



STAFF REPORT
1/26/2022

TO: Honorable Mayor and City Council Members

FROM: Nathan Statham, Finance Director &
Carlos Campos, City Attorney

SUBJECT: Adopt Ordinance 1191 updating the City's Purchasing & Procurement Ordinance (2nd Reading) and resolution 2022-03 setting purchasing and competitive procurement thresholds

STAFF RECOMMENDATION:

Staff recommends that City Council adopt the proposed changes to the City's Purchasing and Procurement Ordinance (2nd reading) along with the related resolution 2022-03 setting purchasing and competitive procurement thresholds.

EXECUTIVE SUMMARY

The City's current purchasing and procurement ordinances are inconsistent with current service and materials costs and are out of date with purchasing practices and regulations. The City Attorney's office conducted a survey of valley cities for purchasing authority thresholds and increases to the City's purchasing authority thresholds are recommended based on the survey results. City finance and legal evaluated state and federal purchasing regulations and are recommending the City adopt regulatory limits for public works contracts and federal expenditures. Additionally, there are a significant number of proposed changes incorporated for clarifications and to streamline procurement processes.

The City's purchasing a procurement ordinance is designed to implement approval limits and provide a structural framework for City departments to obtain the goods and services necessary to provide City services to residents. There are countless purchasing situations the City faces. The purchasing ordinance is designed to provide specific authority thresholds and a procedural procurement framework. At the same time, the purchasing ordinance needs to be broad enough to accommodate a wide variety of situations. The finance department derives operational procedures and provides administrative guidance to departments during normal operations based on the purchasing ordinance.

The goal of a fiscally sound purchasing ordinance is to balance the costs from staff time spent following the procedures with the savings the City can obtain from the procedures. For example, if it takes City staff ten hours to prepare an RFP, publish the RFP, review the results and select a respondent at an average hourly cost of \$100 per hour, the savings from the RFP process should exceed \$1,000.

It is also imperative that a purchasing ordinance be consistent with City operations so it can be followed with reasonable ease. There are very few restrictions on how broad of a policy City Council adopts, but compliance with the purchasing policy is reviewed on an ongoing basis by the finance department and

external auditors. If the purchasing ordinance is inconsistent with City procedures, exceptions are likely occur which will result in audit findings, wasted staff time and improper goods and service being procured. The recommended changes to the City’s purchasing ordinance are consistent with current City needs and represent a reasonable cost benefit trade off that will allow for City staff to address the purchasing needs of the City.

BACKGROUND:

The City’s current purchasing and procurement ordinance was last revised in 2003 (Ordinance 893) with the exception of a local preference provision added in 2013. Purchasing authority limits and competitive procurement thresholds were included in the 2003 ordinance. These limits are based on purchasing needs and cost levels from 2003 that are inconsistent with needs and current materials and service costs.

In 2014 the Office of Management and Budget implemented Uniform Guidance for all federal awards. Included in the implementation were certain requirements for purchasing policies applicable to the expenditure of federal funds. The City’s purchasing ordinance was not updated per the requirements and has been out of compliance in this regard.

The City Attorney’s office conducted a Coachella Valley wide purchasing dollar limit approval threshold survey. A summary of the survey results is shown below:

	Department	City
	Director	Manager
Palm Desert	25,000	50,000
Indian Wells	5,000	25,000
La Quinta	15,000	50,000
Indio	5,000	75,000
Cathedral City	75,000	75,000
Palm Springs	25,000	25,000
Rancho Mirage	25,000	25,000

PROPOSED SUBSTANTIVE AMENDMENTS

1. **Purchasing Authority (Resolution 2021-74)** – The current purchasing authority threshold is \$15,000 for the City Manager with all amounts exceeding the threshold subject to approval by City Council. Based on internal policies, the purchasing authority threshold for department directors is \$2,500.
 - The proposed thresholds would be \$25,000 for the City manager and \$10,000 for department directors.
2. **Competitive Procurement - Public Works Contracts** – The City did not previously elect to become subject to the Uniform Public Construction Cost Accounting Act. As a result, the City was unintentionally subject to a statutory formal bid process for projects exceeding \$5,000.
 - The proposed changes would include electing to become subject to the Uniform Public Construction Cost Accounting Act (Resolution 2021-75). Once this election is made, the formal and informal competitive procurement thresholds are set by the state of California and are adjusted annually for inflation. Currently the thresholds are set so that projects \$60,000 and under are not subject to competitive procurement, contracts over \$60,000 and

under \$200,000 will be subject to informal bidding and projects over \$200,000 are subject to formal bidding.

3. **Competitive Procurement - Federal Funds** – The current ordinance does not address federal funds specifically.
 - The proposed changes are to adopt the competitive procurement thresholds under the Uniform Guidance applicable to expenditures of federal awards. Thresholds are currently set at \$10,000 “micro purchases” for situations where competitive procurement procedures are not required and \$250,000 for “simplified acquisition” where informal procurement procedures can be followed.
4. **Competitive Procurement for General Goods and Services (Resolution 2021-74)** – The current ordinance requires competitive procurement for purchases over \$2,500 except for professional services agreements where the threshold is set at \$15,000.
 - The proposed competitive procedures thresholds represent a tiered approach increasing the \$2,500 threshold to \$5,000 where no competitive procurement is required. Informal competitive procurement procedures will be required for purchases over \$5,000 but under \$75,000. Purchases over \$75,000 will require formal bidding procedures.
5. Two exceptions were added to the proposed ordinance:
 - **Reoccurring as needed service agreements** – these agreements are designed to provide services that are unknown in quantity. For example, the procurement of plan review services is unknown when the agreement is setup and fluctuates dramatically with the number, size and nature of the projects submitted to the City. For this example, this exception allows the Development Services Department to compare hourly rates between firms that provide planning review services selecting the lowest hourly rate firm (presumed fully qualified). Once selected, the number of planning review services requested is not affected by total price since the services are attributed to many different developments through the course of the year.
 - **Individual Specific Agreements** – in certain circumstances the City needs to hire an individual who works for a consulting firm or is a 1099 employee. In these circumstances, the City provides direct supervision of work performed and is evaluating the resume of the individual in question. Procurement in these circumstances is more akin to an employment determination than a procurement.
6. **Surplus goods de minimus threshold** – the current threshold is set at \$2,500, the proposed threshold is \$5,000 consistent with the City’s capitalization policy.

FISCAL IMPACT:

The fiscal impact of this action cannot be directly determined. It is staff’s opinion that these updates will provide clarity and efficiencies to the City’s purchasing and procurement process that will result in overall savings through reduced staff and City Council time spent reviewing and approving purchases.

ATTACHMENTS:

1. Ordinance 1191 – Recommended purchasing ordinance
2. Resolution No. 2022-03 – Setting purchasing and competitive procedure thresholds
3. Current purchasing and procurement ordinance (Municipal Code Chapter 4 Section 8)