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**TORRANCE COUNTY
BOARD OF COUNTY COMMISSIONERS
RESOLUTION NO. R 2019-38**

**A RESOLUTION ESTABLISHING THE TORRANCE COUNTY PROCUREMENT
POLICY**

WHEREAS, Torrance County regularly purchases goods and services in order to support the County's mission of promoting the safety and welfare of the citizens of Torrance County; and

WHEREAS, the Torrance County Board of Commissioners wishes to establish a clear, effective, efficient policy for the procurement of goods and services; and

WHEREAS, the County must abide by the State of New Mexico Procurement Code.

NOW, THEREFORE BE IT RESOLVED the attached document entitled Torrance County Purchasing Policy is hereby adopted; and

BE IT FURTHER RESOLVED Resolution 2018-32 and any previous purchasing or procurement policy is hereby repealed.

DONE THIS 25th DAY OF FEBRUARY, 2019.

APPROVED AS TO FORM ONLY:

BOARD OF COUNTY COMMISSIONERS

John M. Betts 2/26/19
County Attorney Date

Ryan Schwebach
Ryan Schwebach, Chair

Javier Sanchez
Javier Sanchez, Vice Chair

Kevin McCall
Kevin McCall, Member

ATTEST:
Linda Jaramillo
Linda Jaramillo, County Clerk



**CONTINUATION PAGE 2, RESOLUTION NO. _____
DECLARING TORRANCE COUNTY TO BE A SECOND AMENDMENT SANCTUARY
COUNTY**

1

Date: _____



TORRANCE COUNTY PURCHASING POLICY

Resolution 2019 - _____

SECTION I: GENERAL PROVISIONS

- 1.1 **User Applicability.** This Purchasing Policy (hereinafter referred to as "Policy") and its procedures apply to Elected Officials, all Departments, agencies, personnel, individuals, or other Users authorized to make purchases from public funds budgeted and administered by, or otherwise under the supervision of, Torrance County Government. The purchasing function shall be conducted in a manner above reproach, with complete impartiality and without preferential treatment. Users shall avoid any conflicts of interest.
- 1.2 **Administration.** The Chief Procurement Officer shall be responsible for the administration of this Policy to insure that all provisions of law and this Policy are followed. Supplements issued by the Chief Procurement Officers shall be approved by the County Commission or Commission and copies of all supplements shall be attached to and made a part of this Policy. Upon the absence of the Chief Procurement Officer, the Finance Director will be responsible for administration of this Policy.
- 1.3 **Implementation.**
- A. **Chief Procurement Officer and Purchasing Office.** The Chief Procurement Officer and Purchasing Office are the general terms for the individuals or offices designated by the County Commission to fulfill the responsibility and functions of the Chief Procurement Officer and Purchasing Office as provided in this Policy.
- B. **Finance Department.** The term Finance Department is used to describe the office and/or personnel directly responsible for establishing budgetary control for expenditure of funds and accounts payable procedures for payment of purchases made.
- 1.4 **User Authority and Responsibility.**
- A. Only individuals authorized by the Department's Elected Official or Department Director shall be permitted to request Torrance County purchases consistent with the provisions of

this Policy. Authorization shall be submitted to the Chief Procurement Officer. All authorized Users shall receive and sign for a copy of this Policy, and shall thereby be responsible for the knowledge and appropriate compliance and use of the provisions of this Policy.

- B. An Authorized User affidavit shall be signed and kept on file in the Finance Office. Without the signed affidavit by the Elected Department Official or Department Director no Purchase Order will be issued.
- C. Authorized Users may contact vendors to obtain technical information, prices, and delivery information for planning purposes. Purchasing Office personnel will review the technical information, confirm prices are reasonable, ensure availability of County funds, and issue a Purchase Order. All quotations documented or received by Users shall be attached to the Purchase Order.

1.5 **Definition of a Purchase.** For the purpose of this Policy, a purchase is the commitment, obligation, and/or expenditure of Torrance County supervised funds to obtain goods or services.

1.6 **Purchase Order.** A document generated by the County for the purpose of procuring goods or services from an authorized vendor. Purchase Orders shall include but not be limited to descriptions, quantities, prices, discounts, payment terms, date of performance or shipment, and other associated terms and/or conditions. Purchase Orders are issued to a specific vendor and when accepted by the vendor, becomes a binding contract between the parties.

1.7 **Unauthorized and Questionable Purchases.** Any purchase which is not legally and appropriately approved within the County budget or by other County Commission action, or which does not comply with the provisions of the State Statutes, particularly the State Procurement Code (Section 13-1-28 et seq. NMSA 1978) and the provisions of this Policy, shall be considered an unauthorized County purchase and thereby not subject to payment by the County. The County hereby declares and establishes that it will assume no responsibility for payment of unauthorized purchases. Furthermore, any individual initiating or otherwise executing any unauthorized purchase is solely responsible for payment. All questionable purchases shall be submitted to the County Manager for County Commission review and determination under the provisions of this Policy.

1.8 **Commission Approval of Unauthorized Purchases.** Any purchase determined to be unauthorized shall be considered for approval of payment at a public meeting of the County Commission. Unauthorized purchases shall not be approved or processed for payment prior to Commission approval, and Commission meeting minutes shall be attached to the purchasing transaction file for audit purposes.

1.9 **Civil Penalties.** Persons knowingly violating the State Procurement Code, this Policy, or other State law may be subjected to a civil penalty for each violation in accordance with New Mexico State Law.

1.10 **Consistency with State Procurement Code.** The provisions of this Policy are subject to change in accordance with New Mexico Statute or State Procurement Code changes. Any change that is inconsistent with the provisions of this Policy shall be resolved in favor of the State Statutes or State Procurement Code. All authorized Users shall be given a copy of each change and notified that it is in effect.

- 1.11 **Interpretation of Policy and Supplements.** In any case that a provision of this Policy is vague or unclear, the County Manager and/or County Attorney shall provide a written supplement for clarification of the provision, which shall be implemented by all Departments and offices.

SECTION II: STANDARD PURCHASING PROCEDURE

- 2.1 **Standard Purchasing Procedure Applicability.** "Standard Purchases" are described as systematic, planned, and necessary purchases for administration and operation of a project, division, and/or Department. There shall be no exception to these standard procedures except as provided in "Emergency Purchasing Procedures" in Section III of this Policy.
- 2.2 **Requesting a Purchase: Requisition for Purchase.** All Standard Purchases as authorized by this section require that a Torrance County *Purchase Order* be issued prior to placing an order or making a purchase. *Purchase Orders* shall only be issued after proper approval and submission of a *Requisition for Purchase Form*. All *Requisitions for Purchase Forms* shall be submitted to the Purchasing Office or a designated Authorized User for approval. The Chief Procurement Officer or any employee designated as an Authorized User has the right to refuse approval of any request for purchase. The *Requisition for Purchase* form shall contain all information as required by the Chief Procurement Officer to include, but not be limited to, the following:
- A. **Vendor Name and Complete Address** - the business to which the purchase order will be issued as well as the complete address for that vendor.
 - B. **Vendor Number** - to be taken from the mainframe database or listing of vendors. Numbers for new vendors shall be assigned only through the Finance Department. A vendor number shall be on file for the vendor prior to issuance of a purchase order.
 - C. **Quantity** - specify a unit and the approximate amount per unit being requested. Units may be "each", "box", "gals.", "reams", "pounds", etc. If exact quantity is not known, Users shall provide the best estimate of quantity.
 - D. **Description of Item** - the description of the items or services shall be sufficiently complete to identify the item being purchased. Services that have been obtained through the use of an agreement shall reference the agreement number and attach a copy of the agreement. Services that have been obtained through the use of a bid shall reference the bid number.
 - E. **Unit Cost** - estimated cost per unit.
 - F. **Total Cost** - Calculation of the quantity multiplied by the unit cost. If exact cost cannot be determined, Users shall provide the best estimate of cost.
 - G. **Department** - enter name of Department or division office initiating the purchase order.
 - H. **Department Approval** - Signature of the Department head or authorized User, as recorded by the Purchasing Office.

- I. **Line Item** - the appropriate budget line item number to be charged. It is the authorized User's responsibility to assign the correct line item number to the purchase order. Multiple line item accounts may be included in the purchase order.
- J. **Quotes** – shall be annotated on *Requisition for Purchase Form* and attached.

2.3 **Authorization of Purchase Orders.** Once a *Requisition for Purchase Form* is completed and the purchase is properly authorized, the Purchasing Officer shall issue a *Purchase Order* that includes date of authorization and number assignment. The User Department shall inform the vendor that the purchase order number shall be included on any invoice submitted to the County for payment.

Purchases executed prior to obtaining a purchase order are prohibited except as otherwise provided in "Emergency Purchasing Procedures", Section III of this Policy.

Adding different items to a purchase order after it has been authorized is prohibited. However, a purchase order may be corrected provided that there is a reasonable explanation for the correction and funds are available. A purchase order correction form shall be completed by the User Department head and approved by the Chief Procurement Officer and County Manager or designee prior to submitting the invoice for payment.

2.4 **Invoices.** An invoice is an itemized list submitted by the vendor to the County for payment of goods or services delivered to the County. It is the responsibility of the vendor to insure that a purchase order is provided prior to issuing goods or services and the vendor shall include the purchase order number on the invoice submitted to the County for payment. In cases where purchase order numbers are not included on the invoice, the vendor shall be informed of their responsibility to include this information. The Finance Department, at its discretion, is authorized to return any invoices, which do not reference a valid purchase order number. The County will not be responsible for purchases made without an executed and authorized purchase order.

The vendor shall be notified that repeated improper invoicing is sufficient cause to exclude the vendor from the County's purchasing program. Also, the County may refuse payment in any case that there is an unauthorized purchase. All invoices shall be mailed to the County Manager's Office at PO Box 48 Estancia, NM 87016 or electronically to invoices@tcnm.us. Payment will not be guaranteed for any other invoices sent to other addresses.

- A. **Utilities.** All utility invoices (county cell phones, office phones, fax, internet, electric, gas, water, sewer, etc.) shall be processed by the Finance Department and a *Receiving and Accounts Payable Report* created. A copy of the invoice and *Receiving and Accounts Payable Report* will be sent to the respective Departments for their records. Department heads shall be responsible for reviewing all utility invoices and Receiving and Accounts Payable Reports and notifying the Finance Department of any discrepancies or billing inaccuracies.
- B. **Verification of Invoices.** Invoices other than invoices for utilities, shall be received, date stamped, and distributed via email to the respective Department by the Finance Department within one business day of receipt. All invoices shall be reviewed by User

Departments prior to payment to insure goods or services have been received and to certify authorization for payment. A ***Receiving and Accounts Payable Report*** shall be fully executed, including an authorized signature, in order for an invoice to be processed for payment. It will be the responsibility of User Departments to insure outstanding invoices are promptly submitted for payment within 10 calendar days of receipt from Finance Department.

- C. **Processing for Payment.** The Finance Department will insure that all invoices received are appropriately authorized and certified prior to payment. The Finance Department shall be responsible for insuring that appropriate procedures are established and used for payment after invoices are received to include timely payments and to insure that discounts are received and late charges avoided.
- D. **Payments.** No reissue of a check shall happen until 90 days have passed after receiving the affidavit for duplicate check, from the vendor stating non-receipt/lost check.

2.5 **Accounts Payable Receiving & Accounts Payable Report.** All ***Receiving and Accounts Payable Report*** forms shall be completed in full when submitting invoices for payment to the Finance Department. ***Receiving and Accounts Payable Report*** to be completed as followed:

- A. **Receiving Department** - Department that received goods or services that is be paid for.
- B. **Vendor #** - to be taken from the mainframe database or listing of vendors. Numbers for new vendors shall be assigned only through the Finance Department. A vendor number shall be on file for the vendor prior to issuance of a purchase order.
- C. **Company Received From** – name of vendor where goods or services were received from
- D. **Remittance Address** – address that payments shall be sent to.
- E. **Line Item** - the appropriate budget line item number to be charged. It is the authorized User's responsibility to assign the correct line item number to the ***Receiving and Accounts Payable Report***. Multiple line item accounts may be included in the ***Receiving and Accounts Payable Report***.
- F. **Purchase Order #** - purchase order number assigned by the Chief Procurement Officer or other Finance Department Official.
- G. **Invoice #** - Number that is stated on invoice to be paid.
- H. **Account #** - Number assigned to purchase from vendor.
- I. **Quantity** - specific unit and the amount being requested for payment. Units may be "each", "box", "gals.", "reams", "pounds", etc.
- J. **Description of Item(s)** - the description of the item(s) or service(s) shall be sufficiently complete to identify the item(s) received. Service(s) that have been obtained through the use of a purchase agreement shall reference the agreement number and a copy of the agreement shall be attached. Services(s) or item(s) that have been procured through a competitive sealed bid process shall reference the bid number in accordance with State procurement

Code.

K. Shipment status –

1. Complete shipment (close Purchase Order)
2. Partial shipment (keep Purchase Order open)
3. Good condition (shipment accepted)
4. Damaged condition (shipment returned) explain- explanation of why shipment was returned/damaged.

L. Special Instructions – Additional notes about payment for information on an invoice.

M. Department Approval – Signature of authorized User

N. Reviewed for Payment – Finance Department use only.

2.6 Submittal of Documents to Finance. All documents that are submitted to the Finance Department shall be originals, typed, and with no alterations (i.e. whiteout, scratched out, marked through, etc.). No documents shall be stapled upon submitting to Finance Department. All documentation requiring notarization shall be notarized prior to acceptance by the Finance Department.

2.7 Inaccurate Documentation. Any documents submitted to the Finance Department containing errors (i.e. incorrect purchase order numbers, dates, vendor numbers, etc.), shall be returned to the submitting Department for correction. Documents so returned, shall be resubmitted to the Finance Department within four working days, unless otherwise advised by Finance Department.

2.8 Over Expenditures. A purchase order shall not be issued, approved, or processed in a case where the indicated line item will be over expended, except as approved by the Finance Director in accordance with State and County regulations and provisions, and provided there are legally sufficient budget balances available elsewhere. It shall be the primary responsibility of the authorized User to insure sufficient funds are available prior to initiating a request for purchase. The Finance Director shall provide sufficient information, data, or reports, upon request, to keep authorized Users properly updated on budget balances, and shall notify any office, Department, or agency head, after analysis of the monthly budget report, of any indications of any existing or impending budget balance issues.

2.9 **Competitive Purchases.** Authorized Users shall insure that all purchases are made at the best possible prices. Purchases shall be made in accordance with the following provisions:

- A. **\$2,499 or Less.** Purchases may be processed after obtaining the best price from vendors. Award can be made if the authorized User/Chief Procurement Officer determines that the price received is reasonable. The authorized User/Chief Procurement Officer is not precluded from obtaining quotes from more than one vendor if the authorized User/Chief Procurement Officer determines that the price is not reasonable or determines that it is in the best interest of the County.
- B. **\$2,500 to \$4,999.99.** Written Quotes. Purchases shall be made according to the best obtainable price, provided at least three (3) bona fide quotes from different vendors have been obtained for such purchases. It is the responsibility of the User to confirm prices, in writing, with an authorized representative of the company prior to requesting a purchase order. These quotes are required to be recorded on *Requisition for Purchase* form.
- C. **\$5,000 to \$24,999.99.** Written Quotes. Purchases shall be made according to the best obtainable price, provided at least three (3) bona fide written quotes from different vendors are obtained on the offerors official letterhead or quote form, and submitted for approval with the *Requisition for Purchase* form. If three (3) bona fide written quotes cannot be obtained, the authorized User shall submit written documentation to the Chief Procurement Officer as specified in section 2.9.E.
- D. **\$25,000 and Above.** All purchases exceeding \$25,000 require formal bid procedures as specified by State regulations and shall be processed and executed by the Chief Procurement Officer, through formal procedures. Bids may be rejected in the event that they are in excess of budgetary limits, are non-responsive to specifications, or due to irregularities in the bids specifications.
- E. **Documented and Written Quote Exceptions.** In the event there are not three (3) known vendors which have goods/services available, fewer than three (3) quotes are permissible, provided the User attaches the quotes obtained and identifies, on the quote form or on separate attachment the names of other vendors contacted who could not provide the goods/services. Written Quote Exceptions are outlined in NMAC (1978) § 1.4.1.51(A).
- F. **State Purchasing Contracts and Cooperative Bid Exceptions.** Quotations or bids are not required for purchases under this section. Purchases may be made providing that the vendor has a Statewide Purchasing Contract or a qualified, documented procurement done by another State or local government agency. Any such purchase shall include appropriate written authorization for Torrance County's use, either in the original solicitation or in writing by both the original procuring agency and the vendor. The Purchasing Office shall keep copies of state or other such contracts for a period of seven years.

State purchasing contract numbers shall be identified on the purchase order requisition and a copy of the contract shall be attached to the permanent copy of the purchase order.

The County may purchase items cooperatively through another public body's bid process consistent with State regulations.

G. **Bid Specifications.** Specifications shall be written primarily to address the need of the County for a specific item to perform a specific function. Specifications written for purchases shall not be "closed or exclusive", or otherwise written in such a way as to intentionally favor or exclude a vendor. Reference to specific types or quality shall be followed by wording "or equal" and all specifications regardless of wording shall be considered as "or equal". It shall be the authorized User's responsibility to insure that all specialized technical aspects of specifications are correct and appropriate. It shall be the Chief Procurement Officer's responsibility to review and insure that all other provisions, procedures and considerations are correct and appropriate, and to address any questionable, unusual or inappropriate specifications prior to processing.

2.10 **Sole Source Purchase.** A sole source purchase is only in cases where only one vendor provides the required goods or service. The Chief Procurement Officer shall certify and execute the sole source purchase according to the New Mexico State Procurement Code.

2.11 **Procurement of Professional Services.**

Professional services shall be procured at the best negotiated price, provided the following values are not exceeded:

Architectural or engineering professional services - \$50,000.

Landscape architectural or surveying professional services - \$10,000.

All other professional services - \$60,000.

Professional services having a value which exceeds the maximum values outlined above will be solicited as outlined in the State Procurement Code and this Policy.

2.12 **Personal Use Prohibited.** No purchases shall be made for the purpose of personal or private use.

SECTION III EMERGENCY PURCHASING PROCEDURES

3.1 **Emergency Procedures: General Provisions.** The provisions of this section apply to all purchases except those purchases subject to the standard purchasing procedures specified in Section II of this Policy. Generally, this section includes all purchases which are justifiably and are an emergency. It is the responsibility of the authorized User to prove that all purchases made under provisions of this section are immediate and unforeseen. Questionable purchases shall be reported to and reviewed by the County Manager. Purchases that could have been reasonably pre-planned or anticipated shall not be considered as an emergency or urgent purchases.

3.2 **Emergency Purchases.** Emergency purchases are permissible provided they are in accordance with the following provisions:

A. **Emergency Purchases.** An emergency purchase is permissible when there is an existing

condition that creates a threat to public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, equipment failures, or similar events. The existence of the emergency condition creates an immediate and serious need for procurement of items or services or construction that cannot be met through normal procurement methods and the lack of which would:

1. Seriously threaten the functioning of government,
2. The preservation or protection of property,
3. The health or safety of any person.

B. An emergency condition. An emergency condition shall be determined by the County Manager with the concurrence of the Chief Procurement Officer. The Finance Department shall maintain records of all emergency purchases for a minimum of three years.

A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the procurement file.

The Chief Procurement Officer shall certify and execute the emergency purchase according to the New Mexico State Procurement Code.

C. Other Emergent Procurement. These procurements are defined as an unanticipated procurement necessary to fulfill the mission of the County. These Purchase Orders may be issued by the Chief Procurement Officer, County Manager, or designee in situations where standard procurement procedures are otherwise unavailable. Purchase Orders issued under this provision shall not exceed fifteen hundred 1,500 dollars unless County Manager or designee and the Chief Procurement officer or designee are in concurrence.

3.3 End of Fiscal Year. Special purchasing provisions shall be followed to insure that State Procurement Code satisfied and accurate accounting procedures, to close out at the end of the fiscal year. Provisions are as follows:

A. 30 Days Prior to Year Ending. Thirty (30) days prior to the end of the fiscal year, purchase orders shall be issued only for purchases in which invoices will be received and paid within an thirty (30) days, except as otherwise specifically approved by the Chief Procurement Officer and County Manager or designee. There shall be no purchases of any kind made, or purchase orders issued or processed within 30 days prior to the end of the fiscal year except in extreme emergencies or as specifically approved otherwise by the Chief Procurement Officer and County Manager or designee.

B. Fiscal Year End. All open purchases shall be voided at June 30th unless a written reason is provided to the Chief Procurement Officer and County Manager or designee as to why the purchase is delayed and the need for the purchase order to carry forward to the next fiscal year.

4.1 Capital Assets. All Vehicles, Furniture or Equipment (greater than \$5,000) are subject to special

delivery and control measures set forth in Torrance County's Purchasing Policy. Such measures are as follows:

- A. **Receiving Of Capital Assets.** All receiving of Capital Assets shall be received at the Torrance County Administration Building, 205 S Ninth St. Estancia, NM 87016
 - B. **Capital Assets.** All Capital Assets shall be received by the County Operations Manager and/or The Chief Procurement Officer or designee. The Chief Procurement Officer, Operations Manager, or designee shall inspect each Capital Asset and compare it with the Purchase Order to ensure it is the correct item.
 - C. **Documentation.** Documentation shall be received and maintained by the Chief Procurement Officer. A Department may request a copy of all documentation from the Finance Department.
 - D. **Release.** The Capital Assets shall not be released to the Department of Purchase until it is service-ready. Service ready being completely outfitted for the asset's intended purpose. A Department may receive and use a vehicle under temporary license plate if vehicle is service-ready.
 - E. **Service-Ready.** Asset is equipped with all required tools necessary for the asset to be used for its intended purpose. Assets are tagged and inventoried appropriately.
- 4.2 **Failure to Comply.** An Employee or User failing to comply with this Policy, can be held accountable under the Torrance County Personnel Policy and may be subject to penalties in accordance with State Procurement Code.