

ORDINANCE NO. 3120

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, TO AMEND CHAPTER 6 OF TITLE 2 OF THE ONTARIO MUNICIPAL CODE CONCERNING THE PROCUREMENT OF 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 City has previously elected to become subject to the Uniform Public Construction Cost Accounting Act (Pub. Cont. Code §§ 22000 et seq.) (the "Act") regarding the procurement of public works projects as set forth in Chapter 6 of Title 2 of the Ontario Municipal Code; and

WHEREAS, Assembly Bill 2249 was recently enacted, increasing of the informal and formal bid limits under the Act, effective January 1, 2019; and

WHEREAS, the City Council desires to make certain changes to its Municipal Code to implement the updated bidding procedures in accordance with the Act; and

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

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

SECTION 1. SECTION 2-6.13 of Chapter 6 of Title 2 of the Ontario Municipal Code is hereby amended to read as follows:

Section 2-6.13. Public Projects.

(a) Small. Public projects of sixty thousand dollars (\$60,000) 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 unless if the project is subject to federal funding requirements, use one of the procurement methods set forth in subdivisions (b) or (c) hereof.

(b) Medium. Public projects of two hundred thousand dollars (\$200,000) 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 two hundred thousand dollars (\$200,000) 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. SECTION 2-6.17 of Chapter 6 of Title 2 of the Ontario Municipal Code is hereby amended to read as follows:

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 two hundred thousand dollars (\$200,000).

(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 Cal. Pub. Contract Code § 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 3. SECTION 2-6.18 of Chapter 6 of Title 2 of the Ontario Municipal Code is hereby amended to read as follows:

Section 2-6.18. Informal Bid Procedure.

The City may let and award bids for small or medium public projects, as defined in § 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 Cal. Pub. Contract Code § 22036, or both all contractors on the list for the category of work being bid and all construction trade journals pursuant to in Cal. Pub. Contract Code § 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 two hundred thousand dollars (\$200,000), the City Council may, by adoption of a resolution by a four-fifths vote, award the contract, at two hundred twelve thousand five hundred dollars (\$212,500) 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 4. SEVERABILITY.** If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance, which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are hereby declared to be severable. This Ordinance amends, adds to, and deletes (as applicable) sections of the City of Ontario Municipal Code.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall take effect and be in force the later of January 1, 2019 or thirty (30) days after passage.

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.

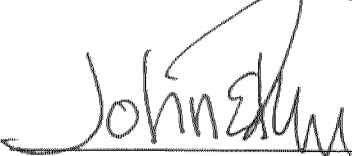
PASSED, APPROVED, AND ADOPTED this 20<sup>th</sup> day of November 2018.

  
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PAUL S. LEON, MAYOR

ATTEST:

  
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SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

  
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BEST BEST & KRIEGER, LLP  
CITY ATTORNEY

