

## ORDINANCE NO. 395

### AN ORDINANCE OF THE CITY OF CALIMESA, CALIFORNIA, AMENDING MUNICIPAL CODE CHAPTER 3.15 (SUPPLIES, SERVICES AND EQUIPMENT PURCHASE PROCEDURE) AND ADDING CHAPTER 3.60 (PUBLIC PROJECTS)

THE CITY COUNCIL OF THE CITY OF CALIMESA DOES HEREBY ORDAIN AS  
FOLLOWS:

**Section 1.** Chapter 3.15 (SUPPLIES, SERVICES AND EQUIPMENT  
PURCHASE PROCEDURE) of Title 3 (REVENUE AND FINANCE) of the Calimesa  
Municipal Code is hereby amended and restated as follows:

#### **Chapter 3.15 SUPPLIES, SERVICES AND EQUIPMENT PURCHASE PROCEDURE**

##### **3.15.010 Adoption of purchasing system.**

The provisions of this chapter are adopted in accordance with the provisions of California Government Code Sections 54201 through 54205 regarding the purchase of supplies, equipment and services. In order to establish efficient procedures for the purchase of supplies, services 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 for the purchase of all city supplies, services and equipment.

##### **3.15.020 - Centralized Purchasing Division.**

There is hereby created a centralized Purchasing Division in which is vested authority for the purchase of supplies, equipment, and services. The Purchasing Agent shall administer and be responsible for the successful performance of all functions of the Purchasing Division. The Purchasing Agent shall purchase supplies, equipment, and services at the lowest possible cost commensurate with quality needed.

##### **3.15.030 - Purchasing Agent.**

The City Manager is designated as purchasing officer pursuant to Section 2.05.060(i) of this municipal code, and shall assign an employee to act as a Purchasing Agent. The Purchasing Agent shall be the head, and have general supervision of the Purchasing Division, and shall act as the purchasing agent for the City. The Purchasing Agent shall have authority to:

A. Purchase or contract for supplies, equipment, and services required by any using department or agency in accordance with the provision of Section 54201 et seq. of the California Government Code, and with purchasing procedures prescribed by this chapter, such administrative regulations as the Purchasing Agent shall adopt for the

internal management and operation of the Purchasing Division and such other rules and regulations as shall be prescribed by the Council or City Manager;

B. Negotiate and recommend execution of contracts for the purchase of supplies, equipment, and services;

C. Act to procure for the City the needed quality in supplies, equipment, and services at least expense to the City;

D. Discourage collusion in bidding and induce full competition on all purchases;

E. Prepare and recommend to the City Manager rules governing the purchase of supplies, equipment and services for the City;

F. Prepare and recommend to the 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 processes as are reasonably necessary to the operation of this chapter and other rules and regulations;

I. Supervise the inspection of all supplies, equipment, and services purchased to insure conformance with specifications; and

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

K. Recommend local purchases whenever feasible, reasonable, and in the City's best interest.

#### **3.15.040 - Reserved.**

Reserved.

#### **3.15.050 - Specifications.**

As needed, the Purchasing Agent, in conjunction with the using department or agency, shall develop standard specifications for repetitively procured items and services. Every specification shall be prepared to assure the broadest possible bidder participation consistent with the needs of the using department or agency. Alternate specification provisions for any particular bid invitation may be established by the Purchasing Agent.

#### **3.15.060 - Formal contract procedure.**

Except as otherwise specifically provided in this section or in other sections of this chapter, purchases of supplies, equipment and services of an estimated value exceeding

\$25,000 shall be by formal sealed competitive bids. Awards for such expenditures shall be made by the Council to the lowest responsible bidder in accordance with the following provisions:

A. Lowest Responsible Bidder. "Lowest responsible bidder," as used in this chapter, shall mean that bidder who best responds in price, quality, service, fitness, or capacity to the particular requirements of the City. Price alone shall not be the determining factor but shall be considered along with the other factors, including, but not limited to, the ability of the bidder to deliver, availability of parts or service, prior experience and other factors relating to the particular needs of the City for the supplies, equipment or services to be purchased.

B. Notices Inviting Bids. The Purchasing Agent shall be responsible for posting notification of solicitation of bids, which shall include a general description of the articles to be purchased, state where bid specifications may be secured and the time and place for opening of the bids. The notice shall specify the factors referred to in subsection A of this section, which factors will be given special consideration in determining the lowest responsible bid for the supplies or equipment to be purchased. Notices shall be posted on the City's website and other public posting locations may be utilized as determined by the Purchasing Agent.

C. Bidders' Security. When deemed necessary by the Purchasing Agent, bidders' security may be prescribed in the notices inviting bids. Bidders shall be entitled to the return of bid securities; provided, however, a successful bidder shall forfeit his bid security upon his refusal or failure to execute the contract within the time designated in the bid specifications. The Council, on the refusal or failure of the successful bidder to execute the contract, may award the contract to the next lowest responsible bidder. If the 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, if any, shall be returned to the lowest bidder.

D. Performance Bonds. The Purchasing Agent shall have authority to require a performance bond before entering a contract in an amount reasonably necessary to protect the best interests of the City.

E. Bid Opening Procedure. Bids shall be submitted electronically through the electronic bidding system used by the City's Purchasing Division, unless the Purchasing Agent determines otherwise. Bids shall be made publicly available upon opening.

F. Confidentiality of Bids. All bids received pursuant to the provisions of this chapter shall not be revealed directly or indirectly to any other bidder until the bidding process is completed and all submitted bids have been verified. A tabulation of all bids received shall be available for public inspection during regular business hours after the bids have been verified.

G. Rejection of Bids. The Purchasing Agent may reject any and all bids presented and re-advertise for bids.

H. Award of Contracts. Any resulting contract shall be awarded by the Council to the lowest responsible bidder as defined in subsection A of this section.

### **3.15.070 - Informal contract procedure.**

Subject to other applicable provisions of this chapter:

A. Value of Purchases. General purchases of supplies, equipment and services of \$1,000 or less, shall be purchased directly by the departments under established administrative rules and authority. Purchases valued above \$1,000 and up to \$25,000 may be made in the open market pursuant to the procedure prescribed in this section without observing the procedures prescribed in Section 3.15.060 of this chapter.

B. Approval of Purchases. Any purchase above \$1,000 and up to \$10,000 shall be made by the Purchasing Agent, and require the prior approval of the City Manager. Any purchases above \$10,000 must be approved by the City Council.

C. Minimum Number of Bids. Open market purchases above \$1,000 and up to \$25,000 shall, whenever possible, be based on at least three bids, and shall be awarded to the lowest responsible bidder.

### **3.15.080 - Purchase orders.**

A. Purchase Orders. Purchases of supplies, equipment, and services shall be made only by numbered purchase order.

B. Change Orders. Any change order for an approved purchase or contract shall be documented by a purchase order addendum. The City Manager may authorize cumulative increases up to \$10,000 as long as sufficient funding is available.

### **3.15.090 - Encumbrance of funds.**

Except in cases of emergency, the Purchasing Agent shall not issue any purchase order for supplies, equipment or services unless there exists an unencumbered appropriation in the fund account against which such purchase is to be charged.

### **3.15.100 - Inspection and testing.**

The Purchasing Agent shall inspect supplies and equipment delivered and contractual services performed to determine their conformance with the specifications set forth in the order or contract. The Purchasing Agent shall have authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with specifications.

### **3.15.110 - Emergency procurement.**

For purposes of this section, an emergency shall be deemed to exist only when a condition exists that presents an immediate threat to health, safety or improved property and when a local emergency or disaster has been proclaimed.

A. When a local emergency is proclaimed, the City's normal purchasing procedures may be superseded by the following provisions to deal with the exigent circumstances.

B. Solicited bids that are non-responsive shall count towards the minimum number of bids required when there is a declared emergency or disaster in the City.

C. When an emergency or disaster is proclaimed, the City's normal requirements for sealed formal bids will be suspended to allow for telephonic or other electronic bids from potential vendors or suppliers, in lieu of written and/or sealed bids. In addition, the requirement for public posting may be waived. Also, if the purchase exceeds \$10,000, those expenditures will be presented to the Council for ratification within 60 days.

D. If the emergency requires the immediate procurement of supplies, equipment or services and the amount is above \$1,000 and does not exceed \$10,000, the Purchasing Agent will obtain the EOC (Emergency Operations Center) Director's approval prior to making a purchase.

E. If during the proclaimed emergency, the Purchasing Agent is not available, the EOC Director may order the needed commodity or service from the nearest available source. As soon as possible thereafter, the EOC Director shall submit to the Purchasing Agent a notation that the commodity or service has been ordered on an emergency basis from the vendor designated and the Purchasing Agent shall prepare an after-the-fact purchase order.

F. If the emergency requires the immediate procurement of supplies, equipment or services needed to preserve life and/or property, the purchase may be made without following bidding procedures. However, written justification enumerating one or more of the following rationale, must be included with the purchase request: emergency protective measure, scarce commodity, emergency consulting services, emergency road clearance, other emergency requirement, and/or lack of bids. The use of a pre-existing contract may be utilized under these circumstances.

G. During a declared emergency or disaster, the Purchasing Agent has the authority to rescind a contract for non-performance within 24 hours when a contractor or vendor, once awarded a contract, is unable to perform under the terms of the contract and the resulting delay or non-performance present an immediate threat to life, safety or improved property.

H. All purchases made under emergency or disaster conditions shall require separate invoicing from routine (non-disaster related) purchases. All invoices shall state the goods, services or equipment provided and shall specify where the purchases were delivered and/or used.

### **3.15.120 - Professional services.**

Contracts for services of specially-trained and professional persons shall be exempt from bidding. Such contracts may be procured by the Director of the Department (or designee)

that requires the services, in accordance with established administrative rules and procedures. If the amount exceeds \$1,000 the City Manager's approval is required. All contracts exceeding \$10,000 must be approved by the Council.

### **3.15.130 - Waivers.**

At its discretion, the Council may, at any time by majority vote and without amending this chapter, waive purchasing procedures or alter these proceedings to fit a specific purchase when such waiver is not in violation of California State law. Whenever special market conditions require it, the City Manager may waive the open market requirements for replenishment of supplies, materials, and equipment, or for services, where the best interest of the City is served, provided that such waiver is ratified by the Council at a meeting within 30 days of the purchase.

### **3.15.140 - Alternative Purchasing Procedures**

In lieu of the purchasing and bid procedures set forth in this article, the following alternative purchasing procedures may be used in the discretion of the Purchasing Agent for the purchase of supplies, equipment or services,

A. Where purchases are to be made in concert with or through agreements executed by other agencies, formal bid requirements as outlined in Section 3.15.060 of this chapter may be waived by the City Council.

B. Purchases of supplies, equipment or services where competitive bid procedures have already been utilized, such as purchases from federal, state or county governments, including, state of California agencies, counties, cities, joint power agencies, special districts, and nonprofit agencies whose main purpose is to assist cities or other public entities, and the supplies or equipment are supplied to the City at the same or better price, as was obtained through the competitive bid procedures of that entity.

C. When the requesting department determines in writing, after conducting a good faith review of the available sources, that there is only one source for the required equipment, supplies or services or that a sole source procurement is necessary to ensure compatibility with existing City equipment. The department requesting sole source procurement shall provide written evidence to support a sole source determination. Such evidence shall be approved by the Purchasing Agent. The City Manager may require that negotiations be conducted as to price, delivery and terms. The City Manager may also require the submission of cost or pricing data in connection with an award under this section.

### **3.15.150 - Unauthorized purchases and contracts.**

It shall be unlawful for an officer, employee, or agent of the City to order the purchase of supplies, equipment, or services, or to make any contract in violation of this chapter, and any order, purchase or contract made contrary to the provisions of this chapter shall not be binding on the City, and the City shall not be obligated thereunder.

**3.15.160 - Prohibition against splitting purchases.**

Purchase of supplies, equipment or services shall not be divided or staged for the purpose of circumventing the bidding or approval requirements of this chapter.

**3.15.170 - Disposition of City obsolete and surplus property.**

The City Manager shall have authority to sell as surplus, materials and equipment which cannot be used by any department or which have become unsuitable for city use, or to exchange the same for, or trade in the same one, new supplies, materials and equipment.

A. The sale of surplus supplies and equipment shall be made pursuant to rules prescribed by the city manager, and only after authorization from the City Council as to any items of an estimated value of \$10,000 or more.

B. Surplus supplies and equipment may be sold to the public if so prescribed by the city manager and/or the city council. City officials and employees, and their immediate families, however, shall be ineligible to purchase such surplus items.

**C. 3.15.180 - Reimbursement Agreements; Contracts Paid by Third Parties.**

The City Manager is authorized to enter into the following agreements:

A. Reimbursement agreements, whereby a third party (typically a developer or project applicant) pays for services relating to processing a development application, or for services relating to conditions of approval for a project.

B. Professional services agreements that are paid solely by third parties pursuant to a reimbursement agreement.

**Section 2.** Chapter 3.60 (PUBLIC PROJECTS) is hereby added to Title 3 (REVENUE AND FINANCE) of the Calimesa Municipal Code as follows:

**Chapter 3.60 - PUBLIC PROJECTS**

**3.60.010 - Intent.**

The intent of this chapter is to provide standardized procedures for awarding contracts for public projects in conformance with the Uniform Public Construction Cost Accounting Act (California Public Contract Code Section 22000 *et seq.*).

**3.60.020 - Definitions.**

Unless the context otherwise requires, the following definitions shall govern the construction of this chapter:

"Public project" shall be defined as that term is defined in Section 22002(c) of the California Public Contract Code or any successor statute thereto.

"Uniform Public Construction Cost Accounting Act" shall mean the procedures and regulations set forth in Chapter 2, commencing with Section 22000, to Part 3 of Division 2 of the California Public Contract Code or any successor act thereto.

### **3.60.030 - Applicability.**

All public projects shall be bid and let to contract in accordance with the procedures prescribed by the Uniform Public Construction Cost Accounting Act, or any successor act thereto, and the provisions set forth in this chapter.

### **3.60.040 - Bid requirements, purchasing procedures, and contracting procedures.**

This section shall govern the procedures for bidding and awarding all purchase orders and contracts to perform public projects. Bidding requirements and other purchasing and contracting procedures are categorized into three different levels set forth below. Each level shall govern purchases and contracts of different values. Notwithstanding any provision of this chapter, the bidding and other procedures for awarding public project contracts shall not violate the limitations of the Uniform Public Construction Cost Accounting Act, as they may be amended from time to time by the State Controller or the State Legislature.

A. Level 1 Projects. Public projects that do not exceed the limit in Public Contract Code Section 22032(a), as it now exists or may subsequently be amended, may be performed by City employees by force account or may be awarded by negotiated contract or by purchase order without competitive bidding.

B. Level 2 Projects. Public projects that do not exceed the limit in Public Contract Code Section 22032(b), as it now exists or may subsequently be amended, may be let to contract by the informal bid procedures set forth in this subsection B. All level 2 project contracts shall require informal competitive written bidding, as follows:

#### 1. Written bids.

- (i) Bid specifications shall be prepared and written notices soliciting written bids shall be disseminated consistent with paragraph 3. of subsection B. of this section.
- (ii) Bids shall be submitted in writing and must be received prior to the bid closing date to be considered.
- (iii) The awarding authority shall award the contract to the lowest responsible and responsive bidder. The awarding authority may reject all bids, or waive any irregularities or informalities in any bid or bidding.

2. Contractors list. The City shall develop and maintain a list of qualified contractors, identified according to categories of work, in accordance with the provisions of Public Contract Code Section 22034, or any successor statute

thereto, and the minimum criteria for development and maintenance of the contractors list as determined by the California Uniform Construction Cost Accounting Commission.

3. Notice inviting informal bids. At least 10 calendar days prior to the date informal bids are due, the City shall mail, fax or email a notice inviting informal bids to one or both of the following: (i) all contractors from the applicable category of work to be bid, as shown on the contractors list developed in accordance with paragraph 2. of subsection B. of this section, or (ii) all construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Public Contract Code Section 22036, or any successor statute thereto. The notice shall describe the project in general terms, shall clearly indicate how to obtain more detailed information about the project, and shall set forth the time and place for the submission of bids. Additional contractors or construction trade journals may be noticed at the discretion of the City department soliciting bids. 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.

4. Excess bids. If all bids received pursuant to the procedures outlined in this subsection B. are in excess of the limit in Public Contract Code Section 22032(b), the City Council may employ the procedure authorized in Public Contract Code Section 22034(d).

C. Level 3 projects. Public projects that exceed the limit in Public Contract Code Section 22032(c), as it now exists or may subsequently be amended, shall, except as otherwise provided by law, be let to contract by the formal bidding procedures set forth in this subsection.

1. Notice inviting formal bids. The City shall publish and mail a notice inviting sealed formal bids in accordance with the provisions of Public Contract Code Section 22037, or any successor statute thereto.

2. Receipt of bids. Electronic bids shall be received through the electronic bidding system selected by the City, and shall not be opened until the time designated in the bid specifications. Bids must be received prior to the bid opening to be considered. Users of the City's electronic bidding system shall be charged a fee, in an amount determined by the City Council by resolution.

3. Award. The City Council shall award the bid to the lowest responsible bidder, or reject all bids pursuant to Public Contract Code Section 22038, or its successor statute. The City Council may waive any irregularities or informalities in any bid or bidding.

### **3.60.050 - Delegation of authority to award contracts for level 1 projects.**

The City Manager is authorized to award bids and enter into contracts up to \$10,000 for Level 1 public projects, pursuant to Section 3.60.040(a) of this chapter, provided there

exists an unencumbered appropriation in the fund account against which the expense is to be charged.

**3.60.060 - Delegation of design approval authority.**

The Public Works Director and City Engineer are authorized to approve plans or designs for purposes of design immunity pursuant to Government Code Section 830.6, for all public projects approved by the City Manager pursuant to Section 3.60.050. Nothing in this section is intended to, nor will it, preclude the City Council from separately or additionally approving plans or designs for purposes of design immunity pursuant to Government Code Section 830.6.

**3.60.070 - Bid security.**

Bid security shall be required as a condition of submitting a written bid unless deemed unnecessary by the City Manager or his or her designee. Bid security may be a bond issued by a licensed and duly qualified corporate surety, or the equivalent in cash, money order, cashier's check, certified check, unconditional letter of credit, or other form approved by the city attorney. Bid security must equal at least 10 percent of the bid amount.

**3.60.080 - Emergencies.**

In cases of emergency when repair or replacements are necessary, the City may proceed in compliance with Public Contract Code Section 22035, or any successor statute.


**Section 3.** The City Clerk shall certify the adoption of this Ordinance and shall cause it to be published in the manner required by law.

**INTRODUCED AND APPROVED UPON FIRST READING** this 4<sup>th</sup> day of December 2023 upon the following vote:

- AYES: Cervantez, Davis, Hewitt, Manly and Molina
- NOES: None
- ABSENT: None
- ABSTAIN: None

**PASSED, APPROVED AND ADOPTED UPON SECOND READING** this 18<sup>th</sup> day of December 2023, upon the following vote:

- AYES: Cervantez, Davis, Hewitt, Manly and Molina
- NOES: None
- ABSENT: None
- ABSTAIN: None

  
WILLIAM DAVIS, MAYOR

ATTEST:

  
DARLENE GERDES, CITY CLERK

APPROVED AS TO FORM:

  
QUINN BARROW, CITY ATTORNEY

STATE OF CALIFORNIA            }  
COUNTY OF RIVERSIDE        }  
CITY OF CALIMESA             }

I, **DARLENE GERDES**, City Clerk of the City of Calimesa, California, DO HEREBY CERTIFY, that the aforementioned is a true and correct copy of **Ordinance No. 395** known as:

**AN ORDINANCE OF THE CITY OF CALIMESA, CALIFORNIA, AMENDING MUNICIPAL CODE CHAPTER 3.15 (SUPPLIES, SERVICES AND EQUIPMENT PURCHASE PROCEDURE) AND ADDING CHAPTER 3.60 (PUBLIC PROJECTS).**

And which is on file in the Office of the City Clerk, City of Calimesa California.

Said Ordinance was adopted by the said City Council at a regular meeting thereof held on the 18<sup>th</sup> day of December 2023 by the following vote:

AYES:	Davis, Cervantez, Hewitt, Manly and Molina
NOES:	None
ABSENT:	None
ABSTAINED:	None



DARLENE GERDES, CITY CLERK

Dated this 19<sup>th</sup> day of December 2023.

