

ORDINANCE NO. 3054

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ELECTING TO BECOME SUBJECT TO THE UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT, REPEALING CHAPTER 6 OF TITLE 2 OF THE ONTARIO MUNICIPAL CODE, AND ADOPTING A NEW CHAPTER 6 OF TITLE 2 OF THE ONTARIO MUNICIPAL CODE CONCERNING THE PURCHASE OF GOODS, SERVICES AND PUBLIC PROJECTS.

WHEREAS, Article XI, Section 7, of the California Constitution authorizes the City to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, the Uniform Public Construction Cost Accounting Act (Pub. Cont. Code §§ 22000 et seq.) (the "Act") provides for the development of cost accounting standards and an alternative method for the bidding of public works projects by public entities such as the City of Ontario; and

WHEREAS, the City Council of the City of Ontario determines that electing to be subject to the Act would provide efficiencies for the City of Ontario's procurement processes, which will thereby benefit the taxpayers, residents and businesses of the City; and

WHEREAS, Public Contract Code Section 1600 provides, "Notwithstanding any other provision of law, counties, a city and county, and state agencies may enter into and make payment on contracts by way of electronic transmission, including, but not limited to, the issuance of solicitation documents, and the receipt of responses thereto"; and

WHEREAS, all other prerequisites to the adoption of this Ordinance have occurred.

THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council of the City of Ontario, California, hereby elects under Public Contract Code Sections 22003 and 22030 to become subject to the uniform public construction cost accounting procedures set forth in the Act and to the Commission's policies and procedures manual and cost accounting review procedures, as they may each from time to time be amended, and directs that the City Clerk notify the State Controller forthwith of this election. This election may, in the City Council's discretion, be rescinded by City Council ordinance or resolution.

SECTION 2. Chapter 6 of Title 2 of the Ontario Municipal Code is hereby repealed in its entirety.

SECTION 3. A new Chapter 6 of Title 2 of the Ontario Municipal Code is hereby added to read as follows:

“CHAPTER 6: PURCHASING SYSTEM

Section 2-6.01.	Adopted: Purposes.
Section 2-6.02.	Definition of Terms.
Section 2-6.03.	Ethics Statement.
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Section 2-6.21.	Design Build.
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Section 2-6.27.	Conflicts of Interest.
Section 2-6.28.	Gifts and Gratuities.
Section 2-6.29.	Cooperative Purchasing Programs.
Section 2-6.30.	Use of Recycled Materials.
Section 2-6.31.	Disposition of Surplus Personal Property.

Section 2-6.01. Adopted: Purposes.

A centralized purchasing system is hereby adopted for the following purposes:

- (a) To establish procedures for the efficient procurement of goods, services and public projects required by City;
- (b) To purchase goods and services offering the best value to the City;
- (c) To exercise responsible financial control over purchases;

- (d) To provide for identification of capital assets acquired for the City;
- (e) To establish policy and procedures for the disposition of surplus goods;
- (f) To provide for and encourage the standardization of goods, thereby promoting efficiencies in the delivery of services to the residents, taxpayers and businesses within the City, consistent with the "or equal" provisions contained in Public Contract Code Section 3400;
- (g) To clarify for all City departments the law with respect to competitive bidding requirements;
- (h) To provide all qualified bidders with a fair opportunity to enter the bidding process, thereby stimulating competition in a manner conducive to sound fiscal practices;
- (i) To maintain the highest ethical standards in the awarding of public contracts;
- (j) To encourage competition for public contracts and to aid public officials in the efficient administration of public contracting, to the maximum extent possible;
- (k) To clearly define the authority of the purchasing function; and
- (l) To provide guidance in the appropriate use of sole sourcing for the purchase of non-public works related equipment, materials, supplies, and services.

Section 2-6.02. Definition of Terms.

The terms listed below, and their variants, whenever used in the Chapter, unless indicated otherwise in this Chapter or defined otherwise by state statute, shall be construed as follows:

(a) "Alternative procedure" means purchasing goods, services or public projects by negotiated contract, purchase order or any other procedure outlined in the City's purchasing and bidding policies and procedures manual approved by the City Manager and consistent with this Chapter. A type of alternative procedure may include, but is not limited to, what will be referred to as a "simplified pricing procedure" wherein the authorized contracting party, or his/her designee, obtains written or oral price quotes from one or more potential contractors or suppliers, and accepts the quote that is determined to be in the best interests of the City. Job order contracts, requests for proposals or requests for qualifications are other forms of "alternative procedure" for purposes of this Section.

(b) "Best Value" means a value determined by evaluation of objective criteria that may include, but not be limited to price, features, functions, life-cycle costs, experience, and past performance. A best value determination may involve the selection of the lowest cost proposal meeting the interests of the local agency and meeting the objectives of the project, selection of the best proposal for a stipulated sum established by the procuring agency, or a tradeoff between price and other specified factors.

(c) "Bid" means the response submitted by a bidder to an invitation for bids issued by the City for goods, services or public projects needed by the City.

(d) "City" means City of Ontario. For purposes of this Chapter, the term "City" shall also include any entity affiliate with the City of Ontario, including the Ontario Housing Authority, to the extent such entity adopts a resolution subjecting itself to the Uniform Public Construction Cost Accounting Act.

(e) "Commission" means the California Uniform Construction Cost Accounting Commission.

(f) "Competitive Bidding" means the process whereby bids are solicited from potential bidders in accordance with applicable law, under the direction of the Purchasing Division, to foster cost effective competition within the private sector providing goods, services, or public projects to the City.

(g) "Conflict of Interest" means a clash between the public interest and the private pecuniary interest of the individual concerned. A conflict of interest arises when a City employee's personal or financial interest conflicts or appears to conflict with his/her official responsibility.

(h) "Contract" means an agreement between competent parties with binding legal force.

(i) "Controller" means the State Controller of the State of California.

(j) "Cooperative Purchasing" means a purchasing method whereby the procurement requirements of two or more governmental entities are combined to obtain the benefits of volume pricing, reduction in administrative costs, or both.

(k) "Emergency" means a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

(l) "Facility" means any plant, building, structure, ground facility, utility system (subject to the limitation found in Cal. Public Contract Code § 22002), real property, streets and highways, or other public work improvement.

(m) "Formal Bid" means a bid that is, subject to Section 2-6.07, advertised in a local newspaper; submitted in a sealed envelope and in conformance with a prescribed format; and publicly opened at a specified place, date and time.

(n) "Goods" means supplies, materials, equipment and other commodities (other than services and real property) included in Cal. Commercial Code § 2105.

(o) "Informal Bid or Quotation" means a competitive bid that is submitted by a bidder for procurement of goods or services for which formal bidding is not required.

(p) "Job Order Contract" means a contract that is based upon prices or charges contained in a unit price book, sometimes published by independent commercial sources, which detail repair and construction tasks, specifications, units of measurement and unit prices for each task.

- (q) "Maintenance Work" as defined in Cal. Public Contract Code § 22002.
- (r) "Personal Property" means any property, other than real property, including any furniture, fixtures or equipment that is attached to real property in such a way that it can be removed without causing significant damage to the real property.
- (s) "Procurement" means purchasing, leasing, or otherwise acquiring any goods, services, or public project construction, including all of the functions that pertain to the acquisition.
- (t) "Professional Services" means advisory, consulting, architectural, engineering, computer, telecommunications, legal, financial, surveying or any service which involves the exercise of professional discretion or independent judgment based on an advanced or specialized knowledge, expertise or training gained by formal studies or experience.
- (u) "Public Project" as defined in Cal. Public Contract Code § 22002.
- (v) "Purchase Order" means the City's written document provided to a vendor formalizing the terms and conditions associated with the ordering of the goods, services, or public project required by the City.
- (w) "Purchase Requisition" means a written request submitted to Purchasing by a Using Agency to initiate the procurement process for specified goods, services or a public project.
- (x) "Purchasing Officer" means the position defined within the City's organizational structure responsible for overseeing the Purchasing Division. The person occupying such position may delegate to such other person or entity as he/she deems advisable such duties and responsibilities as have been provided to him/her under this Chapter.
- (y) "Recycled Goods" means finished manufactured products containing recycled materials in the production thereof.
- (z) "Repair" means to mend an old thing, not to make a new thing; to restore to a sound state something which has become partially dilapidated, not to create something that has no existence; to make whole an existing article and not the manufacture of something new. The term presupposes a thing in existence to be repaired.
- (aa) "Responsive Bid" means a bid which meets all of the specifications set forth in the request for bid proposal.
- (bb) "Responsible Bidder" means a bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the public works contract.
- (cc) "Services" means the furnishing of labor, time or effort by a contractor or vendor, which may involve to a lesser degree, the delivery or supply of products. The term does not include services rendered by City officers and employees, nor private firms offering professional services.

(dd) "Sole Source" means a non-competitive procurement decision whereby acceptable justification exists to support public works or non-public works related purchases provided by one particular supplier.

(ee) "Surplus Personal Property" means any personal property that is unneeded, obsolete or otherwise unsuitable for use by the Using Agency.

(ff) "Using Agency" means any department, affiliate, agency or other unit of City government that requisitions any good, service, or public project through a centralized purchasing organization.

(gg) "Writing" means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

#### Section 2-6.03. Ethics Statement.

It is of the highest importance that the taxpayers, residents and businesses of the City of Ontario have complete confidence in the integrity of their public servants. This need is especially critical in the procurement of goods, services and public projects for the City's operational requirements. All City employees are required to exemplify high standards of integrity in their individual conduct and are responsible to ensure that they transact procurement activity consistent with City policies and procedures and applicable federal, state and local laws and regulations.

#### Section 2-6.04. Centralized Purchasing Program.

There is hereby created a Purchasing Division of the Administrative Services Agency in which is vested the authority for the centralized procurement of goods, services and public projects for the City.

#### Section 2-6.05. Purchasing Officer.

There is hereby created the position of Purchasing Officer who shall oversee the following activities:

(a) Solicitation of Competition. Obtain the best value on all purchases and award only to responsible bidders. Discourage uniform bidding and endeavor to obtain the highest level of open competition feasible on all purchases.

(b) Procurement. Purchase goods, services and public projects required by Using Agencies in accordance with the rules and regulations prescribed by the City Council; administrative procedures approved by the City Manager; and the purchasing procedures implemented by the Administrative Services Agency or as otherwise provided by law.

(c) Contractual Commitments. Manage the purchasing program using contracts as permitted by law including, but not limited to, equipment service contracts,

lease purchase agreements and rental agreements, subject to the restrictions set forth in this Chapter and/or specifically provided by law. Negotiate and recommend the execution of contracts for the purchase of supplies, services and equipment.

(d) Documentation. Maintain purchasing related forms, bid lists, vendor directory, catalog file and records needed for the efficient operation of the City's centralized purchasing program.

(e) Market Trends. Keep informed of current developments in the procurement field in areas such as prices, market conditions and new products.

(f) Disposition of Surplus Personal Property. Facilitate the transfer of surplus or unused goods between City departments as needed. Sell surplus goods unsuitable for City use or discard if there is no salvage value.

(g) Asset Identification. Assign asset numbers to capital assets for accountability and fiscal control of City property.

#### Section 2-6.06. Supplemental Regulations.

(a) City Council Rules and Regulations. The City Council may, from time to time, adopt one or more resolutions establishing rules and supplemental regulations to clarify the application of this Chapter's provisions. Such rules and regulations shall be in conformity with the intent and purpose of this Chapter. In the event of any conflict between such rules and regulations and the provisions of this Chapter, this Chapter shall prevail.

(b) Administrative Rules and Regulations. The City Manager, or his/her designee, shall have the power to render interpretations of this Chapter and to adopt and enforce written rules and supplemental regulations to clarify the application of this Chapter's provisions and any resolution(s) adopted pursuant to subdivision (a), above. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this Chapter and any such resolution(s). Without limiting the nature of the foregoing, such rules and supplemental regulations may include, without limitation, criteria upon which contracts shall be bid and awarded. In the event of any conflict between such rules and regulations and the provisions of this Chapter or such resolution(s), this Chapter and any such resolution(s) shall prevail.

#### Section 2-6.07. Use of Electronic Means.

Consistent with the stated policy of promoting efficient public contract law, consistent with the best of modern practice and research, and pursuant to the authority granted by Public Contract Code Section 1600 and 1601, the City shall be authorized to utilize electronic means in the procurement and administration of contracts, so long as the purpose and intent of applicable state law, this Chapter, and any supplemental rules or regulations are met. Without limiting the nature of the foregoing, the City may utilize online bidding and selling methods, electronic signature in accordance with applicable state, local and federal law, and electronic mail for delivery of notices when "mailed" notice is required herein. Whenever "sealed" bids or proposals are called for, any

electronic means may be used so long as such electronic means provide for the secured submission of the required data. Whenever bids are required to be "opened", such bids shall be deemed "opened" if and when they are made available to both the City and the public simultaneously, in a public setting, including, without limitation, by way of making such bids available in an electronic format that is readable by the public. If provisions of this section are in conflict with any other resolution or ordinance of the City, or any State law or regulation, this section shall prevail.

Section 2-6.08. Exemptions from Centralized Purchasing.

The Purchasing Officer, with the approval of the City Manager, may authorize (which authorization, to be effective, shall be in writing) any Using Agency to purchase or contract for specified goods, services, or public project independently of the Purchasing Division, but he/she shall require that such purchases or contracts be made in conformity with the procedures established by this Chapter, and shall further require periodic reports from agencies on purchases and contracts made under such written authorizations.

Section 2-6.09. Inspection and Testing.

The Purchasing Officer or designee shall inspect goods delivered and contractual services performed to determine their conformance with the specifications set forth in the order or contract. The Purchasing Officer or designee shall have the right to waive any defect or informality. The Purchasing Officer or designee shall have the authority to require chemical and physical tests of samples, submitted with bids, and samples of deliveries which are necessary to determine their quality and conformance with required specifications.

Section 2-6.10. Purchase Requisitions.

Using Agencies shall initiate requests for goods, services, and public projects using purchase requisitions submitted to the Purchasing Division, in accordance with City's Purchasing Policies and Procedures. Upon review of any requisition, the Purchasing Officer may require additional justification concerning the requisition from the originating Department/Agency.

Section 2-6.11. Purchase Orders.

The purchase of goods, services, and public projects (pursuant to federal, state and local law, including the dollar limit thresholds established by the Ontario City Council) shall be made only by purchase order, except as approved by City policy. Except in cases of emergency as set forth in § 2-6.24 of this Chapter, purchases of items by any person other than a designated City employee without an approved purchase order shall not be binding upon the City or constitute a lawful charge against City funds.

Section 2-6.12. Budgeted Funds Required.

Except in cases of an emergency, purchase orders or contracts for goods, services, and public projects shall not be issued unless: 1) budgeted funds exist in the fund/account against which the purchase is to be charged; or 2) an authorization to override is provided by the Budget Office due to a pending budget adjustment.

Section 2-6.13. Public Projects.

(a) Small. Public projects of forty-five thousand dollars (\$45,000) or less may be performed by the employees of the City by force account, by negotiated contract, a contract obtained by way of an alternative procedure, or by purchase order. In addition, the City may, but shall not be legally required to, use one of the procurement methods set forth in subdivisions (b) or (c) hereof.

(b) Medium. Public projects of one hundred seventy-five thousand dollars (\$175,000) or less shall be let to contract by informal procedures as set forth in this Chapter. In addition, the City may, but shall not be legally required to, use the procurement method set forth in subdivision (c) hereof.

(c) Large. Public projects of more than one hundred seventy-five thousand dollars (\$175,000) shall, except as otherwise provided in this Chapter, be let to contract by formal bidding procedure.

(d) If, as, and when the amounts set forth above are amended by the State, this ordinance shall be deemed to have been amended to reflect such changes, without the need for further action on the part of the City. Such changes by the State shall be deemed to be incorporated by reference herein.

Section 2-6.14. Services.

Professional, non-professional and maintenance service contracts may be let by any formal, informal or alternative procedure, as established by City Council resolution, or in the absence of any such City Council resolution as established by administrative rule or regulation. Award may be predicated on a best value selection.

Section 2-6.15. Qualifications Based Services.

Notwithstanding any other provision of law, selection for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required.

Section 2-6.16. Goods.

Contracts for the provision of goods may be let and awarded by any formal, informal or alternative procedure, as established by City Council resolution, or in the absence of any such City Council resolution as established by administrative rule or regulation.

Section 2-6.17. Formal Bid Procedure.

The formal bid procedure shall be as set forth herein, or as otherwise required by state or federal law or supplemented by City Council or administrative rules or regulations.

(a) Adoption of Plans. The City Council or its designated representative shall adopt plans, specifications, and working details for all Public Projects exceeding one hundred seventy-five thousand dollars (\$175,000).

(b) Notices Inviting Bids. Notices Inviting Bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project. The notice shall be published at least 14 calendar days before the date of opening the bids in a newspaper of general circulation, printed and published in the jurisdiction of the City. The notice shall be sent electronically, if available, by either facsimile or electronic mail and mailed at least 15 calendar days before the date of opening the bids to all construction trade journals specified in Public Contract Code Section 22036. Notices Inviting Bids shall include a general description of the items to be purchased and shall state where bid forms may be obtained and the date, time and place of bid opening. In addition to the notice required by this Section, the City may give such other notice as it deems proper.

(c) Bidders List. The notice inviting bids shall be mailed to all responsible, prospective vendors known to City staff and others requesting, in writing, to participate in the bid process.

(d) Award of contracts. If awarded, the bid will be awarded to the responsible bidder who submits the lowest responsive bid. Unless provided otherwise by law, the City shall have the right to waive any defect or informality in the bidding or in the procedures set forth in this Section. Unless provided otherwise by law, no defect of informality shall void any contract entered into.

Section 2-6.18. Informal Bid Procedure.

The City may let and award bids for small or medium public projects, as defined in Section 2-6.13, subdivisions (a) and (b), respectively, pursuant to the procedures set forth in this Section.

(a) The City shall maintain a list of qualified contractors, identified according to categories of work. Minimum criteria for development and maintenance of the contractors list shall be determined by the Commission.

(b) All contractors on the list for the category of work being bid or all construction trade journals pursuant to in Public Contract Code Section 22036, or both all contractors on the list for the category of work being bid and all construction trade journals pursuant to in Public Contract Code Section 22036, shall be mailed, faxed or emailed, a notice inviting informal bids unless the product or service is proprietary.

(c) All delivery of notices to contractors and construction trade journals pursuant to subdivision (b) shall be completed not less than 10 calendar days before bids are due.

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

(e) If all bids received are in excess of one hundred thousand dollars (\$100,000), the City Council may, by adoption of a resolution by a four-fifths vote, award the contract, at one hundred eighty-seven thousand five hundred dollars (\$187,500) or less, to the lowest responsible bidder, if it determines the cost estimate of the City was reasonable.

(f) Informally bid contracts shall, whenever possible, be based on at least three (3) responsive bids.

(g) Sealed bids may, at the City's election, be received by the City via the electronic bid management system.

(h) Informal Bids shall be awarded to the lowest responsible bidder, consistent with the quality and delivery requirements. The City Manager, or his/her designee, shall be authorized to award contracts for Public Projects of up to one hundred thousand dollars (\$100,000). The City Council shall be authorized to award bids for Public Projects of more than one hundred thousand dollars (\$100,000).

#### Section 2-6.19. Alternative Bid Procedure.

When formal bidding or informal bidding is not required by this Chapter, the City may use any alternative procedure for the procurement of goods, services, or public projects. An "alternative procedure" means purchasing goods, services or public projects by negotiated contract, purchase order or any other procedure outlined in the City's purchasing and bidding policies and procedures manual approved by the City Manager and consistent with this Chapter. A type of alternative procedure may include, but is not limited to, what will be referred to as a "simplified pricing procedure" wherein the authorized contracting party, or his/her designee, obtains written or oral price quotes from one or more potential contractors or suppliers, and accepts the quote that is determined to be in the best interests of the City. Job order contracts, requests for proposals or requests for qualifications are other forms of "Alternative Bid Procedures" for purposes of this Section.

#### Section 2-6.20. Rejection of Bids; Options on Rejection and When No Bids or Equal Bids Are Received.

(a) In its discretion, the City Council, or for projects of one hundred thousand dollars (\$100,000) or less the City Manager or his/her designee, may reject any bids presented, if the City, prior to rejecting all bids and declaring that the project can be more economically performed by employees of the City, furnishes a written notice to an apparent low bidder. The notice shall inform the bidder of the City's intention to reject the bid and shall be mailed at least two business days prior to the meeting at which the City intends to reject the bid. If after the first invitation of bids all bids are rejected, after reevaluating its cost estimates of the project, the City shall have the option of either of the following:

(1) Abandoning the project or re-advertising for bids in the manner described by this Chapter.

(2) By passage of a resolution by a four-fifths vote of the City Council, may have the project done by force account without further complying with this Chapter.

(b) If a contract is awarded, it shall be awarded to the lowest responsible bidder. If two or more bids are the same and the lowest, the City may accept the one it chooses.

(c) If no bids are received through the formal or informal procedure, the project may be performed by the employees of the City by force account, or negotiated contract without further complying with this Chapter.

#### Section 2-6.21. Design Build.

Notwithstanding any provision contained in this Chapter to the contrary, the City may utilize a design-build method of procurement, to the extent permitted by law, including, without limitation Public Contract Code Sections 22160 et seq. and 20194.

#### Section 2-6.22. Local Preference.

The City has established a local preference in order to promote the community's economic health and to encourage local participation in the procurement process. For the purchase of goods, with the exception of materials for public works projects, the City may grant to vendors located within the City limits of Ontario a 1 $\frac{3}{4}$ % advantage in the City's determination of low bid due to the ultimate receipt by the City and County of a proportionate amount of the sales tax associated with the purchase of the goods solicited. A vendor whose sales tax is reportable outside of the City but within the County of San Bernardino will receive a  $\frac{3}{4}$ % advantage in low bid determination.

#### Section 2-6.23. Exceptions.

The Purchasing Officer may make any of the following procurements without complying with the procurement methods set forth above, as follows:

(a) In an "emergency", provided the procedures set forth in Section 2-6.24 are followed.

(b) The goods, services or public project can be obtained from a sole source .

(c) Where the awarding entity determined that the nature of the subject of the contract is such that competitive proposals would be unavailing or would not produce an advantage, and the advertisement for competitive bid would thus be undesirable, impractical, or impossible.

(d) The City Council has by resolution transferred the authority to make the purchase of goods to another governmental agency through cooperative purchasing and the agency generally follows the provisions of Cal. Government Code §§ 54201 through 54204.

Section 2-6.24. Emergency Procurements.

(a) In accordance with Public Contract Code Sections 22050 et seq., in cases of emergency when repair or replacements are necessary, the City Council, pursuant to a four-fifths vote of the City Council, may proceed at once to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts. Before the City Council takes any action pursuant to this subdivision (a), it shall make a finding, based on substantial evidence set forth in the minutes of its meeting, that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency.

(b) Pursuant to Public Contract Code Section 22050, Subdivision (b)(1), the City Council hereby delegates to the City Manager or his/her designee, the authority to repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.

(c) If the City Manager or his/her designee orders any action specified in subdivision (a), that person shall report to the City Council, at its next meeting required pursuant to this section, the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency.

(d) (1) If the City Council orders any action specified in subdivision (a), the City Council shall review the emergency action at its next regularly scheduled meeting and, except as specified below, at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action.

(2) If the City Manager or his/her designee orders any action specified in subdivision (a), the City Council shall initially review the emergency action not later than seven days after the action, or at its next regularly scheduled meeting if that meeting will occur not later than 14 days after the action, and at least at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action, unless the City Manager or his/her designee has terminated that action prior to the City Council reviewing the emergency action and making a determination pursuant to this subdivision.

(3) When the City Council reviews the emergency action pursuant to subdivision (1) or (2), it shall terminate the action at the earliest possible date that conditions warrant so that the remainder of the emergency action may be completed by giving notice for bids to let contracts.

Section 2-6.25. Identification of Capital Assets.

The Purchasing Division will, when feasible and practical, assign asset numbers to items identified as capital assets in accordance with the administrative policies that are in effect. Assignment of asset numbers will take place at the earliest time that individual assets can be identified from the purchase order. Assigned asset numbers shall

become permanent references for tracking and controlling assets. Certain other categories of assets, which may not be identified as capital assets, may also be assigned asset numbers for inventory and tracking purposes in accordance with the administrative policies that are in effect.

Section 2-6.26. Execution of Instruments.

Pursuant to Government Code section 40603, the City Manager is authorized to sign all warrants drawn on the City Treasury, all written contracts and conveyances made or entered into by the City Council, and all instruments requiring the City seal, provided any such document does not exceed such amount or such authority as may be established from time to time by resolution, motion or order of the City Council. The City Manager may delegate to any subordinate of the City Manager the authority granted to the City Manager by this Section; provided that such delegation by the City Manager must be made in writing and signed by the City Manager in order to be effective.

Section 2-6.27. Conflicts of Interest.

(a) City employees shall comply with the City's Conflict of Interest Code; Administrative Manual Policy Number I-2-4, "Statement of Policy on Fraud"; the Code of Ethics, Rule XXIII of the City's Personnel Rules and Regulations; and pertinent laws and regulations, all of which are incorporated herein by reference.

(b) Any architects or engineer, or other consultant, used by the City to assist in the development of any project-specific documents shall not be eligible to participate in the preparation or submission of a bid or proposal for that project, except as permitted by Section 2-6.21.

(c) Pursuant to Government Code Section 1126, employees of the City shall not engage in any business or activity that provides goods, services or public projects to the City. This subdivision shall not apply to the mere ownership of stock of the supplier of goods, services or Public Project, so long as the stock ownership is less than two (2) percent of the total outstanding stock of the supplier, and the supplier is a publicly traded company.

Section 2-6.28. Gifts and Gratuities.

City employees are prohibited from accepting money, premiums, incentives or anything of value, in an amount exceeding the amount established by City Council resolution, from any vendor or potential vendor of goods, services or public projects to the City.

Section 2-6.29. Cooperative Purchasing Programs.

The Purchasing Division is authorized to purchase any goods and services by means of cooperative purchasing programs (also known as "piggybacking") pursuant to California Government Code Section 6502 and Ontario Resolution No. 91-141 (adopted by the City Council on December 17, 1991), so long as the goods, services or public projects were originally let in accordance with at least the minimum requirements of this Chapter. All documents in connection therewith and on behalf of the City of Ontario will be signed in accordance with established City Signature Authority Policy.

Section 2-6.30. Use of Recycled Materials.

In the procurement of goods for the City, a preference shall be given to buy recycled goods in accordance with Ontario Municipal Code Section 6-3.701. Recycled goods are defined and provided for in such California State legislation such as the State Assistance for Recycling (STAR) Markets Act of 1989 (commencing with California Public Contract Code § 12150) and the California Integrated Waste Management Act of 1989 (commencing with California Public Resources Code § 40000).

Section 2-6.31. Disposition of Surplus Personal Property.

The Purchasing Officer, upon notification by Using Agencies of excess City-owned surplus personal property, is authorized to determine whether any such City-owned personal property is surplus to the present or future needs of the City and will coordinate the disposition of said City property. This Section shall not be applicable to personal property or money, to the extent the disposition of such is governed by other applicable law, including, without limitation, escheat pursuant to Government Code Sections 50050 et seq., personal property or goods pursuant to the California Uniform Controlled Substances Act (Health and Safety Code, §§ 11000 et seq.), or the Unclaimed Property Law (Code of Civ. Proc., §§1500 et seq.).

(a) Declaration of Surplus Goods. Using Agencies that determine certain goods to be of no use to their Agency must complete a “surplus property transaction request” and forward it to the Purchasing Officer for review and subsequent declaration as being surplus.

(b) Custody of Surplus Goods. Each Using Agency shall retain custody of its surplus goods until their transfer or final disposition has been determined. No Using Agency shall, in any event, permit any surplus goods held by it to be loaned or donated without prior City Council approval, or destroyed or otherwise removed from the City's custody without the prior written approval of the Purchasing Officer.

(c) Transfer. Before disposing of surplus goods, the Using Agency shall canvass all other Using Agencies to determine whether another City Agency can use the surplus goods. If another Agency desires to use the goods, Purchasing shall assist in transferring the goods to that Agency.

(d) Disposition. The Purchasing Officer is hereby authorized to dispose of surplus goods which are not used or needed by any Using Agency or which have become unsuitable for City use. Such goods may be disposed of by any of the following procedures:

- (1) Exchanged or traded in on new goods;
- (2) Sold utilizing competitive procedures similar to those prescribed herein for open market procurement;
- (3) Sold at public auction conducted by a professional auctioneer;
- (4) Sold utilizing a negotiation process when the Purchasing Officer deems that such process is in the best interests of the City;

- (5) Disposed of as scrap material or destroyed if no resale value exists; or
- (6) Donated to a non-profit organization or other public entity following a City Council determination that such donation would serve a public purpose.”

SECTION 4. The City Council hereby finds that this Ordinance is categorically exempt from further environmental review pursuant to the California Environmental Quality Act (Pub. Resources Code, §§ 21000 et seq.) (“CEQA”) because it constitutes continuing administrative or maintenance activities, such as purchases for supplies, personnel-related actions, general policy and procedure making, pursuant to State CEQA Guidelines Section 15378(b)(2). Therefore, City staff is hereby directed to file a Notice of Exemption with the County Clerk within three (3) days following the adoption of this Ordinance.

SECTION 5. If any Section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 6. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

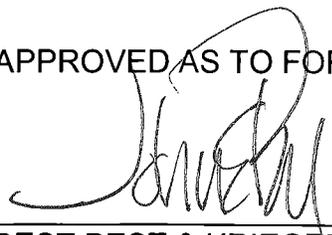
PASSED, APPROVED, AND ADOPTED this 19<sup>th</sup> day of July 2016.

  
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PAUL S. LEON, MAYOR

ATTEST:

  
\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
BEST BEST & KRIEGER LLP  
CITY ATTORNEY

