

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE AMENDING PROVISIONS OF CHAPTERS 2.50 AND 2.52 OF TITLE 2 OF THE GARDEN GROVE MUNICIPAL CODE RELATING TO PURCHASING AND CONTRACTING PROCEDURES.

City Attorney Summary

This Ordinance amends provisions of Chapters 2.50 and 2.52 of the Garden Grove Municipal Code pertaining to purchasing and contracting procedures to conform the City's purchasing and contracting procedures to best practices and the latest changes in State and Federal laws and regulations.

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE HEREBY ORDAINS AS FOLLOWS:

SECTION 1: Section 2.50.060 of Chapter 2.50 of Title 2 of the Garden Grove Municipal Code is hereby amended as follows (additions shown in ***bold/italics***; deletions shown in **~~bold/strikeout~~**):

2.50.060 Bidding

Except as provided in Chapter 2.52, Ppurchases of supplies, services, equipment, and the sale of personal property shall be by bid procedures pursuant to Section 2.50.100 and 2.50.110. Bidding may be dispensed with only when:

A. The amount is ***equal to or*** less than \$25,000.00;

~~**B. The Finance Director determines that the supplies, services, and equipment are urgently required and the amount involved is less than \$5,000.00;**~~

~~**C B.**~~ An emergency requires that the order be placed with the nearest available source of supply ***and/or service providers, subject to Section 2.50.070; or***

~~**D C.**~~ The Finance Director determines that the commodity can be obtained from only one vendor;

D. The City has a contract with another governmental agency to purchase a particular item or service on a cooperative basis;

E. The purchase price and other terms are similar to those in a contract awarded for the same goods and/or services by another public agency or government purchasing cooperative organization based on a competitive process similar to the processes described in Sections 2.50.100 or 2.50.110 (piggy-back purchases);

F. The contract is for professional services to be let primarily based on qualifications; or

G. The City Council determines it to be in the best interest of the City.

SECTION 2: Section 2.50.070 of Chapter 2.50 of Title 2 of the Garden Grove Municipal Code is hereby amended as follows (additions shown in ***bold/italics***; deletions shown in **~~bold/strikeout~~**):

2.50.070 Emergency Purchase Justification

A. When bidding procedures ***for the purchase of goods or services in excess of \$25,000*** are dispensed ***with*** under Section 2.50.060 ***for an emergency that is not a proclaimed disaster***, the department that places such orders with the nearest available source of supply must submit a written justification to the Purchasing Division within 48 hours explaining the emergency conditions necessitating the placement of said order.

B. In cases of an emergency ***arising from exigent circumstances caused by a proclaimed disaster***, when repair, ~~or~~ replacements ***or services*** are necessary ***to respond to an immediate threat to health, safety or property***, the City ~~Council~~ ***Manager*** may proceed at once to ***contract for services or to*** replace or repair any public facility without adopting plans, specifications, ~~strain sheets~~, or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the ~~governing body~~ ***City Manager or his/her designee***, by contractor, or by a combination of the two. ***The City Manager or his/her designee shall implement such policies and procedures as may be necessary to comply with applicable Federal and/or State regulations affecting the ability of the City to receive reimbursement from Federal, State and/or joint task force agencies for emergency expenditures made during a proclaimed disaster.***

~~C. In case of an emergency, if notice for bids to let contracts will not be given, the public agency shall comply with Chapter 2.5 of Part 3 of Division 2 of the California Public Contract Code.~~

SECTION 3: Section 2.52.010 of Chapter 2.52 of Title 2 of the Garden Grove Municipal Code is hereby amended as follows (additions shown in ***bold/italics***; deletions shown in **~~bold/strikeout~~**):

2.52.010 Bid Procedures for Public Works Construction

A. The following bid procedures are adopted for public works ***project*** construction pursuant to ***the Uniform Public Construction Cost Accounting Act***, Public Contract Code Section 22000 et seq.

B. Public ~~works~~ projects, ***as defined in Public Contract Code Section 22002***, costing up to ~~\$30,000.00~~ ***\$45,000.00*** may be performed by force account, negotiated contract, or purchase order. Staff shall secure at least three ~~informal bids estimates~~ for the work for projects over ~~\$5,000.00 and up to \$30,000.00~~ ***\$10,000.00 and up to \$45,000.00*** before proceeding with the work.

C. ***Public projects, as defined in Public Contract Code Section 22002, costing \$175,000.00 or less may be awarded pursuant to the informal bid procedure in accordance with Public Contract Code Sections 22032, et seq. and Section 2.52.030 of this Title.*** Public ~~works~~ projects costing over ~~\$30,000.00~~ ***\$175,000.00*** shall be formally bid and awarded according to the ***formal*** bid process set forth in Public Contract Code Section ~~22000 et seq.~~ ***22037.***

D. The City Manager shall have the authority to award and approve construction agreements up to and including \$50,000.00. Contracts over \$50,000.00 shall be awarded and approved by the City Council.

E. The City Manager or his/her designee shall have the authority to approve change orders to construction agreements up to and including 10% of the awarded contract amount.

SECTION 4: Section 2.52.030 of Chapter 2.52 of Title 2 of the Garden Grove Municipal Code is hereby added to read as follows:

2.52.030 Informal Bid Procedures

A. ***Informal Bid Procedures. Public projects, as defined by the Uniform Public Construction Cost Accounting Act (the "Act") and in accordance with the limits listed in Section 2.52.010, may be let to contract by informal procedures as set forth in this Section and Public Contract Code Section 22032, et seq.***

B. Contractors List. A list of contractors shall be developed and maintained in accordance with the provisions of Public Contract Code Section 22034 and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission.

C. Notice Inviting Informal Bids. Where a public project is to be performed which is subject to the provisions of this Section, a notice inviting informal bids shall be mailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with Subsection B, and to all construction trade journals as specified by the California Uniform Construction Cost Accounting Commission (the "Commission") in accordance with Public Contract Code Section 22036. Additional contractors and/or construction trade journals may be notified at the discretion of the Finance Director. In complying with this Section, the following exceptions shall be applicable:

(1) If there is no list of registered contractors maintained by the City for the particular category of work to be performed, the notice inviting informal bids shall be sent only to the construction trade journals specified by the Commission.

(2) If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclusively to such contractor or contractors.

D. Bids In Excess of \$175,000. If all bids received are in excess of \$175,000.00, the City Council may, by adoption of a resolution by a four-fifths vote, award the contract, at \$187,000.00 or less, to the lowest responsible bidder, if it determines the cost estimate of the City was reasonable.

SECTION 5: Section 2.52.040 of Chapter 2.52 of Title 2 of the Garden Grove Municipal Code is hereby added to read as follows:

2.52.040 Procurement in Emergencies

In case of an emergency, if notice for bids to let contracts will not be given, the City Manager or his/her designee shall comply with Chapter 2.5 of Part 3 of Division 2 of the California Public Contract Code (commencing with Section 22050). Additionally, the City Manager or his/her designee shall implement such policies and procedures as may be necessary to comply with other applicable Federal and/or State regulations affecting the ability of the City to receive reimbursement from Federal, State and/or joint

task force agencies for emergency expenditures made during a proclaimed disaster.

SECTION 6: If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 7: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.