, donate such materials to the Friends of the Chula Vista Public Library for such book sales as they may desire, or he or she may offer such materials to any bona fide charitable or nonprofit institutional organizations serving primarily the interests of the city. If at any time the librarian chooses to dispose of such materials other than as provided herein, he or she shall follow the general procedures set forth hereinabove.

2.56.130 Sale of real property – Procedure.

The purchasing agent, with the recommendation of the City Manager and approval of the City Council, shall have the power to sell for fair value any real property owned by the City which has been declared by the City Council to have no present or future use for public purposes. Notice of such sale shall be published at least once on the City's Internet web site, or in a newspaper of general circulation in the City, and any other method of advertising that is determined by the Purchasing Agent to be in the City's best interest. Real property may be sold for less than fair market value upon a determination by the City Council that such sale will be in the public interest.

2.56.140 Cooperative purchasing agreements.

No provision of this chapter shall be interpreted or construed to prohibit or prevent the City from purchasing supplies, equipment, and services by contracts, arrangements, and agreements for cooperative purchasing programs with the state of California, the county of San Diego, the city of San Diego, or any other public agency, including a Joint Exercise of Powers Authority, school district, or water authority within the United States; provided, that such items are purchased through a competitive process that the Purchasing Agent determines to be consistent with good purchasing practices. If the contract, agreement, or arrangement exceeds \$2,000,000, then City Council approval is required.

2.56.150 Reports to City Council.

The Director of Finance shall provide the City Council with reports regarding City purchasing practices in such form and at such intervals as the City Council may direct.

2.56.160 Contracts on Public Works.

The provisions of this section shall apply to contracts on Public Works, as defined in City Charter Section 1009.

A. Competitive Bid Processes. The informal bidding process set forth in Section 2.56.090.A. shall apply to Public Works contracts with a Maximum Contract Amount of \$250,000 or less. For Public Works with a Maximum Contract Amount in excess of \$250,000, the competitive bidding process set forth in Section 2.56.070.A. and 2.56.080. shall apply.

B. Contract Awarding Authority. Notwithstanding Section 2.56.160.A., the Contract Awarding Authority for Public Works Contracts shall be as follows: Maximum Contract Amount of \$100,000 or less: Purchasing Agent; Maximum Contract Amount over \$100,00 and up to \$250,000: City Manager; Maximum Contract Amount in excess of \$250,000: City Council ("Public Works Awarding Authority").

C. Capital Improvement Projects (CIP). Notwithstanding anything else in this Section, Public Works contracts for capital improvement projects shall be subject to the following:

1. Awarding Authority. The Public Works Awarding Authority shall be: the Purchasing Agent, for public works contracts with a Maximum Contract Amount up to \$2 million; the City Council for public works contracts with a Maximum Contract Amount in excess of \$2 million.

2. Change Orders. The Public Works Director, or City Engineer, shall have authority to approve change orders up to the remaining CIP budget available for any CIP project.

D. Rejection of Bids. The Public Works Awarding Authority may reject any and all bids, authorize the readvertising for bids, or waive minor defects in any bid, if the Public Works Awarding Authority determines that such action is necessary or appropriate for the benefit of the public.

E. Emergency Waiver. For contracts on Public Works, emergency purchases shall be authorized pursuant to section 2.56.100., above.

F. Professional Services. The selection process for professional services for Public Works projects shall be awarded pursuant to section 2.56.110., above.

G. "Special" Public Works Contracts. The City Council retains the authority to require its approval of the award of any Public Works contract it defines as "special," based on factors such as contract cost, value, or other relevant factors, either by amendment to this ordinance or adoption of a City Council policy.

2.56.170 Automatic Indexed Adjustments.

The limits set forth in sections 2.56.140, and 2.56.160 shall automatically increase annually based on the Engineering News Record (ENR) Construction Index. These limits will increase by administrative action of the City Manager, starting on October 1, 2018, and again on each October 1st thereafter, based on the one-year change (from July to July) in the Los Angeles Construction Cost Index as published monthly in the Engineering News Record ("LA ENR CCI") by rounding up to the nearest \$1,000.

Section II. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section III. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section IV. Effective Date

This Ordinance shall take effect and be in force on the thirtieth day after its final passage.

Section V. Publication

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by:

Approved as to form by:

Richard A. Hopkins
Director of Public Works

Glen R. Googins
City Attorney