

ORDINANCE NO. 20-25

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING SECTIONS 3.08.080, 3.08.120, 3.08.140, 3.08.180, 3.08.290, 3.08.320, 3.08.410, 3.08.420, 3.08.430, AND 3.08.560 OF THE ORANGE MUNICIPAL CODE TO UPDATE THE CITY'S PURCHASING SYSTEMVARIOUS SECTIONS OF ORANGE MUNICIPAL CODE CHAPTER 3.08.

WHEREAS, Chapter 3.08 of the Orange Municipal Code sets forth the City's procedures for the purchase of materials, supplies and equipment, professional services, and the selection of contractors to perform public projects, and

WHEREAS, the purpose of this ordinance is to amend various sections of Chapter 3.08 setting vendor limits on a per fiscal year basis, clarifying the prohibition against splitting projects, increasing and establishing the City Manager's signing and acceptance of funds authority, as well as increasing all other dollar amount thresholds as detailed in Chapter 3.08 as well as the thresholds for the use of purchase orders in connection with the procurement of materials, supplies and equipment, public projects, and professional services.

NOW, THEREFORE, the City Council of the City of Orange does ordain as follows:

SECTION I:

The subject Ordinance is not subject to the provisions of the California Environmental Quality Act (CEQA) because it is not a "project" as defined in Guideline 15378.

SECTION II:

Section 3.08.065 of the Orange Municipal Code, "Purchasing System – General – Vendor Limits Per Fiscal Year," is hereby added to read as follows:

3.08.065 General – Vendor Limits Per Fiscal Year.

All dollar amount thresholds provided for in this Chapter shall be defined as the financial value of procurements made to a respective vendor in a single fiscal year calculated on a per department basis. Multiple agreements from various departments to a single vendor for distinct scope of services may exceed the dollar amount thresholds detailed in this Chapter without triggering additional citywide aggregation requirements. However, in no instance shall one department exceed the dollar amount thresholds unless it first follows the procedures and approvals provided for in this Chapter. For purposes of this section, "financial value" means the total amount encumbered or contracted by a department to a vendor during a single fiscal year.

SECTION III:

Section 3.08.075 of the Orange Municipal Code, “Purchasing System – General – Prohibition against splitting projects.,” is hereby added to read as follows:

3.08.075 General – Prohibition against splitting projects.

- A. It shall be unlawful to split into smaller work orders or projects any contract for supplies, equipment, or services for the purpose of circumventing or evading the requirements of this ordinance.
- B. It shall be unlawful to split or separate into smaller work orders or projects any public project for the purpose of circumventing or evading the requirements of this chapter or the Uniform Public Construction Cost Accounting Act.

SECTION IV:

Section 3.08.080 of the Orange Municipal Code, “Purchasing System – General – Purchase Orders.,” is hereby amended to read as follows:

3.08.080 General – Purchase Orders.

The procurement of all materials, supplies or equipment, public projects and professional services of ~~\$5,000.00~~ \$15,000.00 or more per fiscal year shall be made only by written purchase orders issued by the Purchasing Officer and any other contractual document deemed necessary and appropriate by the Purchasing Officer and the City Attorney. Except as otherwise provided herein, no purchase order shall be issued unless the prior approval of the Purchasing Officer, or his or her designated representative, has first been obtained. Supplies, equipment, public projects and professional services of less than ~~\$5,000.00~~ \$15,000.00 in any one transaction shall be made using simplified and cost-effective operational procedures and forms approved by the Purchasing Officer without the use of formal or informal bid procedures and do not require a written purchase order.

SECTION V:

Section 3.08.085 of the Orange Municipal Code, “Purchasing System – General – Prohibition against splitting projects.,” is hereby added to read as follows:

3.08.085 General – Appropriation of Awarded Grant Funds.

Unless otherwise provided for in the specific grant program or application, the City Manager may formerly accept and appropriate awarded grant funds not exceeding \$100,000.00 so long that the matching funds associated with the grant, when applicable, are budgeted and do not exceed \$100,000.00. Any awarded grant funds exceeding \$100,000.00 or where matching funds associated with grant exceed \$100,000.00 or are not budgeted, shall be approved and appropriated by the City Council.

SECTION VI:

Section 3.08.120 of the Orange Municipal Code, “Purchasing System – Materials, Supplies and Equipment – General Bid Limits,” is hereby amended to read as follows:

3.08.120 Materials, Supplies and Equipment – General Bid Limits.

The purchasing of materials, supplies and equipment shall be entered into pursuant to either formal or informal bid procedures as hereinafter prescribed. All solicitation of bids shall be unrestricted and competitive except as otherwise provided.

- A. The purchase of materials, supplies and equipment of estimated value of less than ~~\$30,000.00~~ \$100,000.00 per fiscal year shall be made pursuant to the informal bid procedure prescribed in Sections **3.08.140** through **3.08.170** below.
- B. The purchase of materials, supplies and equipment of ~~\$30,000.00~~ \$100,000.00 or more per fiscal year shall be made pursuant to the formal bid procedure prescribed in Sections **3.08.180** through **3.08.280**, and shall require the approval of the City Council.

SECTION VII:

Section 3.08.140 of the Orange Municipal Code, “Purchasing System – Materials, Supplies and Equipment – Informal Bids,” is hereby amended to read as follows:

3.08.140 Materials, Supplies and Equipment—Informal Bids.

The purchase of materials, supplies and equipment with an estimated value of less than ~~\$30,000.00~~ \$100,000.00 may be made by the Purchasing Officer in accordance with the informal bid procedure prescribed in Sections **3.08.150** through **3.08.170** of this chapter.

SECTION VIII:

Section 3.08.180 of the Orange Municipal Code, “Purchasing System – Materials, Supplies and Equipment – Formal Bid Procedure,” is hereby amended to read as follows:

3.08.180 Materials, Supplies and Equipment—Formal Bid Procedure.

Except as otherwise provided in Section **3.08.290** below, the purchase of materials, supplies or equipment of an estimated value of ~~\$30,000.00~~ \$100,000.00 or more shall be awarded to the lowest responsible bidder in accordance with the formal bid procedure prescribed in Sections **3.08.190** through **3.08.280** below

SECTION IX:

Section 3.08.290 of the Orange Municipal Code, “Purchasing System – Materials, Supplies and Equipment – Exceptions to Competitive Bidding Requirements,” is hereby amended to read as follows:

3.08.290 Materials, Supplies and Equipment—Exceptions to Competitive Bidding Requirements.

Notwithstanding any provision of this chapter to the contrary, the competitive bidding procedures and requirements for the purchase of materials, supplies or equipment may be dispensed with and the Purchasing Officer shall have the authority (except as otherwise provided herein below) to hire or purchase whenever:

- A. Any agreement involving the acquisition of materials, supplies or equipment is to be entered into with another governmental entity through cooperative purchasing provisions;
- B. The purchase amount is less than ~~\$10,000.00~~ \$30,000.00 per fiscal year;
- C. The using department head and the Purchasing Officer, with the approval of the City Manager, certify in writing that the materials, supplies or equipment is offered by only one vendor (sole source), or when only one vendor is able to supply a commodity within the time frame and/or under the terms and conditions which reasonably meet the needs of the using City department for purchases in excess of ~~\$10,000.00~~ \$30,000.00 in value but less than ~~\$30,000.00~~ \$100,000.00 in value per fiscal year;
- D. The using department head and the Purchasing Officer, with the approval of the City Manager, certify in writing to the City Council that the materials, supplies or equipment is offered by only one vendor (sole source), or when only one vendor is able to supply a commodity within the time frame and/or under the terms and conditions which reasonably meet the needs of the using City department, for purchases of ~~\$30,000.00~~ \$100,000.00 or more per fiscal year and the City Council approves such purchase;
- E. ~~An emergency exists, in which event the head of any department may, with the approval of the Purchasing Officer, hire or purchase directly any materials, supplies or equipment, as needed; provided that such purchases shall not exceed the estimated value of \$10,000.00. The purchase of materials, supplies or equipment in excess of \$10,000.00 must be approved by the Purchasing Officer and the City Manager. All emergency purchases which would otherwise require formal bidding procedures shall be submitted to the City Council by the City Manager at the next regular Council meeting for ratification.~~

Public Project Emergencies (Public Contract Code section 22050).

Emergency contracting for public projects shall comply with Public Contract Code section 22050. The City Council may declare a public project emergency when the public interest and necessity demand immediate action to safeguard life, health, or property. In such cases, the City Manager is authorized to take immediate action and to procure necessary equipment, services, or supplies without competitive bidding. The City Manager shall report the emergency action to the City Council at its next regularly scheduled meeting, and the City Council shall review the need for continued emergency action at each such meeting until the emergency is terminated.

F. Administrative Emergencies (Non–Public Projects).

An administrative emergency exists when a sudden and unforeseen event creates an immediate need for materials, supplies, or equipment to protect life, health, property, or essential city operations, and the use of standard bidding procedures would cause unacceptable delay. In such circumstances, a department head may, with approval of the Purchasing Officer, procure the necessary materials, supplies, or equipment in an amount not to exceed \$30,000. Procurements exceeding \$30,000 shall require approval of the Purchasing Officer and the City Manager. All administrative emergency purchases shall be documented with a written statement describing the nature of the emergency, justification for the procurement, vendors contacted (if any), and associated costs.

SECTION X:

Section 3.08.320 of the Orange Municipal Code, “Purchasing System – Materials, Supplies and Equipment – Approvals,,” is hereby amended to read as follows:

3.08.320 Materials, Supplies and Equipment—Approvals.

All purchases of materials, supplies and equipment with a value of less than ~~\$30,000.00~~ \$100,000.00 per fiscal year shall have the prior approval of, and be executed by, the Finance Director and/or the Purchasing Officer. All purchases of materials, supplies and equipment with a value of ~~\$30,000.00~~ \$100,000.00 per fiscal year or more shall require the approval of the City Council.

SECTION XI:

Section 3.08.410 of the Orange Municipal Code, “Purchasing System – Professional Services – Limits and Approvals,,” is hereby amended to read as follows:

3.08.410 Professional Services – Limits and Approvals.

- A. Professional services of less than ~~\$5,000.00~~ \$15,000.00 per fiscal year require the approval of the initiating department head, shall be processed using operational procedures and forms approved by the Purchasing Officer and do not require a written purchase order.
- B. Professional services with a value in excess of ~~\$5,000.00~~ \$15,000.00 but not more than ~~\$30,000.00~~ \$100,000.00 per fiscal year require the approval of the initiating department head and shall be made by written contract executed by the City Manager and approved as to form by the City Attorney.
- C. Professional services with a value in excess of ~~\$30,000.00~~ \$100,000.00 per fiscal year require the approval of the City Council and shall be made by written contract executed by the Mayor and approved as to form by the City Attorney.

SECTION XII:

Section 3.08.420 of the Orange Municipal Code, “Purchasing System – Professional Services – Procedures,” is hereby amended to read as follows:

3.08.420 Professional Services—Procedures.

Due to the nature of professional services, the competitive bidding procedures and requirements of this chapter shall not be required for the retention of such services; provided, however, that the City department primarily responsible for the project for which professional services are required shall request a formal or informal written proposal from not less than three available and qualified consultants, whenever practicable. Where three consultants cannot be found which could provide the required service or where it is not practicable to obtain proposals from at least three available and qualified consultants, the initiating department head may then select from the available and qualified applicant consultants. Selections based on less than three firms must be documented with the names and addresses of consultants contacted by the City department primarily responsible for the project and the reasons why the provisions of this section could not be met. This documentation shall be maintained in the contract file of the City department primarily responsible for the project. The proposals received are to be evaluated on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required and at fair and reasonable prices to the City. Unless otherwise required by state and federal law, the requirement for the obtainment of formal or informal written proposals from not less than three consultants and the selection procedures set forth in this chapter for the furnishing of professional services may be dispensed with where: (1) the City seeks to retain specially trained and experienced persons or firms which are in the business of rendering unique and/or specialized services and/or advice on financial, economic, accounting, engineering, legal, administrative matters, architectural design, environmental planning and/or analysis, public relations, insurance, medical or other specialized matters; and (2) the value of such services is not more than ~~\$30,000.00~~ \$100,000.00 per fiscal year. The City Council may, by resolution, prescribe procedures, rules and regulations governing the solicitation, selection and award of proposals or bids for the furnishing of such special services.

SECTION XIII:

Section 3.08.430 of the Orange Municipal Code, “Purchasing System – Professional Services – Authority of City Manager to Approve Increases in Contract Amounts,” is hereby amended to read as follows:

3.08.430 Professional Services—Authority of City Manager to Approve Increases in Contract Amounts.

Unless the contract for professional services provides otherwise, the City Manager may approve dollar increases in professional services agreements that have been approved by the City Council. ~~The extent of the City Manager's authority to approve such increases shall be in the amount of \$10,000.00 or 10%, whichever is greater. However, in no event may the City Manager approve an increase of more than \$30,000.00.~~ The City Manager may approve an increase up to the greater of \$30,000 or 10% of the original contract amount, but not to exceed a total increase of \$100,000.

SECTION XIV:

Section 3.08.450 of the Orange Municipal Code, “Purchasing System – Professional Services – Selection of Private Architects, Engineers, Land Surveyors, Environmental, or Construction Project Management Services Firms,” is hereby amended to read as follows:

3.08.450 Professional Services—Selection of Private Architects, Engineers, Land Surveyors, Environmental, or Construction Project Management Services Firms.

A. For all contracts for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms (as those terms are defined in Section 4525 of the Government Code of the State of California, as the same may be amended from time to time) with an estimated value of less than ~~\$30,000.00~~ \$100,000, the City department primarily responsible for the project for which such professional services are required shall select firms based on their ability to perform the specific functions outlined in the solicitation for proposals or bids, including, but not limited to, such factors as:

1. Overall professional experience, reliability, and continuity of the firm as related to the tasks described in the solicitation for proposals or bids;
2. Professional experience of the firm in executing contracts of a similar nature;
3. Adequacy of personnel numbers within specific disciplines required to complete the work required by the solicitation for proposals or bids;
4. Experience and training of key personnel as related to the work described in the solicitation for proposals or bids;
5. Adequacy of number of principal(s) which are intended to be assigned to the contract;
6. Knowledge of applicable regulations and technology associated with the contract;
7. Quality and timeliness of recently completed or nearly completed projects which were similar to the work described in the solicitation for proposals or bids;
8. Specialized qualifications for the services to be performed.

Any individual or firm proposing to provide construction project management services shall provide evidence that the individual or firm and its personnel carrying out onsite responsibilities have expertise and experience in construction project design review and evaluation, construction mobilization and supervision, bid evaluation, project scheduling, cost-benefit analysis, claims review and negotiation, and general management and administration of a construction project.

Such factors shall be weighed by the City department primarily responsible for the project according to the nature of the contract, the needs of the City and complexity and special requirements of the specific contract for which the services will be provided.

- B.** The City department primarily responsible for the project shall request a detailed fee proposal from the best qualified firm and shall attempt to negotiate a contract with the best qualified firm. Should the City department primarily responsible for the project be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at fair and reasonable compensation, negotiations with that firm shall be terminated. The City department primarily responsible for the project shall then undertake negotiations with the second most qualified firm. Failing accord, negotiations shall be terminated. The City department primarily responsible for the project shall then undertake negotiations with the third most qualified firm. Failing accord, negotiations shall be terminated. Should the City department primarily responsible for the project be unable to negotiate a satisfactory contract with any of the selected firms, the City department primarily responsible for the project may select additional firms in the manner prescribed above and continue the negotiation procedure until an agreement is reached.

This section shall not apply for contracts for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms with an estimated value of ~~\$30,000.00~~ \$100,000 or more, which contracts must be approved by the City Council. Contracting for said professional services will be done in accordance with the procedures prescribed in Sections **3.08.420** and **3.08.440** above; provided that, in addition to an evaluation on the basis of fair and reasonable prices to the City for the services to be rendered, the factors set forth in subsection A of this section may be used to evaluate the competence and professional qualifications of any individual or firm proposing to provide said services.

SECTION XV:

Section 3.08.520 of the Orange Municipal Code, “Purchasing System – Public Projects—Informal Bidding Procedures.,” is hereby amended to read as follows:

3.08.520 Public Projects—Informal Bidding Procedures.

Pursuant to the Uniform Public Construction Cost Accounting Act as adopted by the City (Public Contract Code Section **22000** et seq.), the following shall govern the selection of contractors when a public project which is anticipated to fall within the monetary limits on informal bids described in Section **3.08.500**(C) of this chapter is to be performed:

- A.** The City shall prepare a notice of the opportunity to bid which describes the project in general terms, states the time and place for the submission of bids and describes how to obtain more detailed information about the project.
- B.** The City shall provide the notice to all contractors for the category of the work to be bid, as shown on the list of contractors developed and maintained by the Department of Public Works in accordance with criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission ("Commission").
- C.** The City may also provide the notice to all construction trade journals specified by the Commission for the County of Orange. Additional contractors and/or construction trade

journals may also be notified at the discretion of the Director of Public Works; provided, however: (1) if the City has not prepared a list of qualified contractors for the particular category of work to be performed, the notice inviting bids shall be provided only to the construction trade journals specified by the Commission; and (2) if the product or service is proprietary in nature such that it can be legally obtained only from a certain contractor(s), the notice inviting informal bids may be provided exclusively to such contractor(s).

- D. All notices to contractors and construction trade journals pursuant to this section shall be provided not less than 10 calendar days before bids are due.
- E. The City Manager shall have the authority to award informal contracts pursuant to this section with a value of ~~\$30,000.00~~ \$100,000 or less pursuant to the findings and recommendations presented by the Director of Public Works. Such contracts shall have the prior approval of, and be executed by, the City Manager and shall be approved as to form by the City Attorney. All contracts with a value in excess of ~~\$30,000.00~~ \$100,000 to be awarded pursuant to this section shall require the approval of the City Council and shall be executed by the Mayor and approved as to form by the City Attorney. Unless the agreement provides otherwise, the City Manager may approve dollar increases to contracts that have been approved by the City Council. The extent of the City Manager's authority to approve such increases shall be in the amount of ~~\$10,000.00~~ \$30,000.000 or 10%, whichever is greater. However, in no event may the City Manager approve an increase of more than ~~\$30,000.00~~ \$100,000.00.
- F. If all informal bids received exceed that amount set forth in Public Contract Code Section **22032(b)**, or as it may be amended from time to time, and the City Council determines that the cost estimate was reasonable, the City Council may award the contract to the lowest responsible bidder at up to that additional amount set forth in Public Contract Code Section **22034(d)**, or as it may be amended from time to time, by resolution approved by the vote of the whole City Council as required by Section 22034(d). Such contracts shall be executed by the Mayor and approved as to form by the City Attorney. Otherwise, such work shall be awarded to the lowest responsible bidder pursuant to the formal bid procedures prescribed in Sections **3.08.530** through **3.08.570** of this chapter.

SECTION XVI:

Section 3.08.560 of the Orange Municipal Code, "Purchasing System – Public Projects—Award of Formal Bid Contracts.," is hereby amended to read as follows:

3.08.560 Public Projects—Award of Formal Bid Contracts.

All contracts for public work with a value greater than that amount set forth in Public Contract Code Section **22032(c)**, or as it may be amended from time to time, shall require the approval of the City Council and shall be executed by the Mayor and approved as to form by the City Attorney. Unless the agreement provides otherwise, the City Manager may approve dollar increases to contracts that have been approved by the City Council. The extent of the City Manager's authority to approve such increases shall be in the amount of ~~\$10,000.00~~ \$30,000.00 or 10%, whichever is greater. However, in no event may the City Manager approve an increase of more than ~~\$30,000.00~~

\$100,000.00. If a contract is awarded, it shall be awarded by the City Council to the lowest responsible bidder. The determination of the "lowest responsible bidder" shall be at the discretion of the City Council pursuant to the findings and recommendations presented by the Director of Public Works at the time of award of contract. In determining the lowest responsible bidder, the following shall be considered by the City Council, in addition to price:

- A. The ability, capacity and skill of the bidder to perform the contract or provide the services required;
- B. Whether the bidder can perform the contract or provide the services promptly, or within the time specified, without delay or interference;
- C. The sufficiency of the bidder's financial resources to perform the contract or provide the service;
- D. The ability of the bidder to provide future maintenance and services where such maintenance and service is essential;
- E. The quality and timeliness of the bidder's performance on previous contracts for the City;
- F. Litigation by the bidder on previous contracts with the City;
- G. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- H. The bidder is licensed under the Contractors' State License Law (commencing with Section **7000** of the Business and Professions Code of the State of California, as the same may be amended from time to time) to perform the work for which it submitted a bid proposal.

SECTION XVII:

If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION XVIII:

The City Clerk is hereby directed to certify the adoption of this Ordinance and cause the same to be published as required by law. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this ____ day of _____, 2025.

Daniel R. Slater, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

APPROVED AS TO FORM:

Nathalie Adourian, City Attorney, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the _____ day of _____, 2025, and thereafter at the regular meeting of said City Council duly held on the _____ day of _____, 2025 was duly passed and adopted by the following vote, to wit:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

Pamela Coleman, City Clerk, City of Orange