

CITY OF WILDOMAR – CITY COUNCIL
Agenda Item 1 D.
CONSENT CALENDAR ITEM
Meeting Date: April 22, 2009
May 13, 2009

TO: Honorable Mayor and City Council Members
FROM: Gary Nordquist, Finance Director
SUBJECT: Purchasing Ordinance

STAFF REPORT

RECOMMENDATION:

That the City Council review and consider for adoption the attached ordinance providing purchasing procedures for the City.

BACKGROUND/ANALYSIS:

Since incorporation, the City has been using the County of Riverside's Purchasing Ordinance (Chapter 2.92 of the Riverside County Code) as the Purchasing Ordinance for the City. After encountering several situations relating to the implementation of the County's ordinance in the City, City staff requested that the City Attorney's Office prepare a Purchasing Ordinance for the City tailored to the City's needs.

The attached Purchasing Ordinance will add three new chapters to the Wildomar Municipal Code. Chapter 3.06 will deal with the purchase of supplies and equipment, Chapter 3.07 with professional and consulting services, and Chapter 3.08 with public projects. Each chapter contains detailed procedures for the procurement of the goods and services regulated by that chapter. In general, the procedures required by the ordinance for a particular contract will depend on the dollar amount of the contract. All contracts for \$50,000 or more must be approved by the City Council after formal competitive bidding has been completed. Contracts for lesser amounts may be approved by the City Manager with informal bidding procedures being required. For contracts of \$1,000 to \$9,999, three verbal quotations are required; for contracts of \$10,000 to \$50,000, three written quotations are required. Exceptions are made for emergency circumstances. For purchases of supplies and equipment, reasonable preference is given to local businesses.

Furthermore, the chapter on professional and consulting contracts differs from the County ordinance in that it allows the City to consider the bid price but does not require the City to award a professional or consulting contract to the lowest bidder. This

change was made upon the recognition by City staff that due to the expertise and skill required, price should not be the determinative factor in the selection of professional and consultant services.

In sum, the attached Purchasing Ordinance will provide City staff and the public with clear procedures to be followed for purchases and contracts. The attached Purchasing Ordinance is more detailed than the County ordinance and provides a comprehensive set of procedures that address the full range of the City's purchasing and contracting needs.

FISCAL IMPACTS:

None.

ALTERNATIVES:

1. Take no action
2. Provide staff with further direction and take action at the May 13, 2009 Council meeting.

Submitted by:

Approved by:

Gary Nordquist
Finance Director

John Danielson
Interim City Manager

ORDINANCE NO. 25

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, ADDING CHAPTERS 3.06, 3.07 AND 3.08 TO THE WILDOMAR MUNICIPAL CODE PERTAINING TO BIDS, PURCHASES AND CONTRACTS

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

SECTION 1: Addition of Chapters to Wildomar Municipal Code. Chapters 3.06, 3.07 and 3.08 are hereby added to the Wildomar Municipal Code to read as follows:

"3.06 PURCHASING OF SUPPLIES AND EQUIPMENT

- 3.06.010 Definitions
- 3.06.020 Adoption of purchasing system
- 3.06.030 Centralized purchasing
- 3.06.040 Director of Finance to serve as general purchasing agent
- 3.06.050 Exemptions from centralized purchasing
- 3.06.060 Encumbrance of funds
- 3.06.070 Emergency purchases
- 3.06.080 Purchasing methods
- 3.06.090 Verbal and written quotations
- 3.06.100 Bidding preference for local businesses
- 3.06.110 Sealed bid procedure for purchases greater than \$50,000
- 3.06.120 Surplus supplies and equipment
- 3.06.160 Gifts and rebates

§ 3.06.010 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AGENCY and USING AGENCY. Any department, agency, commission, bureau or other unit of the City government, other than the Wildomar Redevelopment Agency, which derives its support wholly or in part from the City. Nothing in this chapter is intended to prohibit the Wildomar Redevelopment Agency from adopting the City's rules pertaining to purchase of supplies and equipment, contracting, etc. to the extent permitted by state law.

BIDDER'S SECURITY. In connection with any sealed bid process required by this Chapter, each bid shall be accompanied by a bond, cashier's check or cash in an amount of not less than 10% of total amount bid. For sealed bids submitted pursuant to Section 3.07.030, the Finance Director may waive the requirement that Bidder's Security be provided by the bidder.

BIDDERS' FILE. A current file of sources of supply of articles for each category of commodities repetitively purchased for City use.

CITY MANAGER. Shall mean the City's City Manager and his or her designee.

DIRECTOR OF FINANCE. Shall mean the City's Finance Director and his or her designee.

PUBLIC PROJECTS. Shall have the same definition as set forth in Section 22002 of the Public Contract Code.

PURCHASES. Purchases of supplies and equipment shall include leases or rentals as well as transactions by which the City acquires ownership.

RESPONSIBLE BID. An offer, submitted by a responsible bidder, to furnish supplies and equipment or services in conformity with the specifications, delivery terms and conditions and other requirements included in the notice inviting bids.

RESPONSIBLE BIDDER. A bidder who submits a responsible bid and who is not only financially responsible, but is possessed of the resources, judgment, skill, ability, capacity and integrity requisite and necessary to perform the contract according to its terms.

A determination as to whether or not a bidder is a Responsible Bidder shall include an evaluation of relevant factors including, but not limited to, the following factors:

- (1) The ability, capacity and skill of the bidder to perform the contract or provide the maintenance and service required;
- (2) Whether the bidder has the facilities to perform the contract promptly, or within the time specified, without delay or interference;

- (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- (4) The bidder's record of performance of previous contracts or of provision of maintenance and service thereunder;
- (5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or of the furnishing of maintenance and service thereunder;
- (6) The sufficiency of the financial resources and ability of the bidder to perform the contract;
- (7) The quality, availability and adaptability of the supplies and equipment to the particular use required;
- (8) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
- (9) The number and scope of exceptions and conditions attached to the bid;
- (10) Whether the bidder has a previous or existing relationship with an officer or employee of the City that may create a conflict of interest on behalf of the officer or employee if a contract is awarded to the bidder.

SUPPLIES and EQUIPMENT. Any and all articles, things or personal property furnished to or used by any agency.

§ 3.06.020 ADOPTION OF PURCHASING SYSTEM.

In order to establish efficient procedures for the purchase of supplies and equipment, to secure for the City supplies and equipment at the lowest possible cost commensurate with quality needed, to exercise positive financial control over purchases, to clearly define authority for the purchasing function and to assure the quality of purchases, a purchasing system is hereby adopted.

§ 3.06.030 CENTRALIZED PURCHASING.

There is hereby created a centralized purchasing and stores division within the Finance Department, in which is vested authority for the purchase and storage of supplies and equipment.

§ 3.06.040 DIRECTOR OF FINANCE TO SERVE AS GENERAL PURCHASING AGENT.

The Director of Finance shall be the head and have general supervision of the purchasing department. The Director of Finance shall have the authority to:

(A) Purchase or contract for supplies and equipment required by any using agency in accordance with purchasing procedures prescribed by this chapter, such administrative regulations as the Director of Finance shall adopt for the internal management and operation of the purchasing department and such other rules and regulations as shall be prescribed by the City Council or the City Manager.

(B) Negotiate and recommend execution of contracts for the purchase of supplies and equipment.

(C) Act to procure for the City the needed quality in supplies and equipment at least expense to the City.

(D) Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases.

(E) Prepare and recommend to the City Council rules governing the purchase of supplies and equipment for the City.

(F) Prepare and recommend to the City Council revisions and amendments to the purchasing rules.

(G) Keep informed of current developments in the field of purchasing, prices, market conditions and new products.

(H) Prescribe and maintain such forms as reasonably necessary to the operation of this chapter and other rules and regulations.

(I) Supervise the inspection of all supplies and equipment purchased to insure conformance with specifications.

(J) Recommend the transfer of surplus or unused supplies and equipment between departments as needed, and the sale or disposition of supplies and equipment which cannot be used by any agency or which have become unsuitable for City use.

(K) Maintain a bidders' file, vendors' catalog file and records needed for the efficient operation of the Purchasing Department.

§ 3.06.050 EXEMPTIONS FROM CENTRALIZED PURCHASING

The City Manager or Director of Finance may authorize any City department head to contract for the purchase of supplies and equipment provided that such purchases shall be made in conformity with the procedures established by this chapter, and any administrative regulations as the Director of Finance shall adopt for the internal management and operation of the purchasing department and such other rules and regulations as shall be prescribed by the City Council or the City Manager.

§ 3.06.060 ENCUMBRANCE OF FUNDS.

Except in cases of emergency or in cases where specific authority has been first obtained from the City Council, no purchase order for supplies or equipment shall be issued unless the Director of Finance or his or her designee has certified that there exists an unencumbered appropriation in the fund account (or available budget balance) against which the purchase is to be charged.

§ 3.06.070 EMERGENCY PURCHASES.

While the need for occasional emergency purchases is recognized, the practice must be curtailed as much as possible by anticipating needs so that the normal purchasing procedure utilizing bidding may be used.

(A) An emergency shall be deemed to exist if:

(1) There is a great public calamity.

(2) There is immediate need to prepare for national or local defense.

(3) There is a breakdown in machinery or an essential service which requires the immediate purchase of supplies and equipment to protect the public health, welfare or safety.

(4) An essential departmental operation affecting the public health, welfare or safety would be greatly hampered if the prescribed purchasing procedure would cause an undue delay in procurement of the needed item.

(B) In case of an emergency which requires immediate purchase of supplies and equipment, the City Manager may authorize the Director of Finance or his or her designee to secure by the process set forth in section 3.06.090 any supplies and equipment regardless of the amount of the expenditure.

§ 3.06.080 PURCHASING METHODS

(A) The table below sets forth the required methods for purchasing of supplies and equipment, as well as contracting for Public Projects. (Contracting for consultants and professional services is addressed in Chapter 3.07.)

Value of Purchase	Purchase Method	Agreement Format
Under \$1,000	None	None
\$1,000 to \$9,999	3 verbal quotations ¹	Purchase Order approved by Finance Director or contract signed by City Manager for supplies or equipment ² City Manager executed contract for Public Projects ⁴
\$10,000 to \$50,000	3 written quotations ¹	Purchase Order approved by Finance Director and City Manager or contract signed by City Manager for supplies or equipment ² City Manager executed contract for Public Projects ⁴
Over \$50,000	Council authorized Notice Inviting Sealed Bids ³	Council Approved Contract ⁴

1 See section 3.06.120

2 See section 3.06.090

3 See section 3.06.110

4 All City contracts shall be assigned a contract number by the City Clerk for tracking and filing purposes.

(B) Notwithstanding the table in subsection (A), the purchase method for the purchase of supplies or equipment may be dispensed with under the following circumstances:

(1) An emergency, as described in section 3.06.070, requires that an order be placed immediately to protect the public health, safety or welfare; or

(2) The supply or equipment can only be obtained from one source ("sole source"); or

(3) The supply or equipment is available through or in conjunction with another public agency's purchase of such supply or equipment and the other public entity has gone through a bidding process which the City Manager determines is comparable to the processes described above ("piggybacking").

(C) Notwithstanding the table set forth in (A), the purchase method for Public Projects may be dispensed with under the following circumstances:

(1) An emergency, as described in section 3.06.070, requires that the project or service be undertaken immediately; or

(2) The project can only be performed by or the service can only be rendered by one vendor.

(D) The Agreement format required by the Table in (A) shall be required for any purchase pursuant to (B) or (C).

(E) In its discretion, the City Council may at any time, by a majority vote and without amending this chapter, waive the purchasing procedures or alter these proceedings to fit a specific purchase.

§ 3.06.090 VERBAL AND WRITTEN QUOTATIONS

(A) Minimum number of bids. Wherever possible, purchases utilizing verbal and written quotations shall be based on at least three bids, and shall be awarded to the lowest responsible bidder.

(B) Solicitation of bids. The Director of Finance or his or her designee shall obtain and/or review quotations as follows:

(1) By telephone provided the amount of the purchase is \$1,000 or more but less than \$10,000; and

(2) In writing provided the amount of the purchase is \$10,000 or more, but not more than \$50,000.

(C) Written bids. All bids received pursuant to this section shall be submitted to the Director of Finance who shall keep a record of all open market orders and bids for

a period of one year after the submission of bids or the placing of orders. This record, while so kept, shall be open to the public inspection.

§ 3.06.100 BIDDING PREFERENCE FOR LOCAL BUSINESSES.

For the purpose of determining the lowest responsible bidder as required by §§ 3.06.110 and 3.06.120, 1% of that portion of any bid subject to sales or use tax shall be deducted from such bid where it is determined that if such bid were accepted by the City as the lowest responsible bid received, the City would receive a refund of the 1% sales and use tax imposed by Chapter 3.05 ("Sales and Use Tax") of this code.

§ 3.06.110 SEALED BID PROCEDURE FOR PURCHASES GREATER THAN \$50,000

Purchases of supplies and equipment of an estimated value greater than \$50,000 shall be by written contract with the lowest responsible bidder pursuant to the procedure hereinafter prescribed.

(A) Notice inviting bids. Notices inviting bids shall be advertised by the City Clerk and shall include a general description of the articles to be purchased, shall state where bid forms and specifications may be secured, and the time and place for opening bids.

(1) Published notice. The City Clerk shall cause notices inviting bids to be published at least twice in a newspaper of general circulation ten days before the date of opening of the bids, with the second publication occurring at least five days after the first, or posted for ten days in three public places in the City that have been designated by the City Council.

(2) Bidders' file. The Director of Finance or his or her designee shall also solicit sealed bids from all responsible prospective suppliers whose names are on the bidders' file or who have made written request that their names be added thereto.

(B) Bidder's Security.

(1) Unless otherwise provided by the City Manager prior to the letting of public notices inviting bids, each bid shall be accompanied by Bidder's Security.

(2) Bidders shall be entitled to return of Bid Security; provided, however, that a successful bidder shall forfeit his or her Bid Security upon his or her refusal or failure to execute the contract within ten days after the preparation and mailing of the contract, unless in the latter event the City is solely responsible for the delay in executing the contract. The City Council may, on refusal or failure of the successful bidder to execute the

contract, award it to the next lowest responsible bidder. In such event, if the City Council awards the contract to the next lowest bidder, the amount of the lowest Bidder's Security shall be applied by the City to the contract price differential between the lowest bid and the second lowest bid, and the surplus less any City expenses related to the lowest bidder, if any, shall be returned to the lowest bidder.

(C) Bid opening procedure. Sealed bids shall be submitted to the City and shall be identified as "BID" on the envelope. Bids shall be opened in public at the time and place stated in the public notices. A tabulation of all bids received shall be available for public inspection during regular business hours for a period of not less than 30 calendar days after the bid opening. Once opened, the bids shall be public records. Notwithstanding the foregoing, any bid deemed non-responsive at the time of bid opening shall not be kept by the City and shall be returned to the bidder once deemed non-responsive. Grounds for determining a bid is non-responsive include, but are not limited to, failure to provide the required bid bond and failure to attend any mandatory walk through or pre-bid meeting.

(D) Rejection of bids. In its discretion, the City Council may reject any and all bids presented and re-advertise for bids pursuant to the procedure hereinabove prescribed.

(E) Award of contracts. Except as otherwise provided herein, contracts shall be awarded by the City Council to the lowest responsible bidder.

(F) Tie bids. If two or more bids received are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay or re-advertising for bids, the City Council in its discretion may accept the one it chooses.

(G) Performance bonds. The City Manager shall have the authority to require a performance bond or materials and labor bond or both before entering a contract in such amounts as he/she shall find reasonably necessary to protect the best interests of the City. If the City Manager requires such bond or bonds, the form and amount of same shall be described in the notice inviting bids.

§ 3.06.120 SURPLUS SUPPLIES AND EQUIPMENT.

All using agencies shall submit to the Director of Finance, at such times and in such forms as he or she shall prescribe, reports showing all supplies and equipment which are no longer used or which have become obsolete or worn out. The Director of Finance shall have authority to sell, exchange for or trade in on new supplies and equipment all supplies and equipment which cannot be used by any agency or which have become unsuitable for City use.

CHAPTER 3.07 CONTRACTS FOR CONSULTING AND PROFESSIONAL SERVICES

3.07.010 Purpose

3.07.020 Consulting contracts of \$50,000 or less

3.07.030 Consulting contracts over \$50,000

3.07.040 Contracting procedures for architectural, engineering and other construction related services

3.07.050 Discretionary process

§ 3.07.010 PURPOSE.

The City Council finds and declares that the competitive bid process is ill-suited for the selection of consultants and professional services. Consultants are required for professional or technical expertise and for matters requiring specialized abilities or a high degree of skill. Their numbers in relation to a particular skill or expertise required are comparatively limited. Where consultants are involved, the bidding process is not likely to result in a lower price to the City or eliminate unnecessary expense or delay. Consultant contracts include any contract that is not a Public Project or a contract for the purchase of supplies and equipment. Regardless of the method of contracting used as set forth in this chapter, such contract shall be assigned a contract number by the City Clerk for filing and tracking purposes.

§ 3.07.020 CONSULTING CONTRACTS OF \$50,000 OR LESS.

The City Manager, or his or her designee, shall be empowered to engage a consultant (including, but not limited to, material testing service, construction inspection services, testing, appraising, environmental, planning, financial, legal, development processing, governmental operations, special studies, and other services related thereto) without the necessity of competitive bid, without notice of competitive bid, and without City Council approval of the consultant's contract if the consultant's total fee for services and materials under the contract by which the consultant is engaged is fifty thousand dollars (\$50,000.00) or less. The consultant's total fee must include all reasonably foreseeable costs and work under the proposed contract. 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 consultants, or divided by any other method intended to avoid competitive bidding under Section 3.07.030. The City Manager may designate a person or persons to exercise any authority granted to him or her by this Chapter 3.07.

§ 3.07.030 CONSULTING CONTRACTS OVER \$50,000.

A contract for consulting 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 3.06.110(A) (Formal Contract Procedure, Notice inviting bids).

(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 consultants 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 proposing consultant 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 consultants after the proposals are submitted to the City.

(E) Award. The contract shall be awarded to the responsible consultant 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.

§ 3.07.040 CONTRACTING PROCEDURES FOR ARCHITECTURAL, ENGINEERING AND OTHER CONSTRUCTION RELATED PROFESSIONAL SERVICES

(A) Authority. For the purpose of procuring the services of architectural, landscape architectural, engineering, environmental, land surveying services, construction project management, or other similar services, as defined by California Government Code Sections 4525 and 4526, the following selection procedures shall be

used.

(B) **Policy.** It is the policy of this City to negotiate contracts for architectural, landscape architectural, engineering, environmental, land surveying services, construction project management, or other similar services on the basis of demonstrated competence and qualification for the type of services required, and at fair and reasonable prices.

(C) **Selection Procedure.**

(1) **Statement of Qualifications.** Persons engaged in providing the types of professional services designated in Section 3.07.040 (A) may submit statements of qualifications and expressions of interest in providing such professional services. 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 calendar year. Statements of qualifications shall be maintained by the City Clerk's office, consistent with the City's document retention policies.

(2) **Form of Request for Proposals.** The Request for Proposals shall describe the services required, list the types of information and data required of each consultant, list the evaluation factors and state the relative importance of identified qualifications.

(3) **Public Notice.** Public notice of the Request for Proposals shall be given in the same manner as provided in Section 3.06.110(A) (Formal Contract Procedure, Notice inviting bids). A copy of the Request for Proposals also shall be provided to each consultant or firm that has a current statement of qualification on file with the City for work relevant to the Request for Proposals.

(4) **Receipt of Proposals.** Proposals shall be received and opened in a method that avoids disclosure of contents to competing consultants during the process of negotiation. A copy of each proposal received shall be retained by the City Clerk consistent with the City's document retention policies, and shall be open for public inspection after award of the contract or final rejection of all proposals.

(5) **Evaluation of Proposals.** The City Manager or his/her designee shall evaluate the proposals based upon the evaluation factors set forth in the Request for Proposals. The City Manager or his/her designee may contact some, all or none of the responding consultants for clarification, additional information or interviews to assist in the ranking of the proposals

(6) Negotiation and Award of Contract.

(a) The City Manager shall negotiate a contract with the best qualified consultant for architectural, landscape architectural, engineering, environmental, land surveying services, construction project management, or other similar services at compensation which the City Manager determines is fair and reasonable to the City.

(b) If the City Manager is unable to negotiate a satisfactory contract with the consultant considered to be the most qualified, at a price determined to be fair and reasonable to the City, negotiations with that consultant shall be terminated in writing. The City Manager shall then undertake negotiations with the second most qualified firm. If the City Manager is unable to negotiate a satisfactory contract with the second most qualified firm, the City Manager shall terminate negotiations in writing and continue on in the same fashion with the next qualified firm until a satisfactory contract has been negotiated.

(c) If the City Manager is unable to negotiate a satisfactory contract with any of the selected firms, the City Manager shall select additional consultants in order of their competence and qualification and continue negotiations in accordance with this Chapter until an agreement is reached.

(7) Contract Approval.

(a) Contracts over \$50,000. For contracts greater than fifty thousand dollars (\$50,000.00), once the City Manager has negotiated a satisfactory contract with the best qualified consultant at compensation that the City Manager determines is fair and reasonable to the City, 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.

(b) Contracts \$50,000 or less. For contracts of fifty thousand dollars or less (\$50,000.00) once the City Manager has negotiated a satisfactory contract with the best qualified consultant at compensation that the City Manager determines is fair and reasonable to the City, the City Manager shall award the contract in accordance with Section 3.07.020.

(9) Amendments after Award. In instances where the City effects a necessary change in the project during the course of performance of the

contract, the consultant's compensation may be adjusted by mutual written agreement in a reasonable amount. The reasonable amount shall reflect and compensate the consultant for the amount of work to be performed by the firm that is changed from the scope of work previously agreed to by both parties. The City Manager may approve one or more amendments to a consultant's compensation if the total amount of the amendments do not exceed 15% of the original amount of the contract, or \$50,000, whichever is lower. The City Council shall approve all other amendments to a consultant's compensation.

(D) Inapplicability to Technical Work. In accordance with California Government Code section 4529, this section shall not apply where the City Manager, or his or her designee, determines that the services needed are more of a technical nature and involve little professional judgment and that requiring bids would not be in the public interest.

§ 3.07.050 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.

CHAPTER 3.08 BIDDING AND CONTRACTS FOR PUBLIC PROJECTS

3.08.060 Applicability of Chapter 3.06

3.08.070 Bidder's security

3.08.030 Contractor's bond

3.08.040 Insurance

3.08.050 Contract Retention

§ 3.08.060 APPLICABILITY OF CHAPTER 3.06

The procedure for the solicitation of bids and the awarding and execution of contracts for Public Projects shall be subject to and governed by the provisions of § 3.06.110 of this code when the estimated expenditure required exceeds the sum of \$50,000, and by the provisions of § 3.06.080 and 3.06.090 of this code when the estimated expenditure required does not exceed the sum of \$50,000.

§ 3.08.070 BIDDER'S SECURITY.

All notices inviting bids shall require that each bid be accompanied by Bidder's Security. Such Bidder's Security shall be governed by the procedures described in Section 3.06.110.

§ 3.08.030 CONTRACTOR'S BOND.

Every party to whom a contract for a Public Project is awarded involving an expenditure in excess of \$5,000 shall, before commencing work on any such Public Project, furnish the City with and file in the office of the City Clerk a bond, or bonds, in form satisfactory to the City, in the sum of 100% of the contract price thereof conditioned upon the faithful performance of the contract and upon the payment of all labor and material furnished in connection with the contract, in lieu of such bond, or bonds, cash or its equivalent, as specified by the City, may be given to the office of the City Clerk for deposit with the Finance Department.

§ 3.08.040 INSURANCE.

All contracts for Public Projects shall require the contractor to furnish evidence in form satisfactory to the City that the contractor has taken out and has in force liability and worker's compensation insurance in such amounts and form as may be required by the City, in addition to any other insurance required by the City's Risk Manager.

§ 3.08.050 CONTRACT RETENTION.

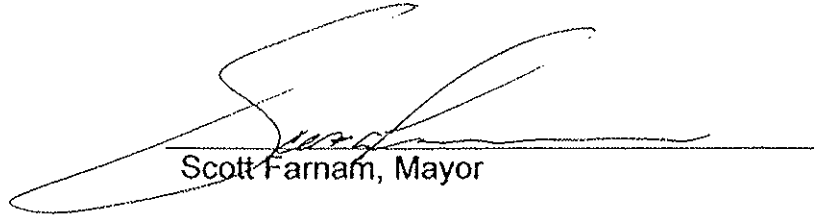
No contract for a Public Project shall provide for or authorize or permit the payment of more than 90% of the contract price before the completion of the work done under the contract and acceptance thereof by the City and expiration of the stop notice claim period and resolution of any such claims filed therein.

SECTION 2. 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.

SECTION 3. Effective Date. This ordinance shall take effect thirty (30) days after its passage by the City Council.

SECTION 4. 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 13th day of May, 2009.


Scott Farnam, Mayor

ATTEST:


Sheryll Schroeder, City Clerk

APPROVED AS TO FORM:


Julie Hayward Biggs, City Attorney

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

I, Sheryll Schroeder, City Clerk of the City of Wildomar, do hereby certify that the foregoing Ordinance No. 25 was introduced at a regular meeting of the Wildomar City Council on April 22, 2009 and duly adopted by the City Council of the City of Wildomar at a regular meeting, held on the 13th day of May, 2009, by the following vote of the Council:

- AYES: Mayor Farnam, Mayor Pro Tem Moore, Council Members Ade, Cashman, Swanson
- NOES: None
- ABSTAIN: None
- ABSENT: None

Sheryll Schroeder, City Clerk