

ORDINANCE NO. 3280

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CORONA AMENDING CHAPTER 3.08 OF THE CORONA MUNICIPAL CODE TO REDUCE THE BIDDING, CHANGE ORDER AND AMENDMENT APPROVAL THRESHOLD LIMITS IN THE PURCHASING REGULATIONS

WHEREAS, Chapter 3.08 of the Corona Municipal Code (“CMC”) sets forth the purchasing regulations for the purchase of materials, supplies, services and equipment; and

WHEREAS, the City Council of the City of Corona (“City Council”) desires to reduce the threshold limit prescribed in the City’s purchasing regulations for staff level approval of purchases of materials, supplies, services and equipment, as well as reduce the threshold approval limit for change orders or amendments.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CORONA, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 3.08.050 (Bidding requirements – public projects) of Chapter 3.08 (Purchasing Regulations) of Title 3 (Revenue and Finance) of the Corona Municipal Code is hereby amended in its entirety to read as follows:

“3.08.050 Bidding requirements - public projects.

(A) **\$55,000 or less.** Public projects of \$45,000 or less may be awarded by the director of the department responsible for the project, or his or her designee, pursuant to § 3.08.040, by any alternative procedure. Public projects of more than \$45,000, but less than or equal to \$55,000 may, except as otherwise provided in this chapter or the Act, be awarded by the director of the department responsible for the project, or his or her designee, pursuant to § 3.08.040, pursuant to the public project informal bidding procedure.

(B) **\$55,001 - \$75,000.** Public projects of more than \$55,000, but less than or equal to \$75,000 may, except as otherwise provided in this chapter or the Act, be awarded by the Assistant City Manager, the Director of Public Works or the General Manager of the Department of Water and Power pursuant to the public project informal bidding procedure.

(C) **\$75,001 - \$100,000.** Public projects of more than \$75,000, but less than or equal to \$100,000 shall, except as otherwise provided in this chapter or the Act, be awarded by the City Manager pursuant to the public project informal bidding procedure.

(D) **More than \$100,000.** Public projects of more than \$100,000, but less than or equal to \$175,000 may, except as otherwise provided in this chapter or the Act, be awarded by the City Council pursuant to the public project informal bidding procedure. Public Projects of more than \$175,000 shall, except as otherwise provided in this chapter or the Act, be awarded by the City Council pursuant to the public project formal bidding procedure. If all bids received are over \$175,000, the City Council may, with the approval of a four-fifths vote of those members present and without following the public project formal bidding procedure, award the contract in an amount not exceeding \$187,500 to the lowest responsive and responsible bidder, so long as the City Council also determines that the city's cost estimate for the project was reasonable.

(E) **City Engineer review of plans and specifications** The City Engineer shall review and approve the working details, drawings, plans, and specifications prepared for every public project which may affect the design or operation of public improvements and which may bring into question the city's liability for dangerous conditions of public property.

(F) **City Council review of plans and specifications.** The City Council shall review and approve the working details, drawings, plans, and specifications prepared for every public project of more than \$100,000.

(G) **Award.** Contracts for public projects of \$45,000 or less, if awarded, may be awarded in the best interests of the city. Contracts for public projects of more than \$45,000, if awarded, shall be awarded to the lowest responsive and responsible bidder. If two or more bids are the same and the lowest, the authorized contracting party may accept the one it chooses.

(H) **Dollar limits and change orders or amendments.** The dollar limits indicated herein shall apply to the original contract and to any amendments or change orders. To this end, therefore, unless an exception provided in § 3.08.130 below applies, any contract amendment or change order which would increase the contract amount above any threshold stated herein shall comply with the requirements applicable to the increased contract amount. For public projects awarded by the City Council, unless a lower or higher amount is stated in the City Council staff report for the project or directed by the City Council, the City Manager or his or her designees shall have authority to approve contract amendments or change orders up to the lesser of either \$100,000 or 10% of the original contract amount.

(I) **No bid splitting.** The city shall not split a project, work, service, or purchase into smaller projects, works, services, or purchases for the purpose of avoiding any bidding or contracting requirements of this code.”

SECTION 2. Section 3.08.060 (Bidding requirements – maintenance and general services) of Chapter 3.08 (Purchasing Regulations) of Title 3 (Revenue and Finance) of the Corona Municipal Code is hereby amended in its entirety to read as follows:

“3.08.060 Bidding requirements - maintenance and general services.

(A) **\$55,000 or less.** Maintenance work and other general services projects of \$45,000 or less, including those involving on-call maintenance work or general services, may be awarded by the director of the department responsible for the project, or his or her designee, pursuant to § 3.08.040, by any alternative procedure. Maintenance work and other general services projects of more than \$45,000, but less than or equal to \$55,000, including those involving on-call maintenance work or general services, may, except as otherwise provided in this chapter or the Act, be awarded by the director of the department responsible for the project, or his or her designee, pursuant to § 3.08.040, pursuant to the non-public project informal bidding procedure.

(B) **\$55,001 - \$75,000.** Maintenance work and other general services projects of more than \$55,000, but less than or equal to \$75,000, including those involving on-call maintenance work or general services, may, except as otherwise provided in this chapter or the Act, be awarded by the Assistant City Manager, the Director of Public Works or the General Manager of the Department of Water and Power pursuant to the non-public project informal bidding procedure.

(C) **\$75,001 - \$100,000.** Maintenance work and other general services projects of more than \$75,000, but less than or equal to \$100,000, including those involving on-call maintenance work or general services, shall, except as otherwise provided in this chapter, be awarded by the City Manager pursuant to the non-public project informal bidding procedure.

(D) **More than \$100,000.** Maintenance work and other general services projects of more than \$100,000, including those involving on-call maintenance work or general services, shall, except as otherwise provided in this chapter, be awarded by the City Council pursuant to the non-public project formal bidding procedure.

(E) **City Engineer review of plans and specifications.** The City Engineer shall review and approve the working details, drawings, plans, and specifications prepared for every maintenance work and other general

services project which may affect the design or operation of public improvements and which may bring into question the city's liability for dangerous conditions of public property.

(F) **Purchasing Agent review of plans and specifications.** The purchasing agent, or his or her designee, shall review and approve the form of the working details, drawings, plans, and specifications prepared for every maintenance work and other general services project.

(G) **City Council review of plans and specifications.** The City Council shall review and approve the working details, drawings, plans, and specifications prepared for every maintenance work and other general services project of more than \$100,000.

(H) **Award.** Contracts for maintenance work and other general services projects of \$45,000 or less, including those involving on-call maintenance work or general services, if awarded, may be awarded in the best interests of the city. Contracts for maintenance work and other general services projects of more than \$45,000, other than those involving on-call maintenance work or general services, if awarded, shall be awarded to the lowest responsive and responsible bidder. If two or more bids are the same and the lowest, the authorized contracting party may accept the one it chooses. Contracts for projects involving on-call maintenance work or general services of more than \$45,000, if awarded, shall be awarded to the contractor who will best serve the interests of the city, taking into account, in addition to cost, their demonstrated competence, qualifications and suitability for the project in general.

(I) **Subsequent contract awards, amendments, extensions, or renewals.** Notwithstanding anything herein to the contrary, the department director and City Manager shall not award a subsequent contract to the same individual or entity for the same or similar services on the same project, or amend, extend, or renew such a contract, without obtaining the next highest approval authority (e.g the City Manager for the department director and the City Council for the City Manager), when the award, amendment, extension, or renewal will result in the city paying an aggregate amount in excess of the approval authority of the department director or City Manager to the individual or entity in any given fiscal year. For purposes of this section, the phrase "same project" shall include an on-call or as-needed contract.

(J) **Dollar limits and change orders or amendments.** The dollar limits indicated herein shall apply to the original contract and to any amendments or change orders. To this end, therefore, unless an exception provided in § 3.08.140 below applies, any contract amendment or change order which would increase the contract amount above any threshold stated

herein shall comply with the requirements applicable to the increased contract amount. For maintenance and other general service projects awarded by the City Council, unless a lower or higher amount is stated in the City Council staff report for the project or directed by the City Council, the City Manager or his or her designees shall have authority to approve contract amendments or change orders up to the lesser of either \$100,000 or 10% of the original contract amount.

(K) **Six-year term limitation.** No maintenance work or other general services contract shall extend for a period of more than six years, including any authorized extensions, unless specifically approved by City Council action.

(L) **No bid splitting.** The city shall not split a project, work, service, or purchase into smaller projects, works, services, or purchases for the purpose of avoiding any bidding or contracting requirements of this code.

(M) **Local preference; maintenance and general services.** As set forth in further detail in § 3.08.080(J) below, the City Council has made findings and adopted a local bidder preference program (“local program”) applicable to certain purchases of materials, supplies, and equipment, as well as contracts for maintenance work and other general services projects described in this section. Accordingly, contracts for maintenance work and other general services projects that are competitively bid and involve an expenditure of \$200,000 or less, shall be subject to the local program set forth in § 3.08.080(J). For recurring procurements/contracts, the local program shall be applicable only to the city’s first \$200,000 worth of such procurements/contracts for any fiscal year, as determined by city staff in its sole discretion. For such recurring procurements/contracts, the bidding documents shall indicate whether or not the local program is in effect for the applicable procurement. Properly certified local businesses (as defined in § 3.08.080(J)) shall be entitled to the specified reduction of 5% in the tabulation of their bid for purposes of determining the lowest responsible bidder, unless otherwise prohibited by law (such as special state or federal grant programs). If the local program is applicable to a bid offering, it shall be noted in the applicable bid solicitation.”

SECTION 3. Section 3.08.070 (Bidding requirements – professional services) of Chapter 3.08 (Purchasing Regulations) of Title 3 (Revenue and Finance) of the Corona Municipal Code is hereby amended in its entirety to read as follows:

“3.08.070 Bidding requirements - professional services.

(A) **\$55,000 or less.** Professional services contracts of \$45,000 or less may be awarded by the director of the department responsible for the

project, or his or her designee, pursuant to § 3.08.040, by any alternative procedure. Professional services contracts of more than \$45,000, but less than or equal to \$55,000 may, except as otherwise provided in this chapter or the Act, be awarded by the director of the department responsible for the project, or his or her designee, pursuant to § 3.08.040, pursuant to the non-public project informal bidding procedure.

(B) **\$55,001 - \$75,000.** Professional services contracts of more than \$55,000, but less than or equal to \$75,000 may, except as otherwise provided in this chapter or the Act, be awarded by the Assistant City Manager, the Director of Public Works or the General Manager of the Department of Water and Power pursuant to the non-public project informal bidding procedure.

(C) **\$75,001- \$100,000.** Professional services contracts of more than \$75,000, but less than or equal to \$100,000 shall, except as otherwise provided in this chapter, be awarded by the City Manager pursuant to the non-public project informal bidding procedure.

(D) **More than \$100,000.** Professional services contracts of more than \$100,000 shall, except as otherwise provided in this chapter, be awarded by the City Council pursuant to the non-public project formal bidding procedure.

(E) **Purchasing agent review of scope of services.** The purchasing agent shall review and approve, or provide for the review and approval of, the scope of services prepared for every professional services contract.

(F) **City Council review of scope of services.** The City Council shall review and approve the scope of services prepared for every professional services contract of more than \$100,000.

(G) **Award.** Contracts for professional services shall be awarded to the contractor who will best serve the interests of the city, taking into account the demonstrated competence, professional qualifications, and suitability for the project in general. The city may consider cost of professional services if the authorized contracting party determines it to be a relevant factor under the circumstances.

(H) **Subsequent contract awards, amendments, extensions, or renewals.** Notwithstanding anything herein to the contrary, the department director and City Manager shall not award a subsequent contract to the same individual or entity for the same or similar services, or amend, extend, or renew such a contract, without obtaining the next highest approval authority (e.g the City Manager for the department director and the City Council for the City Manager), when the award, amendment, extension, or renewal will

result in the city paying an aggregate amount in excess of the approval authority of the department director or City Manager to the individual or entity in any given fiscal year. For purposes of this section, the phrase "same project" shall include an on-call or as-needed contract.

(I) **Dollar limits and change orders or amendments.** The dollar limits indicated herein shall apply to the original contract and to any amendments or change orders. To this end, therefore, unless an exception provided in § 3.08.140 below applies, any contract amendment or change order which would increase the contract amount above any threshold stated herein shall comply with the requirements applicable to the increased contract amount. For professional service agreements awarded by the City Council, unless a lower or higher amount is stated in the City Council staff report for the project or directed by the City Council, the City Manager or his or her designees shall have authority to approve contract amendments or change orders up to the lesser of either \$100,000 or 10% of the original contract amount.

(J) **No bid splitting.** The city shall not split a project, work, service or purchase into smaller projects, works, services, or purchases for the purpose of avoiding any bidding or contracting requirements of this code.”

SECTION 4. Section 3.08.080 (Bidding requirements – materials, supplies, and equipment) of Chapter 3.08 (Purchasing Regulations) of Title 3 (Revenue and Finance) of the Corona Municipal Code is hereby amended in its entirety to read as follows:

“3.08.080 Bidding requirements - materials, supplies, and equipment.

(A) **\$55,000 or less.** Purchases of materials, supplies, and equipment of \$45,000 or less may be awarded by the purchasing agent or the director of the department responsible for the purchase, or his or her designee, pursuant to § 3.08.040, by any alternative procedure. Purchases of materials, supplies and equipment of more than \$45,000, but less than or equal to \$55,000 may, except as otherwise provided in this chapter or the Act, be awarded by the director of the department responsible for the project, or his or her designee, pursuant to § 3.08.040, pursuant to the non-public project informal bidding procedure.

(B) **\$55,001 - \$75,000.** Purchases of materials, supplies, and equipment of more than \$55,000, but less than or equal to \$75,000 may, except as otherwise provided in this chapter or the Act, be awarded by the Assistant City Manager, the Director of Public Works or the General Manager of the Department of Water and Power pursuant to the non-public project informal bidding procedure.

(C) **\$75,001 - \$100,000.** Purchases of materials, supplies, and equipment of more than \$75,000, but less than or equal to \$100,000 shall, except as otherwise provided in this chapter, be awarded by the City Manager pursuant to the non-public project informal bidding procedure.

(D) **More than \$100,000.** Purchases of materials, supplies, and equipment of more than \$100,000 shall, except as otherwise provided in this chapter, be awarded by the City Council pursuant to the non-public project formal bidding procedure.

(E) **Department director review of specifications:** The director of the using department shall review and approve, or provide for the review and approval of, the specifications prepared for every purchase of materials, supplies, and equipment.

(F) **Purchasing agent review of specifications.** The purchasing agent, or his or her designee, shall review and approve the form of all contracts for the purchase of materials, supplies, and equipment.

(G) **City Council review of specifications.** The City Council shall review and approve the specifications prepared for every purchase of materials, supplies, and equipment of more than \$100,000.

(H) **Award.** Contracts for the purchase of materials, supplies, and equipment of \$45,000 or less, if awarded, may be awarded in the best interests of the city. Contracts for the purchase of materials, supplies, and equipment of more than \$45,000, if awarded, shall be awarded to the lowest responsive and responsible bidder. If two or more bids are the same and the lowest, the authorized contracting party may accept the one it chooses.

(I) **Dollar limits and change orders or amendments.** The dollar limits indicated herein shall apply to the original contract and to any amendments or change orders. To this end, therefore, unless an exception provided in § 3.08.140 below applies, any contract amendment or change order which would increase the contract amount above any threshold stated herein shall comply with the requirements applicable to the increased contract amount. For materials, supplies, and equipment contracts awarded by the City Council, unless a lower or higher amount is stated in the City Council staff report for the project or directed by the City Council, the City Manager, or his or her designees shall have authority to approve contract amendments or change orders up to the lesser of either \$100,000 or 10% of the original contract amount.

(J) Local bidder preference program; purchases of materials, supplies and equipment; maintenance and general services.

(1) Based upon the findings provided for in the recitals of the ordinance adding this § 3.08.080(J), the City Council has determined that it is in the best interests of the city to give a minimal preference to local businesses when the city is making certain purchases of materials, supplies, and equipment, as well as when it is entering into contracts for certain maintenance work and other general services projects, as set forth in this local bidder preference program ("local program").

(2) The local program shall consist of the following general requirements, which shall be implemented by the purchasing agent within the city's Purchasing Policies and Procedures Manual:

(a) 1. A “**local business**” for purposes of this local program shall mean the vendor:

- a. Has fixed facilities with one or more employees, which may include a sole proprietor, located at an address within city limits (a post office box alone is insufficient); and
- b. Has an appropriate city business license/permit.

2. A vendor seeking to qualify for this local program shall provide supporting information and certify in writing that it meets the above requirements as part of its bid.

(b) In applying the local program to bids on a city purchase subject to the local program, a qualifying local business shall be entitled to a reduction of 5% in the tabulation of its bid for purposes of determining the lowest responsible bidder, unless otherwise prohibited by law (i.e. special state or federal grant programs).

(c) The local program shall only be applicable to purchases of materials, supplies, and equipment which are competitively bid and which involve an expenditure of \$100,000 or less. If the local program is applicable to a bid offering, it shall be noted in the applicable bid solicitation.

(3) The local program preference described in division (J)(2) above shall be applicable only to purchases of materials, supplies, and equipment, as well as contracts for maintenance work and other general services, which are competitively bid and which involve an expenditure of \$200,000 or less. For recurring purchases, the local program shall be applicable only to the city's first \$200,000 worth of such purchases for any fiscal year, as determined by city staff in its sole discretion. For such recurring purchases,

the bidding documents shall indicate whether or not the local program is in effect for the applicable procurement. If the local program is applicable to a bid offering, it shall be noted in the applicable bid solicitation.

(4) The local program may also establish a preference for purchases of materials, supplies, and equipment, as well as contracts for maintenance work and other general services, which are competitively bid and which involve an expenditure of more than \$200,000. Such preference shall allow the city to take into consideration the net sales tax to be returned to the city as a result of an award to a qualifying local business in determining the lowest responsive and responsible bidder. The net sales tax shall be calculated based on the applicable bid price provided by the bidder in accordance with the city's purchasing policy.

(K) **Recycled products preference.** In order to promote the use of products containing recycled material, including post consumer material and secondary material, the city may take into consideration the percentage of recycled product in the materials, supplies, or equipment being provided in determining the lowest responsive and responsible bidder. This section shall not be effective unless and until the purchasing agent adopts a written policy to implement its provisions, which policy shall be included in the city's Purchasing Policies and Procedures Manual. In addition, fitness and quality being equal, the city shall endeavor to purchase products containing recycled material instead of virgin products, whenever available at no more than the total cost of the virgin materials.

(L) **No bid splitting.** The city shall not split a project, work, service, or purchase into smaller projects, works, services, or purchases for the purpose of avoiding any bidding or contracting requirements of this code.

(M) **Fleet replacement vehicles and equipment.** Notwithstanding anything to the contrary contained herein, the purchasing agent shall be the authorized contracting party for the replacement of a vehicle or other equipment on the city's annual vehicle/equipment replacement list, as approved through the budget process each year. The purchasing agent shall not make an award or approve such a purchase unless and until the applicable alternative procedure, non-public project informal bidding procedure or non-public project formal bidding procedure is followed.”

SECTION 5. Subsection (C) (Contents of Notice Inviting Formal Bids or Request for Proposals) of Section 3.08.110 (Non-public projects – formal bidding procedure) of Chapter 3.08 (Purchasing Regulations) of Title 3 (Revenue and Finance) of the Corona Municipal Code is hereby amended in its entirety to read as follows:

“3.08.110 Non-public projects - formal bidding procedure.

....

(C) **Contents of notice inviting formal bids or request for proposals.** At a minimum, the notice inviting formal bids or request for proposals shall:

- (1) Describe the project or purchase in general terms;
- (2) State how to obtain more detailed information about the project or purchase;
- (3) State the date, time, and place for the submission of bids or proposals; and
- (4) Include any other information required by state or local law, as determined by the City Attorney.

Bids for purchases of more than \$100,000 shall be sealed bids.

....”

SECTION 6. Subsection (C) (Contents of Notice Inviting Informal Bids or Request for Proposals) of Section 3.08.120 (Non-public projects – informal bidding procedure) of Chapter 3.08 (Purchasing Regulations) of Title 3 (Revenue and Finance) of the Corona Municipal Code is hereby amended in its entirety to read as follows:

“3.08.120 Non-public projects - informal bidding procedure.

....

(C) **Contents of notice inviting informal bids or request for proposals.** At a minimum, the notice inviting informal bids or request for proposals shall:

- (1) Describe the project or purchase in general terms;
- (2) State how to obtain more detailed information about the project or purchase;
- (3) State the date, time, and place for the submission of bids or proposals; and
- (4) Include any other information required by state or local law, as determined by the City Attorney.

Bids for purchases of more than \$100,000 shall be sealed bids.

....”

SECTION 7. CEQA Findings. The City Council finds that this Ordinance is exempt pursuant to Section 15061(b)(3) of the Guidelines for the California Environmental Quality Act (CEQA), which states that a project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This Ordinance merely amends the Corona Municipal Code to update the City’s purchasing regulations. Thus, there is no possibility that adopting this Ordinance will have a significant effect on the environment and no further environmental analysis is required.

SECTION 8. Invalidity; Severability. If any sentence, cause or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance.

SECTION 9. Effective Date of Ordinance. The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall within fifteen (15) days of its adoption cause it, or a summary of it, to be published in a newspaper of general circulation in the City of Corona. This Ordinance shall take effect and be in force on the 30th day after its adoption.

ADOPTED this ___ day of _____, 2018.

Mayor of the City of Corona, California

ATTEST:

City Clerk of the City of Corona, California

CERTIFICATION

I, _____, City Clerk of the City of Corona, California, do hereby certify that the foregoing Ordinance was regularly introduced at a regular meeting of the City Council of the City of Corona, California, duly held the _____ day of _____, 2018, and thereafter at an regular meeting held on the _____ day of _____, 2018, it was duly passed and adopted by the following vote of the Council:

AYES:

NOES:

ABSENT:

ABSTAINED:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Corona, California, this _____ day of _____, 2018.

City Clerk of the City of Corona, California

SUMMARY

On _____, the Corona City Council will consider adopting an ordinance to reduce the staff level threshold limits and change order and amendment threshold limits for the purchase of materials, supplies, services and equipment. A certified copy of the full text of this proposed ordinance is posted in the City Clerk's Office.

The City Council meets at 6:30 p.m. in the Council Chambers in the Corona City Hall, located at 400 South Vicentia Avenue. The City Clerk's office is located in City Hall near the Council Chambers.