



**STAFF REPORT
CITY COUNCIL REGULAR MEETING AGENDA
MEETING DATE: DECEMBER 4, 2023**

SUBMITTED: November 29, 2023
DEPARTMENT: City Clerk
DEPARTMENT HEAD: Jennifer Woodworth, City Clerk

TITLE OF ITEM: ORDINANCE NO. 1241 AN ORDINANCE OF THE CITY OF HOLLISTER AMENDING ARTICLE II -PURCHASING OF CHAPTER 3.06 – PROCEDURES FOR SUPPLIES, OF TITLE 3 - REVENUE AND FINANCE, OF THE HOLLISTER MUNICIPAL CODE

BRIEF DESCRIPTION: On November 20, 2023, the City Council introduced Ordinance 1241 to amend Article II (“Purchasing”) of Chapter 3.06 (“Procedures for Supplies, Property, and Services”) of Title 3 (“Revenue and Finance”) of the City of Hollister Municipal Code (“Ordinance”).

RECOMMENDATION: Adopt Ordinance 1241 amending Article II (“Purchasing”) of Chapter 3.06 (“Procedures for Supplies, Property, and Services”) of Title 3 (“Revenue and Finance”) of the Hollister Municipal Code.

ORDINANCE NO. 1241

AN ORDINANCE OF THE CITY OF HOLLISTER AMENDING ARTICLE II - PURCHASING OF CHAPTER 3.06 – PROCEDURES FOR SUPPLIES, OF TITLE 3 - REVENUE AND FINANCE, OF THE HOLLISTER MUNICIPAL CODE

WHEREAS, City of Hollister Ordinance No. 1035 added chapter 3.06 entitled Procedures for Supplies, Property, and Services to the Hollister Municipal Code; and

WHEREAS, *Section 3.06 Article II - Purchasing* generally regulates the City's procurement rules; and

WHEREAS, updates to the City's procurement rules are warranted based on widespread economic changes and the necessity for operational efficiencies; and

WHEREAS, state law requires a city to adopt by ordinance policies and procedures, including bidding regulations, associated with the purchase of goods and services; and

WHEREAS, the City Council wishes to adopt contemporary purchasing rules that both protect and maximize the use of public funds.

NOW THEREFORE, pursuant to the Government Code, the City Council of the City of Hollister does hereby adopt the amended section Article II of Chapter 3.06 of Title 3 of the City of Hollister Municipal Code relating to purchasing. Chapter 3.06 Article II Title III of the City of Hollister Municipal Code is amended to read:

CHAPTER 3.06

Article II. - Purchasing

3.06.200 - Authority, title, and purpose

This article is authorized by Title 5, Division 2, Chapter 5, Article 7 of the California Government Code (section 54201, et seq.) and shall be known as the "City of Hollister Purchasing Ordinance." It shall govern all purchasing activity of the City except real property acquisition and disposition and as may otherwise be specifically provided in this code.

The City Manager is the City's designated purchasing agent and is therefore authorized to make purchases of all goods and services needed by the city or enter into contracts/agreements that obligate city funds. The City Manager may delegate limited purchasing authority to department directors and/or other city employees as may be required.

3.06.210 - Purchases more than one hundred thousand dollars (\$100,000)

Except as otherwise directed by the City Council, whenever the amount to be expended for services, materials, equipment, or supplies is in excess of \$100,000, the Department

Head shall advertise for sealed bids and the purchase contract shall be awarded to the lowest responsive and responsible bidder, except in the case of a local vendor whose bid meets the requirements of Section 3.06.245 herein and whose bid does not exceed five percent (5%) of the lowest responsive and responsible bidder; provided that the Council shall have the authority to reject any and all bids. Order splitting to avoid competitive requirements is prohibited.

For purposes of this article, "Responsive Bidder" is one who has submitted a bid that conforms in all material respects to the bid request. That is, compliance with the specifications. A "Responsible Bidder" has the capability in all respects to perform the contract requirement, and the integrity and reliability that will assure good faith performance. That is, the ability and means to perform.

The bid request shall be published in a local newspaper and/or advertised on the city's website for at least ten calendar days prior to the bid opening date. The bid request shall describe the goods or services required, stating the date, time, and place assigned for the public opening of the bids. A secure, on-line bid submittal system, or other appropriate media, may be used in lieu of sealed bids opened in public, provided the City Manager has approved the system for accuracy, confidentiality, and reliability. No bids will be received any time after the time advertised in the announcement. The Department Head shall submit a tabulation of bids to the City Council together with a recommendation for award to the lowest responsive and responsible bidder.

3.06.220 - Purchases of more than ten thousand dollars (\$10,000), but less than one hundred thousand dollars (\$100,000)

All purchase orders or contracts for services, materials, equipment, or supplies involving amounts of more than \$10,000, but less than \$100,000, may be let by free and open competitive quotations. These contracts shall be let in the open market in a manner calculated to ensure the best interests of the public, after solicitation for quotations by mail, online source/website, telephone, email, or competitive negotiation by the City Manager or Department Head. In the solicitation for competitive quotations, the City shall contact at least three (3) potential sources of supply and include qualified local vendors. Order splitting to avoid competitive requirements is prohibited.

When comparing the competitive quotations, quotations from local vendors which meet the requirements of Section 3.06.245 herein shall be discounted by up to five percent (5%).

Purchases shall be made from the vendor with the lowest quotation unless a qualified vendor with a higher quotation can responsibly satisfy the City's purchasing need. Purchases where the vendor with the lowest quotation is not selected must first be reviewed and approved by the City Manager or Administrative Services Director before the purchase is made.

3.06.230 - Purchases of less than ten thousand dollars (\$10,000)

Single purchases of \$10,000.00 or less must be authorized by the City Manager or a Department Head. Only one quotation is required for purchases of \$10,000 or less. If

alternate quotations may result in a lower cost, then additional solicitations should be obtained. Furthermore, any quotation of more than \$500 must be documented in writing. Quotations may come from an online source (i.e. a website) only when the accuracy of the online source can be verified. Order splitting to avoid competitive requirements is prohibited.

Purchases shall be made from the vendor with the lowest quotation unless a qualified vendor with a higher quotation can responsibly satisfy the City's purchasing need. Purchases where the vendor with the lowest quotation is not selected must first be reviewed and approved by the City Manager or Administrative Services Director before the purchase is made.

Petty cash up to \$500.00 may be used to reimburse an employee making purchases subject to Section 3.06.230.

3.06.240 - Determination of lowest responsive and responsible bidder

In determining the lowest responsive and responsible bid for services, materials, equipment, or supplies, criteria will include, but not be limited to, the following:

- A. The extent to which the offer meets the requirements and specifications of the city.
- B. Life cycle cost or total cost of ownership, which includes acquisition, operating, maintenance, and disposal costs.
- C. Impact on operational efficiency, which includes lead time and delivery requirements.
- D. Ability and reliability of the bidder and suppliers to provide and guarantee the items procured.
- E. Financial stability of the bidder.

3.06.245 - Local vendor preference

The City Council shall be authorized to give preferences for goods and services as permitted by applicable state or federal law and specifically provided for from time to time by City Council resolution or ordinance.

In procurement of goods or services for the city requirements, preference shall be given to those vendors who have a local presence in the City of Hollister, provided that the price, quality, terms, delivery, and service reputation are determined to be equal by the City Council under the criteria set forth in Section 3.06.240.

Contracts for goods or services may be awarded to a local vendor who is not the lowest responsive and responsible bidder but who has certified that it is a local vendor pursuant to this section and who is subject to taxation under the city's Uniform Local Sales and Use Tax Ordinance (Chapter 3.28 of the Hollister Municipal Code) if the amount of the difference between the local vendor and the lowest responsive and responsible bidder does not exceed five percent (5%) of the lowest responsive and responsible bid.

To qualify as a local vendor, the entity submitting the bid or quotation must certify to all of the following at the time that the bid or quotation is submitted:

- A. It has fixed facilities with employees located within the city limits; and
- B. It has a business street address (post office box or residential address shall not suffice to establish a local presence); and
- C. All sales tax returns for the goods purchased must be reported to the state through a business within the geographical boundaries of the city, and the city will receive one percent or such percentage of sales tax of goods purchased as is allocable to the city from time to time under the existing state law; and
- D. It has a current city business license.

False certifications relating to local vendor preferences shall be immediate grounds for rejection of any bid or quotation, or in the case when the bid has been awarded, shall be grounds for voiding the bid or quotation, terminating any contract, and seeking damages thereto.

3.06.250 - Emergency purchases

An "Emergency" is defined as a situation in which an unforeseen circumstance constitutes a threat of physical injury or death to individuals and/or serious damage or destruction to public property. In case of Emergency, the City Manager is authorized to waive advertising and other bid solicitation procedures to purchase supplies, materials, equipment, or contractual services required for such Emergencies, without regard to amount limitation or prior approval by the City Council. When practical, the City Manager shall solicit informal bids and keep records of such solicitations prior to an award of order.

The City Manager shall report to the City Council at the next scheduled City Council meeting any Emergency purchases made on behalf of the city.

3.06.260 - Purchases without notice, advertisement, or competitive bids

Section deleted.

3.06.270 - Exceptions to the competitive process

Exceptions to the competitive bidding requirements are goods or services pertaining to, but not limited to, physicians, attorneys, appraisers, architects, engineers, auctioneers, consultants, arbitrators, designers, financial auditors, insurance, copyrighted materials, sole source items, gas, electricity, water, telephones, and cooperative purchasing with other governmental agencies, such as school districts, joint powers authorities, local, county, state or federal agencies, when it is to the advantage of the city to purchase from such other governmental agencies.

"Sole source" describes a product or service available from only one known supplier as the result of unique performance capabilities, manufacturing processes, compatibility requirements, or market conditions.

An exemption from the competitive bidding process is not an exemption from any process necessary to establish a business relationship with a vendor, up to and including negotiating and executing an agreement or contract, as required by the City Attorney and/or City Manager.

3.06.280 - Purchasing preference for products containing recycled materials

The purchasing agent shall establish and maintain procedures and specifications to ensure that the city gives preference in its purchasing decisions to products containing the maximum amount of recycled materials, where the quality and fitness of such products is equal to those of products containing a lesser amount of or no recycled materials and where the total cost of such products is reasonable in comparison to the total cost of those products containing a lesser amount or no recycled materials.

For purposes of this section, "product containing recycled materials" means a "recycled paper product" as that term is defined in Section 12301(c) of the Public Contract Code with respect to a paper product, and with respect to all other products means a "recycled product" as that term is defined in Section 12301(d) of the Public Contract Code.

To the extent that the California Public Contract Code or other provisions of state law provide for purchasing preferences which are more extensive than those established herein, or for additional procedures to increase the use of recycled materials, the provisions of state law shall prevail.

3.06.290 - Public Works Contracts

The City of Hollister has adopted the California Uniform Public Construction Cost Accounting Act which streamlines solicitation for Public Works Projects. The Public Works Department is responsible for administering all Public Works Projects. Approvals for Public Works contracts are as follows:

- A. Orders up to \$60,000 require City Manager approval, based on an informal solicitation.
- B. Orders between \$60,000 and \$200,000 require City Manager approval, based on an attempt to obtain at least three informal bids.
- C. Orders over \$200,000 require City Council approval, after a formal bid solicitation process.

Bid limits are periodically reviewed and subject to change.

Formal Bid Solicitation

Notice to contractors shall be provided in accordance with either paragraph (1) or (2), or both.

- A. The city shall maintain a list of qualified contractors, identified according to categories of work. "Qualified Contractors" are contractors licensed by the State to perform the subject work.

- B. Minimum criteria for development and maintenance of the contractors list shall be pre-determined by the City. All contractors on the list for the category of work being bid shall be mailed, faxed, or emailed a notice inviting informal bids, unless the product or service is proprietary. All mailing of notices to contractors shall be completed not less than ten (10) calendar days before bids are due.
- C. The city may elect to mail, fax, or email a notice inviting informal bids to all construction trade journals specified in Public Contracts Code section 22036.
- D. All projects that are estimated to cost in excess of \$250,000 will include a Project Labor Agreement or Community Workforce Agreement as a part of the bid specifications.

The California Uniform Construction Cost Accounting Commission shall determine, on a county-by-county basis, the appropriate construction trade journals which shall receive mailed, faxed, or emailed notice of all informal and formal construction contracts being bid for work within the specified county.

The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project and state the time and place for the submission of bids.

Best Value Procurement for Design-Build Projects

Best value procurement is a procurement process for construction services whereby a design and contractor team is selected based on objective criteria to determine the best combination of price and qualifications. Best value procurement may only be used for projects that utilize the for design/build delivery method, as defined by the Public Contracts Code. The City Manager, or designee, is authorized to solicit for Public Works Projects estimated to cost more than or equal to \$1,000,000 using a best value process under the following conditions:

A. Selection Process and Criteria.

The city shall first prepare a set of documents setting forth the scope and estimated price of the project, after which the City must prepare and issue a request for qualifications to pre-qualify the design-build teams.

Based on the previously prepared set of documents, the City shall then prepare a request for proposals that invites the pre-qualified entities to submit competitive sealed proposals.

Best value specifications shall include, but not be limited to:

1. Criteria that the city will consider in evaluating bids.
2. The methodology and rating/weighting system that will be used to evaluate bids.
3. The relative importance or weight assigned to each criterion.

The City shall evaluate the qualifications of the bidders based solely upon the criteria set forth in the solicitation documents. The selection criteria used to evaluate the bidder

qualifications may include, but is not limited to, the following:

- a. **Safety record**: The prior history concerning the safe performance of construction contracts.
- b. **Past performance**: The satisfactory performance on prior city contracts.
- c. **Labor compliance**: The ability to comply with, and past performance compliance with, contract and statutory requirements for the payment of wages and qualifications of the workforce.
- d. **Project agreements**: Participation in Project Labor Agreements and/or Community Workforce Agreements favorable to the city.
- e. **Demonstrated management competence**: The experience, competency, capability, and capacity of the specific project's proposed management staffing to timely complete projects similar in size, scope, or complexity to the project under consideration.
- f. **Financial condition**: The financial resources needed to perform the contract. At a minimum, the criteria shall include a bidder's capacity to obtain all required bonds and insurance.
- g. **Project cost**: The total direct and indirect project costs; including labor, materials, equipment, overhead and profit.
- h. **Relevant experience**: The experience, competency, capability, and capacity to timely complete projects of similar size, scope, or complexity.

B. Final Selection and Award.

The City must award the contract to the lowest bidder that also meets the best value criteria.

The City Council retains the sole authority for approval and award of all best value procurements.

PASSED AND ADOPTED, by the City Council of the City of Hollister at a Regular Meeting held this 4th day of December, 2023, by the following vote:

Mia Casey, Mayor

ATTEST:

Jennifer Woodworth, MMC, City Clerk

APPROVED AS TO FORM:

Lozano Smith Attorneys at Law

Mary F. Lerner, City Attorney

I, JENNIFER WOODWORTH, MMC, City Clerk of the City of Hollister, do hereby certify that the attached Ordinance No. 1241 is an original Ordinance, or true and correct copy of a City Ordinance, duly adopted by the Council of the City of Hollister at a regular meeting of said Council held on the 4th day of December, 2023, at which meeting a quorum was present.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the City of Hollister this City Council day of December, 2023.

Jennifer Woodworth, MMC

City Clerk of the City of Hollister