

**ORDINANCE NO. 78**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, AMENDING CHAPTER 3.28 OF THE WILDOMAR MUNICIPAL CODE PERTAINING TO CONTRACTING FOR SERVICES**

**WHEREAS**, Chapter 3.28 of the Wildomar Municipal Code contains procedures for contracting for consulting and professional services; and,

**WHEREAS**, this Chapter authorizes the City Manager to execute contracts for consulting and professional services that do not exceed \$50,000 in value without having to take the contract to the Council for prior approval; and,

**WHEREAS**, Section 3.28.010 ("Purpose") states that consultant contracts include any contract that is not a contract for a Public Project or a purchase of supplies and equipment; and,

**WHEREAS**, the City desires to clarify the provisions of Chapter 3.28 with respect to contracts for services other than professional services and the procedures that apply to contracting for various types of professional services; and,

**WHEREAS**, this Ordinance is not a project under CEQA because there is no potential for a direct or indirectly physical impact on the environment.

THE CITY COUNCIL OF THE CITY OF WILDOMAR DOES ORDAIN AS FOLLOWS:

**SECTION 1: Amendment of Chapter 3.28.** Chapter 3.28 of the Wildomar Municipal Code is hereby amended to read as follows.

**"CHAPTER 3.28 CONTRACTS FOR SERVICES**

3.28.010 Definitions

3.28.020 Contracts of \$50,000 or less

3.28.030 Contracts over \$50,000

3.28.040 Discretionary process

3.28.050 Amendments after award

**§ 3.28.010 DEFINITIONS.**

**OTHER SERVICES.** Services that are not Professional Services.

**PROFESSIONAL SERVICES.** Services that involve the exercise of professional discretion and independent judgment based on advanced or specialized knowledge, expertise or training gained by formal study or experience. Professional services include, but are not limited to, services provided by appraisers, attorneys, instructors, insurance advisors, those professions listed in Government Code Section 4526, and other specialized consultants.

**SERVICES.** The furnishing of labor, time or effort by a contractor.

**§ 3.28.020 CONTRACTS OF \$50,000 OR LESS.**

(A) The City Manager, or his or her designee, shall be empowered to contract for Professional or Other Services without the necessity of competitive bid, without notice of competitive bid, and without City Council approval of the contract if the total fee for services and materials under the contract is fifty thousand dollars (\$50,000.00) or less. The total fee must include all reasonably foreseeable costs and work under the proposed contract. Except as allowed under Section 3.28.030(F), the proposed contract must include any reasonably related work on the same project, and larger contracts shall not be divided into smaller contracts, divided among multiple contractors, or divided by any other method intended to avoid competitive bidding under Section 3.28.030. The City Manager may designate a person or persons to exercise any authority granted to him or her by this Chapter 3.28.

(B) Contracts for architectural, landscape architectural, engineering, environmental, land surveying, or construction project management services, as defined by California Government Code Sections 4525 and 4526, shall be awarded on the basis of demonstrated competence and qualification for the type of services required, and at fair and reasonable prices.

(C) Contractors may submit statements of qualifications and expressions of interest in providing services to the City, whether in response to a Request for Qualifications issued by the City or not. The City may specify a uniform format for statements of qualifications. Statements of qualifications may be project specific or may be for multiple projects which occur during a time period not exceeding one three calendar years. Statements of qualifications shall be maintained by the City Clerk's office, consistent with the City's document retention policies. A copy of any Request for Proposals for services issued pursuant to Section 3.24.030 shall be provided to each person or firm that has a current statement of qualification on file with the City for work relevant to the Request for Proposals.

**§ 3.28.030 CONTRACTS OVER \$50,000.**

A contract for Professional or Other Services valued over fifty thousand dollars (\$50,000.00) must be entered into by use of competitive sealed proposals. Proposals for the contract shall be solicited through a Request for Proposals.

(A) Public Notice. Public notice of the Request for Proposals shall be given in the same manner as provided in Section 3.24.110(A) (Formal Contract Procedure, Notice

inviting bids). A copy of the Request for Proposals shall be provided to each person or firm that has a current statement of qualification on file with the City for work relevant to the Request for Proposals.

(B) Receipt of Proposals and Release as Public Records. Proposals shall be received and opened in a method that avoids disclosure of contents to competing proposers until after award of the contract or final rejection of all proposals. The Request for Proposals must state that after award of the contract or final rejection of all proposals, all responses become public records subject to disclosure. A copy of each proposal received shall be retained by the City Clerk as required by the City's document retention policies, and shall be open for public inspection after award of the contract or final rejection of all proposals.

(C) Evaluation Factors. The Request for Proposals shall state the relative importance of evaluation factors, including price.

(D) Evaluation of Proposals. After the due date for proposals, the City Manager or his/her designee shall evaluate the proposals and may contact any proposer for clarification of a proposal, to solicit additional information, or for purposes of interviewing. The City Manager or his/her designee may choose to contact all, some, or none of the responding proposers after the proposals are submitted to the City.

(E) Award. The contract shall be awarded to the responsible proposer whose proposal conforms to the Request for Proposals and is determined to be the most advantageous to the City, taking into consideration the evaluation factors set forth in the Request for Proposals and price. The City Manager shall prepare and place in the contract file maintained by the City Clerk's office a written report detailing the basis on which the recommendation for award of contract is made. For contracts entered into pursuant to this section, the City Manager shall submit a report of the proposals to the City Council with a recommendation concerning acceptance or rejection thereof, and the City Council shall approve or disapprove the recommendation and award the contract. Contracts for architectural, landscape architectural, engineering, environmental, land surveying, or construction project management services, as defined by California Government Code Sections 4525 and 4526, shall be awarded on the basis of demonstrated competence and qualification for the type of services required, and at fair and reasonable prices.

(F) Interim Urgency Contracts. The City Manager may execute a contract for Professional or Other Services without the necessity of competitive bid, without notice of competitive bid, and without City Council approval of the contract if the following criteria are satisfied:

1. There is an immediate need for the Professional or Other Services to protect the public health, safety or welfare.

2. The contract term is only for so long as is reasonably necessary for the Professional or Other Services to be provided while the City conducts the competitive bidding process required by this Section.

**§ 3.28.050 DISCRETIONARY PROCESS.**

Except where it would conflict with state law, the City Council or City Manager, as applicable, may dispense with any or all of this Chapter's procedures when they deem in their discretion it would be advantageous to the City to do so.

**§ 3.28.060 AMENDMENTS AFTER AWARD.**

In instances where the City effects a necessary change in the project during the course of performance of the contract, the compensation may be adjusted by mutual written agreement in a reasonable amount. The reasonable amount shall reflect and compensate the contractor for the amount of work to be performed that is changed from the scope of work previously agreed to by both parties. For contracts approved pursuant to Section 3.28.020, the City Manager may approve one or more amendments to compensation if the total amount of the compensation under the contract will not exceed \$50,000. The City Council shall approve all amendments to compensation for contracts approved pursuant to Section 3.28.030, and for amendments to compensation for contracts approved pursuant to Section 3.28.020 that would cause the total compensation to exceed \$50,000."

**Severability.** If any section, subsection, sentence, clause, or phrase 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 and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**Effective Date.** This ordinance shall take effect 30 days after its passage by the City Council.

**Publication.** The City Clerk shall cause this ordinance to be published or posted in accordance with Government Code section 36933.

**PASSED, APPROVED, AND ADOPTED** this 12th day of June, 2013.



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Timothy Walker  
Mayor

APPROVED AS TO FORM:



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Thomas D. Jex  
City Attorney

ATTEST:



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Debbie A. Lee, CMC  
City Clerk

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE)  
CITY OF WILDOMAR )

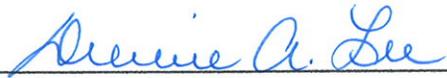
I, Debbie A. Lee, CMC, City Clerk of the City of Wildomar, California, do hereby certify that the foregoing Ordinance No. 78 was introduced at a regular meeting of the City Council of the City of Wildomar, California, on May 8, 2013, and was duly adopted at a regular meeting held on June 12, 2013, by the City Council of the City of Wildomar, California, by the following vote:

AYES: Mayor Walker, Mayor Pro Tem Swanson, Council Members Benoit, Cashman, Moore

NOES: None

ABSTAIN: None

ABSENT: None

  
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Debbie A. Lee, CMC  
City Clerk  
City of Wildomar