

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION, ARTICLE VII, PURCHASE AND SALE OF REAL AND PERSONAL PROPERTY, SECTIONS 2-144, 2-151, 2-154 AND 2-155, REGARDING THE PROCUREMENT PROCESS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Cape Coral City Council hereby finds that this ordinance promotes the public health, safety, and welfare of the citizens of the City of Cape Coral.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

SECTION 1. The City of Cape Coral Code of Ordinances, Chapter 2, Administration, Article VII, Purchase and Sale of Real and Personal Property, Sections 2-144, 2-151, 2-154 and 2-155, are hereby amended as follows:

CHAPTER 2: ADMINISTRATION

ARTICLE VII – PURCHASE AND SALE OF REAL AND PERSONAL PROPERTY

DIVISION I – PURCHASING OF GOODS AND SERVICES

§ 2-144 Procurement procedures.

(a) *Competitive sealed bidding.*

- (1) *Applicability.* Except as otherwise authorized herein, all contracts for the purchase of goods or contractual services in excess of ~~\$100,000~~ \$250,000 shall be awarded by competitive sealed bidding.
- (2) *Invitation for Bids.* For all purchases subject to competitive bidding, the Procurement Division shall issue an Invitation for Bids which includes specifications, and all contractual terms and conditions applicable to the anticipated purchase. In the event of any conflict between the Invitation for Bids and this article, the provisions of this article shall prevail.
- (3) *Addenda.*
 - a. After an Invitation for Bids is issued and before the bid opening, the Procurement Division may issue one or more written addenda for the purpose of clarifying specifications or other matters relating to the bid.
 - b. No addenda will be issued within five business days prior to bid opening without extending the bid opening date.
- (4) *Public notice.* All Invitations for Bids shall be published at least once in a newspaper of general circulation in the city a minimum of ten calendar days preceding the last day set for the opening of bids. The public notice shall state the place, date and time of the bid opening; a general description of the subject matter of the bid, and where bid forms and specifications may be obtained. The city may utilize electronic bidding either through its own database or a third party vendor. The public notice shall contain the internet bidding web address. This will be a standard sealed bid electronic submission and a vendor's electronic signature will be accepted.
- (5) *Bid security.* The Invitation for Bids may specify that some form of bid security is required. Bid bonds may be required, in the discretion of the Procurement Manager, on all bid solicitations where the estimated cost is in excess of ~~\$100,000~~ \$250,000. The bid bond shall provide that if the bid is:
 - a. Rejected by the city; or
 - b. Accepted and the bidder executes the contract and furnishes an appropriate bond, if required, then the bid bond is void, otherwise it remains in full force and effect. The security may be in the form of a certified check, a cashier's check, treasurer's check or bank draft of any national or state bank. If the city permits a bidder to withdraw its bid, no action shall be taken against the bidder or the bid security. If a bidder indicates that it has made a mistake that is of a magnitude that it will not be willing to perform

a contract based on its bid, then the city shall not be obligated to formally accept the bid of that firm as a prerequisite to making a claim against the bid bond and the bid bond shall so provide. A vendor who fails or refuses to execute the contract within 15 calendar days after City Council approval shall forfeit the bid security, unless the city is solely responsible for the delay in executing the contract. The City Council may, upon the refusal or failure of the successful bidder to execute the contract, award the contract to the next lowest responsible and responsive bidder. In such event, the amount of the lowest bidder's bid security shall be applied by the city to the difference between the lowest and the lowest responsible and responsive bid, and the surplus, if any, shall be returned to the lowest bidder.

- (6) *Bid opening.* Bids shall be opened, pursuant to Florida law.
- (7) *Bid acceptance and bid evaluation.* Bids shall be unconditionally accepted without alteration or correction, except as may be authorized in this article. All bids shall be held open and shall be irrevocable for the time period set forth in the Invitation for Bids, which time period shall not be less than 90 calendar days. Bids shall be evaluated based on the requirements set forth in the Invitation for Bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The Invitation for Bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that have not been set forth in the Invitation for Bids.
- (8) *Bid corrections and additions.*
 - a. Mistakes discovered before the bids are opened may be modified or withdrawn by sealed written notice of the modification or withdrawal received in the office designated in the Invitation for Bids prior to the time set for bid opening.
 - b. Errors in the extension of unit prices stated in a bid or errors in multiplication, division, addition, or subtraction in a bid may be corrected by the Procurement Manager prior to award. In such cases, the unit prices that were bid shall not be changed.
 - c. Nothing herein is intended to prohibit the acceptance of a voluntary reduction in price from the lowest responsive, responsible bidder after bid opening, provided such reduction is not conditioned on, or does not result in, the modification or deletion of any specifications or conditions contained in the Invitation for Bids or alter the determination of which vendor is to be awarded the bid or portion thereof.
 - d. Errors in bid percentages required by the bid documents may be corrected by the Procurement Manager prior to award of the contract.
- (9) *Bid withdrawal.*
 - a. After bids are opened, a bidder may be permitted to withdraw an erroneous bid, prior to the bid award by City Council, if the following is established:
 - 1. That the bidder acted in good faith in submitting the bid;
 - 2. That in preparing the bid there was an error of a magnitude so that enforcement of the bid would work severe hardship upon the bidder;
 - 3. That the error was not the result of gross negligence or willful inattention on the part of the bidder;
 - 4. That the error was discovered and communicated to the city within 24 hours of bid opening, along with a request for permission to withdraw the bid; and
 - 5. The bidder submits documentation and an explanation of how the bidding error was made.
 - b. If a bidder unilaterally withdraws his or her bid without permission after bid opening, the Procurement Manager may prohibit the vendor from submitting bids for a period of up to two years from the date of such unilateral withdrawal.
- (10) *Local contractor/vendor preference.* When the lowest responsive bid has been submitted by a non-local qualified contractor/vendor (hereafter non-local bidder), and a qualified local contractor/vendor has submitted a responsive and responsible bid, the local contractor/vendor with the lowest bid shall have the opportunity to match the bid submitted by the lowest responsive non-local bidder provided that the local contractor/vendor's bid price does not exceed the non-local bidder's bid price by more than the following percentages:

- a. Main business office in the City of Cape Coral—10%;
- b. Regional office in the City of Cape Coral—7.5%;
- c. Main business office in Lee County—5%;
- d. Regional office in Lee County—2.5%.

When a non-local bidder submits the lowest bid price, but there is a local contractor/vendor whose bid price does not exceed the percentages stated above, the Procurement Manager shall notify the local contractor/vendor in writing of its opportunity to match the lowest bid price submitted by a non-local bidder. The local contractor/vendor shall have five business days from the date of receipt of notification to match the bid submitted by the lowest non-local bidder. In the event the local contractor/vendor declines or is not able to submit a matching low bid, the local contractor/vendor with the next lowest responsive and responsible bid whose bid price does not exceed the percentages of the lowest bid price shall be notified in writing by the Procurement Manager of its opportunity to match, within five business days of receipt of notification, the lowest bid price. This procedure shall be followed until there are no more local contractors/vendors whose responsive bid is within percentages specified above.

Any contractor/vendor who desires to be considered for the local contractor/vendor must apply for such status as set forth in § 2-148(d) herein.

(11) Preference for a local contractor/vendor shall not apply to any of the following purchases, contracts or situations:

- a. Goods or services provided under a cooperative purchasing agreement or piggyback.
- b. Contracts for professional services subject to the Consultant's Competitive Negotiation Act (F.S. § 287.055), except as otherwise provided herein.
- c. Purchases or contracts which are funded, in whole or in part, by a governmental entity and the laws, regulations, or policies governing such funding prohibit application of that preference.
- d. Purchases made or contracts let under emergency or noncompetitive situations exempt from competition.
- e. Where the application of local preference to a particular purchase, contract or category of contracts is within the award authority of the City Manager, the City Manager may waive the local preference upon good cause shown.
- f. Where the City Council is the awarding authority the City Council may waive, for good cause shown, the application of the local preference to a particular purchase, contract, or category of contracts.

(12) *Bid award.*

- a. All bids in excess of \$100,000 shall be awarded by City Council as soon as practical after the bids are opened. Bids shall be awarded to the lowest qualified responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids. In determining the lowest responsible and responsive bidder, in addition to price, the following shall be considered:
 - 1. The ability, capacity, skill and sufficiency of resources of the bidder to perform the contract;
 - 2. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
 - 3. The character, integrity, reputation, judgement, experience and efficiency of the bidder;
 - 4. The quality of performance of the bidder on previous city contracts;
 - 5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract;
 - 6. The quality, availability and adaptability of the supplies or professional or contractual services to the particular use required; and
 - 7. The ability of the bidder to provide future maintenance, service or warranty work, if applicable.
- b. The city reserves the right to reject any and all bids and to waive minor irregularities in an otherwise valid bid.

- c. A minor irregularity is a variation from the bid invitation which does not affect the price of the bid, or give the bidder an advantage or benefit not enjoyed by other bidders, or does not adversely impact the interests of the city.
 - d. In the event the lowest responsive and responsible bid for a construction project exceeds available funds as certified by the Financial Services Director, and the bid does not exceed the funds by more than 10%, the Procurement Manager is authorized, when time or economic considerations preclude solicitation of work of a reduced scope, to negotiate an adjustment of the bid price with the lowest responsive and responsible bidder, in order to bring the bid within the amount of available funds.
- (13) *Tie bids.* In the event two or more bids are equal with respect to price, quality and service, preference will be given in the following order:
- a. The bidder that has its main business office in the city;
 - b. The bidder that has its regional office in the city;
 - c. The bidder that has its main business office in Lee County;
 - d. The bidder that has its regional office in Lee County;
 - e. The bidder that has his or her business in the State of Florida;
 - f. A state or county certified minority-owned bidder;
 - g. The bidder that currently holds the contract with the City for the same service being procured;
 - h. A bidder that promotes a drug-free environment; and
 - i. Alphabetical.
- (14) *One bid or no bids received.* In the event that only one bid is received by the city, the Procurement Manager is authorized to negotiate a lower price from the bidder or obtain quotes. If no bids are received, the Procurement Manager, when time or economic considerations warrant, may attempt to obtain three informal written quotations. If at least two written quotations are received, the purchase may proceed without the necessity for a rebid.
- (15) *Notice of intent to award bid.* When a recommendation is made ~~to or by the City Council, or to or by the City Manager~~ for the award of a bid, a notice of intent to award bid may be sent to all bidders by U.S. mail, certified, return receipt requested, or sent via email. The city may also use electronic notification when an electronic solicitation software is utilized.
- (b) *Small purchases.*
- (1) *Applicability.* Any purchase that is ~~\$100,000~~ \$250,000 or less may be made in accordance with the small purchase procedures authorized in this section. Purchases shall not be artificially divided so as to constitute a small purchase under this section.
 - (2) *Small purchases from \$10,000 up through and including ~~\$100,000~~ \$250,000.* For small purchases from \$10,000 up through and including ~~\$100,000~~ \$250,000, no less than three written quotations shall be obtained. The award shall be made to the business offering the lowest acceptable quotation. The names of the businesses submitting quotations, the scope submitted or discussed with the business, and the items, quantities, specifications, and the total amounts and the dates of quotations, shall be recorded and maintained in the city's records. For items purchased on an ongoing basis, contracts shall not be automatically renewed without the Procurement Manager first deciding whether new quotations should be obtained to determine if the price is still the lowest. The Procurement Manager may authorize the end user Department to obtain said quotes.
 - (3) *Small purchases under \$10,000.* For purchases that are under \$10,000, only one written quotation is required, provided the quotation is fair and reasonable as determined by the Procurement Manager. The business can submit the quotation via email. The names of the businesses submitting quotations, and the items, quantities, specifications, and the total amounts and the dates of quotations, shall be recorded and maintained in the city's records.
 - (4) *Electronic quote requests.* The city may utilize electronic quote requests, otherwise known as reverse auctions, either standard or real time, for purchases up to and including ~~\$100,000~~ \$250,000. An electronic signature will be accepted.
- (c) *Sole and single source purchases.* A contract may be awarded without competition when the Procurement Manager determines, after reviewing a department's written justification and after conducting a good faith review of available sources, that there is only one source for the required

supply, service or construction item. The requisitioning department may be asked to submit to the Procurement Division written justification as to why there is only one source. The Procurement Manager or his or her designee shall conduct negotiations, as appropriate, as to price, delivery and terms. A record of sole source purchases shall be maintained by the city and shall list each vendor's name, the amount and type of each contract and a listing of the item(s) procured under each contract.

- (1) A purchase of goods and services can be categorized as being sole source under the following conditions:
 - a. The item is the only manufactured part or piece of equipment that will operate with a present component system;
 - b. The item or service retains a copyright or patent and is only available from the manufacturer or developer;
 - c. Investigation has shown that there is no other like item available that performs the same function;
 - d. The service being performed is only available from one source because of a contractual agreement, licensing requirements, warranty agreements; or
 - e. The item is an update, renewal or upgrade to a software program or software subscription previously purchased by the city.
 - f. The item can only be replaced with one item based on current functionality of the existing system.
- (2) A purchase of goods and services may also be categorized as being single source under the following conditions:
 - a. There are multiple distributors of the item, however, the manufacturer may have designated exclusive territorial sales boundaries; or
 - b. When the purchase of an item or service results in a "best value" in that research has shown that the use of another brand or service would not be reasonable and would cause undue hardship to the city, would cause the city to incur additional expense, or would require modification to a present system or process.
- (d) *Emergency purchases.* Notwithstanding any other provisions of this article, the Procurement Manager may make, or authorize others to make, emergency purchases of supplies, services or construction items when there exists a threat to public health, welfare or safety; provided that the emergency purchases shall be made with the competition as is practicable under the circumstances. The director of the affected department shall notify the Procurement Manager, who shall authorize the purchase of the needed item(s) or services. The department director shall send a requisition to the Procurement Division within 24 hours of the notification to the Procurement Division, together with a written explanation of the basis for the emergency purchase. The City Manager shall approve all emergency requisitions in excess of \$50,000. Any emergency purchase in excess of \$100,000 must be approved by the City Council either before or as soon as practicable after the purchase.
- (e) *Purchases from other governmental entities.* Purchases of goods or services from the federal government, any state or political subdivision thereof, or any municipality are exempt from the requirements of this section.
- (f) *Purchases of goods or services from contracts awarded by other governmental or not-for-profit entities by competitive bid or request for proposals.* The purchase of goods or services under a contract awarded by another governmental or not-for-profit entity by competitive bid or request for proposals is authorized provided the Procurement Manager makes a determination that time and expense factors make it financially advantageous for the city to do so. In making that determination, the Procurement Manager shall consider the number of bids or proposals solicited by the other governmental or not-for-profit entity and whether the city's vendor list includes entities that did not submit a bid or proposal to the other governmental or not-for-profit entity.
- (g) *Purchases of goods or services performed by private providers.* The purchase of goods and services from a banker, broker, or consultant who is compensated with a pre-stated fee to act as an intermediary between the City and a marketplace for specified goods and services such as but not limited to banking services and insurances are exempt from the requirements of this section.
- (h) *Cooperative purchasing.* The Procurement Division may participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of any goods, services or construction with one or more other governmental units. Cooperative purchasing agreements

shall be authorized pursuant to an interlocal agreement approved by City Council and executed by all participating governmental units.

(1) *Consultants' Competitive Negotiation Act (F.S. § 287.055).*

(1) *Applicability.* Contracts for professional services consisting of architecture, professional engineering, landscape architecture or registered land surveying shall be competitively negotiated in accordance with the requirements of F.S. § 287.055 (the "Consultants' Competitive Negotiation Act").

(2) *Public notice and qualification procedures.*

a. The Procurement Division shall publicly announce, in a uniform and consistent manner, each occasion when professional services, as defined in F.S. § 287.055, must be purchased for a project the basic construction cost of which is estimated to exceed the threshold amount provided in F.S. § 287.017, for Category Five or for a planning or study activity when the fee for professional services exceeds the threshold amount provided in F.S. § 287.017 for Category Two, except in cases of valid public emergencies certified by the City Manager. The notice shall include a general description of the project and shall indicate how interested parties may apply for consideration and the closing date for receipt of proposals. Publications of statewide and national distribution may be utilized for the notices when the magnitude of the project so merits. The submission deadline shall be not less than ten calendar days after the date the RFP is first published.

b. The Procurement Division shall prepare a request for proposals. Notice of the request for proposals shall be publicly announced in a uniform and consistent manner. The request shall include:

1. A delineation of the required scope of services. The description shall be sufficient to assure that all firms have the same understanding of the requested basic services;
2. A request for specific and general information on how the firm will proceed with the project;
3. Specific instructions on how, when and where the proposal shall be submitted;
4. A requirement that the proposal be submitted as a sealed package; and
5. A statement of qualifications.

c. Any firm or individual desiring to submit a proposal shall first complete a vendor application form as required by § 2-148 of the City Code and be certified by the Procurement Division as qualified, under state and local laws, to render the required service. Factors to be considered in making this determination include, but are not limited to, the capabilities, adequacy of personnel, past record and experience of the firm or individual.

d. Addenda. After a request for proposals is issued and before the submission deadline, the Procurement Division may issue one or more written addenda for the purpose of clarifying specifications or other matters relating to the RFP. Questions concerning the proposal will not be accepted within eight calendar days of the submission deadline. No addenda will be issued within five business days prior to the submission deadline without extending the submission deadline.

e. All firms and their agents who intend to submit, or who have submitted, bids or proposals shall not lobby, either individually or collectively, any City Council members, candidates for City Council, members of the Selection Advisory Committee (SAC) or any employee of the city. Contact should only be made through regularly scheduled Council meetings, or meetings scheduled through the Procurement Division for purposes of obtaining additional or clarifying information. Any action, including dinner or lunch invitations, by a submitting firm shall be within the purview of this prohibition and shall result in the immediate disqualification of that firm from further consideration.

(3) *Selection advisory committee.* The Selection Advisory Committee (SAC) is hereby established for the purpose of evaluating firms who express interest in contracting with the city on a project.

a. The SAC shall consist of the following persons or their designees: The Financial Services Director, the Utilities Director, the Public Works Director, Capital Improvement Project Director, and the Assistant City Manager. Quorum is four.

- b. The Procurement Manager or designee will Chair the Selection Advisory Committee meetings. The Procurement Manager or designee will coordinate all meetings. The Procurement Manager may take part in discussion but may not vote. All information may be provided to the Selection Advisory Committee electronically.
- c. The City Council will not appoint a liaison to serve between the City Council and the Selection Advisory Committee.
- d. All meetings of the SAC will conform to the State of Florida's public meeting's law.

(4) *Selection procedure.*

- a. The SAC shall evaluate the statements of qualifications submitted by all proposers, shall conduct discussions with, and may require public presentations by no fewer than three firms, if applicable, regarding their qualifications, approach to the project, and ability to furnish the required services. All expenses, including travel expenses for interview, incurred in the preparation of the proposal shall be borne by the proposer. After presentations and interviews have been completed, no fewer than three firms, if applicable, shall be ranked by the SAC. Notice of the rankings shall be sent to all proposers by United States mail and shall also be posted in the area of City Hall designated for public notices. The city may also use electronic notification if the vendor indicates that they have electronic capability.
 - 1. *Technical Evaluation Committee.* When the proposals are numerous, or the nature of the proposals is technical or specialized, the Procurement Manager may convene a Technical Evaluation Committee for the limited purpose of reviewing the proposals. The Technical Evaluation Committee shall not rank the proposals, nor the firms. The Technical Evaluation Committee shall recommend the best proposals to the Selection Advisory Committee for ranking. When used, the Technical Evaluation Committee, shall at a minimum, be comprised of the Project Manager, department representative, and a representative from another department or division as determined by the Procurement Manager. The Procurement staff member, or designee, assigned to the project will facilitate the Technical Evaluation Committee and may take part in discussion but may not vote. The Technical Evaluation Committee may contact the firms for clarification. All meetings of the Technical Evaluation Committee will conform to the State of Florida's public meeting's law.
- b. The ranking of firms shall be based on the SAC's ability to differentiate qualifications applicable to the scope and nature of the request for proposals. Such determination shall be based on, but not necessarily be limited to:
 - 1. The proposer's demonstrated understanding of the city's requirements and plans for meeting those requirements;
 - 2. The professional qualifications, related experience and adequacy of the personnel assigned to the project;
 - 3. The prior experience and references of the proposer;
 - 4. The prior experience, if any, that the proposer has had with the City of Cape Coral for projects within the boundaries of the City and for projects contracted directly with the City of Cape Coral;
 - 5. Whether the firm is a certified minority business enterprise as defined by the Florida Small and Minority Business Assistance Act of 1985; and
 - 6. The size and organizational structure of the proposer.
- c. A local professional will be given additional points or a percentage added when submitting a proposal for "professional services" as the term is defined in F.S. § 287.055(2)(a) unless it meets § 2-144(a)(11)(c) purchases or contracts which are funded, in whole or in part, by a governmental entity and the laws, regulation, or policies governing such funding prohibit application of that preference. Where the total possible points are 100, additional points will be added. Where the total possible points are other than 100, then a percentage amount will be added to the total score. The following additional points or percentages shall be added to the scores of local professionals:
 - 1. Office in Cape Coral—ten points or 10%;
 - 2. Office in Lee County—seven points or 7%;

3. Office in Charlotte, Glades, Hendry or Collier County—three points or 3%.
- d. The City Manager or designee shall negotiate a contract with the top ranked firm.
 - e. If the City Manager or designee is unable to negotiate a satisfactory contract with the first ranked firm, negotiations with that firm shall be terminated and the City Manager or designee shall undertake negotiations with the second ranked firm. If the City Manager or designee fails to reach an agreement with the second ranked firm, negotiations with the third ranked firm shall be undertaken. If the City Manager or designee is unable to negotiate a satisfactory contract with any of the selected firms, the SAC shall select additional firms in the order of their competence and qualifications and continue negotiations as specified in this article until an agreement is reached.
- (5) *~~Council Contract approval.~~* The City Manager shall submit the negotiated contract to the City Attorney for review and shall then submit the contract and a copy of all the proposals received in response to the solicitation to City Council for consideration. No contract will take effect unless approved by City Council.
- (6) *Prohibition against contingent fees.* Each contract entered into by the city for professional services shall contain a prohibition against contingent fees as follows: "The architect (or registered land surveyor or professional engineer, as applicable) warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the architect (or registered land surveyor or professional engineer, as applicable) to solicit or secure this agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the architect (or registered land surveyor or professional engineer, as applicable) any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this agreement." For the breach or violation of this provision, the city shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of the fee, commission, percentage, gift or consideration.
- (7) *Reuse of existing plans.* There shall be no public notice requirement or utilization of the selection process for projects in which the city is able to reuse existing plans from a prior project. However, for plans which the city intends to reuse at some future time, the public notice must contain a statement that the plans are subject to reuse in accordance with F.S. § 287.055(10).
- (8) *Continuing contracts.* The city may utilize continuing contracts for professional services (e.g., architecture, professional engineering, landscape architecture, or registered surveying and mapping) pursuant to F.S. § 287.055, as amended. Firms providing professional services under a continuing contract shall not be required to bid against one another on projects with dollar amounts less than the thresholds provided in F.S. § 287.055, as amended.
- a. One or more vendors may be awarded this type of contract for the same service in one solicitation. Firms selected by the city may provide engineering and other professional services to the city, on an as needed basis, based upon staffing and cost proposals that are issued by the city pursuant to a continuing contract.
 - b. After ranking of the proposals by the SAC, a continuing contract will be negotiated with one or more of the top-ranked firms. The negotiations will establish rates for services and expenses that will form the basis for future staffing and cost proposal negotiations for the various projects that may arise.
 - c. Once continuing contracts have been executed and approved by the City Council, departments in need of professional services meeting the criteria for the use of the continuing contract shall request that the Procurement Division solicit a proposal from the most qualified firm for that particular project. Such selection shall be based on factors such as the ability of professional personnel; past performance; willingness to meet time and budget requirements; location; recent, current, and projected workloads of the firm(s); and the volume of work previously awarded to each firm by the city. To the greatest extent possible, the city shall attempt to affect an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firm for a particular project. A rotation of firms may be utilized. The staffing and cost proposal received pursuant to a continuing contract shall be based on the rates previously negotiated with the professional firm and contained in the continuing contract.

- d. Staffing and cost proposals (SCP) may be executed administratively through the use of a purchase order referencing the original continuing contract, provided that the amount of the proposal is ~~\$100,000~~ \$250,000 or less.
- (9) *Design-build contracts.* The city shall award design-build contracts by either the use of a qualifications-based selection process or by the use of a competitive proposal selection process consistent with Chapter 14-91 of the Florida Administrative Code.
- a. *Qualifications-based selection process.* If the city employs a qualifications-based selection process, the procedure specified in § 2-144(i) of the City Code shall be utilized. In addition, during the selection of the design-build firm, the city shall employ or retain a licensed design professional appropriate to the project to serve as the city's representative.
 - b. *Competitive proposal selection process.* If the city employs a competitive proposal selection process, the following shall apply:
 1. A design criteria package for the design and construction of the project shall be prepared and sealed by a design professional employed by or retained by the city. If the design professional is not an employee of the city, he or she shall be ineligible to render services under a design-build contract executed pursuant to the design criteria package.
 2. The city shall qualify and select no fewer than three design-build firms, if applicable, that are the most qualified, based on the qualifications, availability and past work experience of the firms, including the partners or members thereof.
 3. The city shall establish criteria, procedures and standards for the evaluation of design-build contract proposals or bids, based on price, technical, and design aspects of the public construction project, weighted for the project.
 4. In the event the proposal involves the use of services of subcontractors by the design professional or firm, the design professional or firm shall use a bidding process and shall use the same bidding practices as set forth in § 2-144(a)(10) above to provide the local contractor/vendor preference to its subcontractors.
 5. The city shall solicit competitive proposals, pursuant to a design criteria package, from qualified design-build firms and the evaluation of the responses or bids submitted by those firms based on the criteria and procedures established prior to the solicitation of competitive proposals.
 6. The city shall consult with the employed or retained design criteria professional concerning the evaluation of the responses or bids submitted by the design-build firms, the supervision or approval by the city of the detailed working drawings of the project, and evaluation of the compliance of the project construction with the design criteria package prepared by the design criteria professional.
 7. In the case of public emergencies, for the city to declare an emergency and authorize negotiations with the best qualified design-build firm available at the time.
- (j) *Contracting for goods and/or services through a request for proposals (RFP).*
- (1) *Applicability.* Contracts for goods and services which are not subject to the Consultant's Competitive Negotiation Act and for which the commodity, group of commodities, or contractual service being sought can be reasonably defined and the city can identify necessary deliverables. Various combinations or versions of commodities or contractual services may be proposed by a responsive vendor to meet the specifications of the solicitation document. ~~At the option of the City Manager or designee, the proposals may be ranked by the City Manager or designee, or by utilizing either the SAC as specified in subsections (i)(3) and (4) above or by convening a special ad hoc Evaluation and Negotiation Committee of city staff appointed by the City Manager to consider a complex procurement that requires a special or quick consideration.~~
 - ~~(2) As an alternative to the SAC procedure described in subsection (i)(4) above, the City Council may elect to waive some or all of the provisions of this Code and serve as the direct procurement authority for the procurement of goods and services. In the role of direct procurement authority, the City Council performs the role that would otherwise be performed by the Selection Advisory Committee. The determination by City Council to serve as the direct procurement authority will be based upon one of the following findings:~~

- a. ~~The choice of goods or services to be procured: 1. Is anticipated to have substantial citywide impact, including, but not limited to, on the City's economy, jobs, branding and marketability, infrastructure, or environment, or the quality of life of City residents, visitors, or employees; or 2. Involves unusually high levels of investment of public funding or other resources;~~
 - b. ~~The goods or services to be procured are susceptible to delivery by materially different options, and the choice among those options requires the exercise of substantial discretion that may affect citywide policy; and~~
 - c. ~~The procurement will likely require policy choices for which the procedures of this Code are unsuitable.~~
- (3) ~~In keeping with the anti-lobbying provisions in subsection (i)(2)c. and § 2-151(k) of this Code, when the City Council serves as the direct procurement authority, no City Councilmember and no staff or office personnel of any City Councilmember may initiate contact with a vendor or a vendor's representative during the solicitation process until the agreement resulting from the solicitation is awarded or the City Council takes other action that ends the solicitation.~~
- (4)(2) *Public announcement and request for proposals.* The city shall provide no less than ten calendar days' notice of the need for such goods and/or services through a request for proposals (RFP). The RFP shall describe the goods and/or services required, list the types of information and data required of each proposer, and state the relative importance of particular specifications or qualifications and pricing.
- (5)(3) *Addenda.* After a request for proposals is issued and before the submission deadline, the Procurement Division may issue one or more written addenda for the purpose of clarifying specifications or other matters relating to the RFP. Questions concerning the proposal will not be accepted within eight calendar days of the submission deadline. No addenda will be issued within five business days prior to the submission deadline without extending the submission date.
- (6)(4) *Statement of qualifications.* Persons and firms interested in providing goods and/or services to the city in response to an RFP issued pursuant to this section may submit statements of qualification and expressions of interest in providing those goods and/or services. Price may not be the primary factor in the award.
- (7)(5) *Ranking.* The proposals may be ranked by the City Manager, City Manager's designee, including any special ad hoc Evaluation and Negotiation Committee designated by the City Manager for that purpose, or the SAC, as provided in subsections (i)(3) and (4) above. and a notice. Notice of the ranking and a copy of the proposals will be provided to City Council Members. Notice of the rankings shall be sent to all offerors by United States mail and shall also be posted in the area of City Hall designated for public notices. The city may also use electronic notification when an electronic bidding software is utilized.
- (8)(6) *Negotiations.* The City Manager or designee may conduct negotiations with any proposer who has submitted an RFP to determine such proposer's qualifications for further consideration and to negotiate a contract.
- (9)(7) *One proposal or no proposal received.* In the event that only one proposal is received by the city in response to a Request for Proposal and when time or economic considerations warrant, the Procurement Manager is authorized to negotiate or obtain quotes. If no proposals are received, the Procurement Manager, when time or economic consideration warrant, may attempt to obtain three informal written quotations. If at least two written quotations are received, the purchase may proceed without the necessity for a solicitation.
- (k) *Public/Private Partnerships.* An unsolicited proposal for a qualifying project submitted pursuant to state law shall submit to the City an application fee of \$25,000 payable to the city in the form of a money order or cashier's check at the time of the unsolicited proposal submittal for the purpose of defraying the city's expenses of evaluating the unsolicited proposal. If the cost of evaluating the unsolicited proposal exceeds \$25,000, the application fee shall be increased to a reasonable fee to pay the costs of evaluating the unsolicited proposal. The Vendor will be notified and will promptly pay the balance of the application fee needed to pay the costs of evaluating the unsolicited proposal. The City Council may waive or reduce the fee.
- (l) *Solicitation authorized.* Invitations to Negotiate, Requests for Proposals, Requests for Qualifications, Requests for Information, Call for Offers, Public Private Partnerships or other solicitations as identified within the Competitive Solicitation are authorized when in the best interests of the City. Notice of all impending or ongoing competitive solicitations will be provided to the City Council monthly.

- (m) *Used equipment purchases.* It is the policy of the City of Cape Coral to purchase goods and services using full and open competition. Although the city generally purchases new equipment and supplies there may be times when the purchase of pre-owned or used equipment may represent the "best value" for the city.
- (1) The thresholds established in subsections 2-144(a) and 2-144(b) above for quotes and formal bids shall be applicable to all used equipment and supply purchases.
 - (2) Specifications for the purchase of pre-owned or used equipment shall contain information that is sufficient to enable other bidders or proposers to respond to the invitation to bid or request for proposals.
 - (3) The specifications should include, but not be limited to:
 - a. Name and address, including phone number of the registered owner, or individual claiming ownership;
 - b. A copy of a picture ID of the registered owner or the individual claiming ownership;
 - c. Whether the present owner is the original owner;
 - d. Copy of invoice where purchased, certificate of title or certificate of origin, or applicable certificate. If the equipment or supply item was required to be licensed or registered a copy of the license or registration must be requested;
 - e. Previous maintenance records;
 - f. Make, model, manufacturer, serial number of the vehicle or equipment, including identification number, if applicable, and year of the equipment;
 - g. Previous or extended warranties; copies should be requested if available;
 - h. Manufacturer's literature, if available;
 - i. Present location of the item;
 - j. Information indicating whether if all of the parts are original or if any of the component parts have been replaced. If parts have been replaced, copies of repair invoices should be provided, if available;
 - k. Recorded miles on the equipment if a vehicle, or engine hours if other motorized equipment; and
 - l. An affidavit stating that there are no liens or taxes or other fees due and payable on the equipment or supply item.
 - (4) The city will utilize the State of Florida's website for the Department of Highway Safety and Motor Vehicles, (DHSMV), to research the title and registration for boats and vehicles and verify the authenticity of the registration or bill(s) of sale.
 - (5) The supplier/owner of any pre-owned or used equipment purchased by the city must provide the city with a bill of sale.
 - (6) The requesting department shall provide documentation to the Procurement Manager to establish market value of the pre-owned or used equipment based on the information received from the solicitation. Market value should also be obtained from "blue books" for motorized equipment, or other applicable market data which could include magazines and flyers of used equipment or information received from the manufacturer of the equipment. If the manufacturer is no longer producing the item, this should be noted because replacement parts may no longer be available for the item. Previous distributors of the equipment or supply item should be contacted to determine a market value and the availability of replacement parts.
 - (7) Comparisons to new equipment should be made and life cycle information should be included based on the age and condition of the proposed purchase and the possible increase in maintenance and parts costs.
 - (8) Upon verification of all required data, but prior to purchase, the equipment should be tested for its intended use and any malfunctions noted. Whenever possible, an expert from the city or a manufacturer's representative should be contacted to inspect the equipment or supply item to verify that it is in proper working order.
 - (9) The City of Cape Coral may purchase used equipment and supplies from other public agencies or not-for-profit corporations or sell used equipment and supplies to other public agencies or not-for-profit corporations without competitive bids, provided that the fair market value is researched and provided to the Procurement Division.

- (10) All pre-owned or used equipment purchase requests shall be accompanied by a life cycle costing analysis for purposes of comparison with new equipment purchases.
- (n) *Cancellation of Invitations for Bids or requests for proposals.*
- (1) An Invitation for Bids, a request for proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part with or without cause. The following shall be considered good cause for rejection of all bids:
- All bids exceed the estimated or budgeted amount;
 - The specifications contain an error which causes confusion and misunderstanding among bidders;
 - The item(s) or service(s) are no longer needed; and
 - Lack of adequate competition.
- (2) Notice of cancellation shall be sent to all businesses solicited or submitting bids.

§ 2-151 Standards of conduct for city officials and employees.

- (a) *Failure to follow proper procurement procedures.* It shall be a violation of this section for any employee to order, contract for or purchase any materials, supplies or services except in strict compliance with all procurement procedures as provided herein or as established by the Procurement Division.
- (b) *Solicitation or acceptance of gifts.* No city official or employee shall solicit or accept anything of value from any vendor or bidder, including a gift, loan, reward, promise of future employment, favor or service, based upon any understanding that the actions of that official or employee would be influenced thereby.
- (c) *Doing business with the city.* Neither the Procurement Manager nor any public official acting in his or her official capacity shall directly or indirectly purchase, rent or lease any realty, goods or services for the city from any business entity of which the officer or employee or the officer's or employee's spouse or child is an officer, partner, director or proprietor or in which the official or employee or the officer's or employee's spouse or child, or any combination of them, has a material interest. No city official or employee, acting in a private capacity, shall rent, lease or sell any realty, goods or services to the city.
- (d) *Unauthorized compensation.* No city official or employee or his or her spouse or minor child shall, at any time, accept any compensation, payment or thing of value when that person knows, or with the exercise of reasonable care, should know, that it was given to influence action in which the official or employee was expected to participate in his or her official capacity.
- (e) *Conflicting employment or contractual relationship.* No city official or employee shall have or hold any employment or contractual relationship with any business entity which is doing business with the city, provided however, that this section shall not be construed to prevent any officer or employee from accepting other employment or following any pursuit which does not interfere with the full and faithful discharge of the officer or employee's duties in his or her employment with the city.
- (f) *Contingent fees.* No city official or employee shall be retained, or shall retain a person, to solicit or secure a city contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee.
- (g) *Confidential information.* No city official or employee shall disclose or use any information not available to members of the general public and gained by reason of his official position for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity.
- (h) *Penalties.* Violation of any provision of this section may subject the officer or employee to discipline in the form of one or more of the following:
- (1) In the case of a city official:
- Forfeiture of office, provided that if the official is found guilty of a willful violation, then forfeiture of office shall be mandatory;
 - Forfeiture of no more than one-third of his or her salary per month for no more than 12 months;
 - A civil penalty not to exceed \$5,000;
 - Restitution of any pecuniary benefits received because of the violation committed.

- (2) In the case of a city employee:
 - a. Dismissal from employment, provided that if the employee is found guilty of a willful violation, then dismissal from employment shall be mandatory;
 - b. Suspension from employment for not more than 90 days without pay;
 - c. Demotion;
 - d. Reduction in salary level;
 - e. Forfeiture of no more than one-third of his or her salary for no more than 12 months;
 - f. A civil penalty not to exceed \$5,000;
 - g. Oral or written reprimands or warnings;
 - h. Restitution of any pecuniary benefits received because of the violation committed.
- (3) Any discipline imposed shall be subject to the city's personnel rules or the applicable collective bargaining agreement.
- (i) *Contracts voidable.* If a violation of any of the prohibitions contained in this section occurs, then the contract involved may, at the option of the city, be declared null and void or voidable.
- (j) *Exemptions.* No person shall be in violation of subsections (c) and (e) above if:
 - (1) The business is transacted under a rotation system whereby the business transactions are rotated among all qualified city registered suppliers of the goods or services within the city;
 - (2) The business is awarded under a system of sealed, competitive bidding to the lowest or best bidder and:
 - a. The employee or the employee's spouse or child has, in no way, participated in the determination of the bid specifications or the determination of the lowest or best bidder;
 - b. The employee or the employee's spouse or child has in no way used or attempted to use his or her influence to persuade the city or any personnel thereof to enter into such a contract other than by mere submission of the bid; and
 - c. The employee has filed a statement with the Lee County Supervisor of Elections disclosing his or her interest, or the interest of the employee's spouse or child, and the nature of the intended business.
 - (3) The purchase or sale is for legal advertising in a newspaper, for any utilities service or for passage on a common carrier;
 - (4) The purchase is an emergency purchase or contract and must be made to protect the health, safety or welfare of the citizens of the city;
 - (5) The business entity involved is the only source of supply within the city and there is full disclosure by the officer or employee of his or her interest in the business entity to the City Council prior to the purchase, rental, sale, leasing or other business being transacted; or
 - (6) The total amount of the transactions in the aggregate between the business entity and the city does not exceed \$500 per calendar year.
- (k) *Cone of Silence.*
 - (1) *Prohibited communication.* Except as set forth in subsection (4) below, during a Competitive Solicitation, a cone of silence shall be in effect between:
 - a. Any person or entity that seeks a contract, contract amendment, award, recommendation, or approval related to a Competitive Solicitation or that is subject to, or are currently being evaluated or having its response evaluated in connection with a Competitive Solicitation, including a person or entity's representative; and
 - b. Any City Council member, the City Manager and their respective support staff or any person or group of persons appointed or designated by the City Council or the City Manager to evaluate, select, or make a recommendation to the City Council or the City Manager regarding a Competitive Solicitation.
 - (2) *Effective dates.* A cone of silence shall begin and shall end for Competitive Solicitations as follows:
 - a. A cone of silence shall be in effect during a competitive solicitation process beginning upon the advertisement for the Competitive Solicitation, upon the receipt of an

unsolicited proposal, or during such other procurement activities as declared by the City Council.

- b. The cone of silence shall terminate ~~at the time the city takes final action or gives final approval of a contract, when either a contract is finally approved, a protest is filed pursuant to section 2-150, or the city rejects all bids or responses to the Competitive Solicitation, or takes other action which ends the Competitive Solicitation process.~~
- (3) *Notice.* When the cone of silence becomes effective for a particular Competitive Solicitation, the City Manager or designee shall provide notice of the cone of silence to the City Council. The solicitation document for the goods or services shall generally disclose the requirements of this section.
- (4) *Permitted communication.*
 - a. The cone of silence shall not apply to written or oral communications to the Procurement Manager, Procurement Manager's designee or to with legal counsel the City Attorney's Office. ~~for the city or the purchasing staff for the city.~~
 - b. Nothing contained in this section shall prohibit any person or entity subject to this section from:
 - 1. Making public presentations at pre-bid conferences or at a selection or negotiation meeting related to the competitive selection.
 - 2. Engaging in contract negotiations with the entity selected to negotiate the terms of the contract or with the City Council during a public meeting.
 - 3. Making a presentation to the City Council or the selection advisory committee related to the competitive solicitation.
 - 4. Communicating with the person or persons designated in the competitive solicitation as the contact person for clarification or information related to the competitive solicitation. The contact person shall not be a member of the selection/evaluation committee, or the person designated to negotiate the agreement.
 - 5. Communicating with the city attorney or purchasing and contract administration staff in writing as provided in subsection (c) below.
 - ~~c. The purchasing staff and the city attorney shall accept written communications from persons or entities subject to this section during the time a cone of silence is applicable to a competitive solicitation.~~
- (5) *Violations.* Any action in violation of this section may be immediate disqualification of the Competitive Solicitation or shall result in the disqualification of the vendor.
- (6) *Exceptions.* The cone of silence shall not apply to a competitive process which seeks to enter into a contract or award of money to perform governmental, or quasi-governmental, social or human services primarily for charitable, benevolent, humanitarian, or other philanthropic purposes, such as the award of grants or support assistance to organized nonprofit entities that promote or assist with the care, education, health, standard of living, or general welfare of people in the City of Cape Coral, or that promote or assist community or neighborhood enhancements.

CHAPTER 2: ADMINISTRATION

ARTICLE VII – PURCHASE AND SALE OF REAL AND PERSONAL PROPERTY

DIVISION III – DISPOSITION OF SURPLUS PROPERTY

§ 2-154 Sale of surplus tangible personal property.

- (a) *Determination that property is surplus.* At least once annually, the Financial Services Director shall review city inventory and make a recommendation to the City Manager of city property that should be classified as surplus; however, at any time during the fiscal year a department may identify property as being surplus.
- (b) *Categories.* Surplus property can be categorized as follows:
 - (1) *Excess.* Property that has no further use to the department it is assigned to.
 - (2) *Non-repairable.* Property that is not repairable or is uneconomical to repair.

- (3) *Worthless.* Property that is in a wrecked, inoperative, partially dismantled condition or has deteriorated to such a state that it has no apparent monetary value.
- (c) *Disposal methods.* The following methods of disposal may be utilized:
 - (1) *Sale to another governmental entity.* Property which has been classified as surplus may be sold by the city to another governmental unit without bids.
 - (2) *Donation.* Property which has been declared surplus may be donated to an outside agency upon approval by City Council for surplus items over a \$5,000 threshold. The City Manager, or designee, may approve the donation of surplus property to an outside agency of those items which are \$5,000 or less. No Department shall be authorized to facilitate any donations to avoid the threshold as set forth herein.
 - (3) *Discarded.* Property which is in a wrecked, inoperative or partially dismantled condition, or which has deteriorated to the point that it has no apparent monetary value may be picked up by the appropriate refuse disposal service.
 - (4) *Traded in for new item.* Items, which are inappropriate for auction, and items which because of their nature have greater value when traded in, may, in the discretion of the City Manager or designee, be traded in on newer items in lieu of being sold at public auction. Bids or proposals for trade-in of city property shall be solicited in accordance with the requirements of this article.
 - (5) *Transferred to another department.* Surplus property may be transferred to another city department.
 - (6) *Sold at auction (on-site or on-line).* Surplus property may be sold using a competitive auction process either on-site or on-line. A periodic report will be provided to City Council of all items that have been sold by auction.
 - (7) *Scrap.* Property which is in a wrecked, inoperative, or partially dismantled condition, or which has deteriorated, may be sold as appropriate service for scrap, if applicable.

§ 2-155 Sale of surplus real property.

- (a) Whenever the city owns real property not presently used for municipal purposes, nor projected in the foreseeable future to be used for municipal purposes, such property may be declared to be surplus property and may be sold or otherwise disposed of as hereinafter provided.
- (b) No later than July 1, 2007, and every three years thereafter, the city shall prepare an inventory list of all real property owned by the city that is appropriate for use as affordable housing. The inventory list shall include the address and legal description of each such property and specify whether the property is vacant or improved. City Council shall review the inventory list at a public hearing and may revise the list at the conclusion of the public hearing. Following the public hearing, the City Council shall adopt a resolution that includes an inventory list of any property that is appropriate for use as affordable housing. The properties identified as appropriate for use as affordable housing on the inventory list adopted by the City Council by resolution may be offered for sale and the proceeds may be used to purchase land for the development of affordable housing or to increase any city fund earmarked for affordable housing, or may be sold with a restriction that requires the development of the property as permanent affordable housing, may be donated to a non-profit housing organization for the construction of permanent affordable housing, or may otherwise be made available for use for the production and preservation of permanent affordable housing.
- (c) Prior to the sale or other disposition of any city-owned real property, an appraisal shall be obtained unless the City Council finds that, due to exigent or other circumstances, an appraisal would not be in the best interest of the city. For platted, undeveloped residential property, a recent appraisal of comparable property located in the same vicinity of the subject property may be utilized to satisfy the appraisal requirement. For purposes of this section, a "recent" appraisal shall mean one that was prepared not more than 12 months prior to the proposed date of sale or other disposition.
- (d) Any sale or other disposition of city-owned surplus real property shall be by ordinance.
- (e) For surplus real property that has been acquired by the city through purchase, donation, trade, foreclosure, or purchase at a tax deed sale, any of the following methods may be employed to sell, trade, or otherwise dispose of said property:

- (1) The property may be listed for sale in the multiple listing service (MLS) for a period of not less than 30 days. The city may accept the highest or best offer received during the listing period, provided that such offer is not less than 90% of the appraised value of said property.
- (2) The property may be sold at public auction, after due public notice, provided that the opening (minimum) bid at such auction shall not be less than 90% of the appraised value of said property.
- (3) The property may be sold, after due public notice, pursuant to sealed competitive bids, provided that the highest bid is not less than 90% of the appraised value of said property.
- (4) The property may be sold or conveyed to another governmental agency, provided that, if the property is conveyed for little or no consideration, the property shall be conveyed with a restriction that the property is for public use only.
- (5) The property may be traded or exchanged for another property, provided, however, that if the properties being traded are not equal or nearly equal in value, as determined by valid appraisals, additional consideration may be required.
- (6) The property may be sold or donated for use for affordable housing.
- (7) The property may be sold to an adjoining landowner without advertising or bids, provided the city makes a determination that:
 - a. The property is of insufficient size and shape to be issued a building permit for any type of development; or
 - b. The value of the property is \$10,000 or less, as determined by an appraisal, or as determined by the Lee County Property Appraiser; or
 - c. The size, shape, location, value or deed restrictions for the property make the property of use only to one or more adjacent property owners.
- (8) The property may be sold utilizing any procedure that the City Council finds to be commercially reasonable.
- (f) For surplus real property that has been acquired by the city through civil forfeiture proceedings pursuant to F.S. Chapter 932, the City Manager shall first make a determination of whether the property can be used presently or at a later date. If the City Manager determines that it is in the best interests of the city to sell the property, an appraisal shall be obtained and the proposal to sell the property shall be presented to City Council for approval. If Council approves the proposal to sell, the property shall be offered for sale by listing on the market pursuant to F.S. § 932.7055(1)(b).
- (g) All offers delivered to the City to purchase real property whether the property is declared surplus or not will be communicated by the City Manager or designee to the City Council either in writing within 10 days of receipt of the offer, at the next regularly scheduled City Council meeting or as soon as practicable thereafter, unless the buyer has requested confidentiality pursuant to state public records laws (288.075 9 (2) – (6)) as amended or some other law. In the event a buyer requests confidentiality the offer will be communicated to councilmembers individually.

SECTION 2. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2023.

JOHN GUNTER, MAYOR

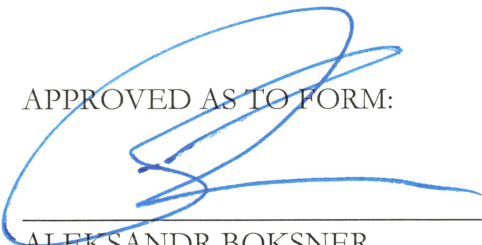
VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER _____
STEINKE _____
SHEPPARD _____
HAYDEN _____

CUMMINGS _____
WELSH _____
LONG _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____,
2023.

APPROVED AS TO FORM:



ALEKSANDR BOKSNER
CITY ATTORNEY
Ord/Procurement Ord 9/19/2023



KIMBERLY BRUNS
CITY CLERK