

**ORDINANCE NO. 1776****AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, AMENDING SAN CLEMENTE MUNICIPAL CODE SECTIONS 3.40.010, 3.40.040, AND 3.40.050 AND ADDING SECTION 3.40.080, ALL RELATING TO PURCHASING PROCEDURES**

**WHEREAS**, pursuant to California Government Code sections 54201 through 54203, local agencies are required to adopt by ordinance, policies and procedures, including regulations, governing the purchase of supplies and equipment by the local agency; and

**WHEREAS**, the City of San Clemente (“City”) adopted such policies and procedures via Ordinance nos. 1207 and 1297 in 2004, and,

**WHEREAS**, the City Council sees value in expanding procurement process exemptions to the extent permissible by state and federal law to streamline procurement, lower costs and improve timeliness of project completion; and

**WHEREAS**, the City Council has an interest in improving procurement functions by leveraging cooperative agreements to the greatest extent permissible under applicable law, and achieving competitive pricing by economy of scales; and

**WHEREAS**, the California Uniform Public Construction Cost Accounting Act, codified in Public Contract Code (PCC) sections 22000, *et seq.* (“CUPCCAA”) sets an alternative method for the bidding of public works projects by public entities; and

**WHEREAS**, on March 17, 1993, the City Council adopted Resolution No. 93-31 allowing the City to become subject to the uniform construction cost accounting procedures set forth in CUPCCAA; and

**WHEREAS**, amendments to CUPCCAA’s bidding requirements and procedures have not been incorporated into the City purchasing ordinance; and

**WHEREAS**, the City Council desires to amend Section 3.40.050 of the San Clemente Municipal Code so that it parallels CUPCCAA; and

**WHEREAS**, on December 21, 2021, the City adopted Ordinance No. 1724, which authorizes the City Manager to award and execute contracts up to \$50,000; and

**WHEREAS**, the City Council of the City of San Clemente has determined that adjustments to the contract award authority will improve the bid award process, will improve procurement productivity and is in the City's and the public's best interests; and

**WHEREAS**, the City Council desires to repeal and replace Sections 3.40.040 and 3.40.050 of the Municipal Code to improve procurement efficiency as set forth herein.

**NOW, THEREFORE**, the City Council of the City of San Clemente, California, hereby ordains as follows:

**Section 1: Recitals and Scope**

The recitals above are considered true and incorporated into this Ordinance. The scope of this Ordinance is for procurement. This Ordinance is subject to the limitations set and superseded by state and federal law.

This Ordinance applies only to procurements that involve the expenditure of funds entirely within the City's control where responsibility and quality are equal and shall not apply to procurements that involve the expenditure of funds that are not entirely within the City's control, such as state and federal grant funds, that due to legal restrictions prohibit its application.

**Section 2: Environmental Review**

This Ordinance is exempt from the provisions of the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of the CEQA Guidelines (14 CCR 15061) because there is no possibility that the activity in question may have a significant effect on the environment and this Ordinance is not a project as defined by CEQA.

**Section 3: Amendment to San Clemente Municipal Code section 3.40.010**

Section 3.40.010 of the Municipal Code of the City of San Clemente is hereby amended to read in its entirety as follows (underlines indicate additions and ~~strikeouts~~ indicate deletions):

**3.40.010 - Establishment of purchasing system.**

In order to establish efficient procedures for the purchase of supplies, equipment and services; to secure for the City supplies, equipment and services at competitive cost commensurate with quality needed and with due consideration to disposability; to exercise positive financial control over purchases; to clearly define authority for the purchasing functions; to assure the quality of purchases; and to recognize the indirect financial benefit that purchases from local businesses provide to the city; to buy without favor or prejudice, a purchasing system is adopted as set forth in

this Chapter and in City policy approved by the City Council by resolution, as amended from time to time, which ~~and~~ shall control the procedure for all purchases except as otherwise provided by law.

**Section 4: Amendment to San Clemente Municipal Code section 3.40.040**

Section 3.40.040 of the Municipal Code of the City of San Clemente is hereby stricken in its entirety and amended to read in its entirety as follows:

**3.40.040 – Exemptions.**

Exemptions to bidding requirements shall be established by City policy approved by the City Council by resolution, which shall be consistent with in this Chapter and applicable state and federal law, and may be amended from time to time by resolution of the City Council. The persons and body authorized to determine exemptions shall be those with the authority to award and execute contracts as set forth in section 3.40.080.

**Section 5: Amendment to San Clemente Municipal Code section 3.40.050**

Section 3.40.050 of the Municipal Code of the City of San Clemente is hereby stricken in its entirety and amended to read in its entirety as follows:

**3.40.050 – Public Works Projects.**

- A. Alternative Bid Procedures for Public Projects under \$200,000. Public projects, as defined by the California Uniform Public Construction Cost Acting Act (CUPCCA) and in accordance with the limits listed in Section 22032 of the Public Contract Code, may be let to contract as set forth in Sections 22032, *et seq.*, of the Public Contract Code. Public projects of sixty thousand dollars (\$60,000) or less may be performed by the employees of the City by force account, by negotiated contract, or by purchase order. Public projects of two hundred thousand dollars (\$200,000) or less may be let to contract by informal procedures as set forth in CUPCCA. Amendments or revisions to CUPCCA shall automatically be directly incorporated into this section when enacted by the California Legislature upon the effective date thereof without further action of the City Council.
- B. Contractors List. A list of contractors shall be developed and maintained in accordance with the provisions of Section 22034 of the Public Contract Code and the criteria promulgated from time to time by the California Uniform Public Construction Cost Accounting Commission.

- C. Notice Inviting Informal Bids. Where a public project is to be performed that is subject to the informal bidding procedure under CUPCCA, a notice inviting informal bids shall be mailed or emailed to all contractors for the category or work to be bid, as shown on the list developed in accordance with subsection B of this section, and to all construction trade journals as specified by the CUPCCA Commission in accordance with Section 22036 of the Public Contract Code. Additional contractors and/or construction trade journals may be notified at the discretion of the City; provided, however:
1. If there is no list of qualified contractors maintained by the City for the particular category or work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the CUPCCA Commission; and
  2. If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclusively to such contractor or contractors.
- D. Public Project Generally. Public projects not subject to the alternative bid procedures as set forth in subsection A of this section, or public projects where the Director of Public Works determines that it would be in the City's best interest to proceed with formal bidding, shall be let to contract through a competitive bid process designed to select the lowest responsive and responsible bidder. The procedures to be followed shall at all times comply with applicable laws.
- E. Award of Contracts. The persons and body authorized to award and execute public project contracts shall be as set forth in section 3.40.080.

**Section 6: Addition of San Clemente Municipal Code section 3.40.080**

Section 3.40.080 is hereby added to the Municipal Code of the City of San Clemente to read in its entirety as follows:

**3.40.080 – Authority to Award Contracts.**

The following persons and body are authorized to award contracts that were solicited in compliance with this Chapter, the City purchasing policy and state and federal law at the following corresponding amounts and to execute such contracts or delegate the authority to execute such contracts:

|                  |                         |
|------------------|-------------------------|
| Division Manager | \$0—\$10,000.00         |
| Department Heads | \$10,000.01—\$25,000.00 |
| City Manager     | \$25,000.01—\$60,000.00 |
| City Council     | \$60,000.01 and over    |

**Section 7: Publication.** The City Clerk shall certify to the adoption of this Ordinance by the City Council and cause it, or a summary of it, to be published once within 15 days of adoption in a newspaper of general circulation printed and published within the City of San Clemente, and shall post a certified copy of this ordinance, including the vote for and against the same, the Office of the City Clerk in accordance with California Government Code section 36933.

**Section 8: Conflicts with Prior Ordinances.** In the event that any City ordinance or regulation, in whole or in part, adopted prior to the effective date of this Ordinance, conflicts with any provision in this Ordinance, the provisions in this Ordinance will control.

**Section 9: Records.** The documents and materials associated with this Ordinance that constitute the record of proceeding on which the City Council's findings and determinations are based are located at City Hall, 910 Calle Negocio, San Clemente, CA 92673.

**Section 10: Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, such invalidity has no effect on the other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this Ordinance are severable. The City Council declares that it would have adopted this Ordinance irrespective of invalidity of any portion thereof.

**Section 8. Effective Date.** This Ordinance shall become effective 30 days after adoption.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of San Clemente, California, on the 18th day of June, 2024.

APPROVED AND ADOPTED at a regular meeting of the City Council of the City of San Clemente, California, on \_\_\_\_day of \_\_\_\_\_, 2024.

ATTEST:

\_\_\_\_\_  
City Clerk of the City of  
San Clemente, California

\_\_\_\_\_  
Mayor of the City of San  
Clemente, California

**STATE OF CALIFORNIA**            )  
**COUNTY OF ORANGE**            ) **ss.**  
**CITY OF SAN CLEMENTE**        )

**I, LAURA CAMPAGNOLO**, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. 1776 having been regularly introduced at the meeting of \_\_\_\_\_, was again introduced, the reading in full thereof unanimately waived, and duly passed and adopted at a regular meeting of the City Council held on the \_\_\_\_day of \_\_\_\_\_, \_\_\_\_\_, and said ordinance was adopted by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
CITY CLERK of the City of  
San Clemente, California

APPROVED AS TO FORM:

\_\_\_\_\_  
Elizabeth A. Mitchell, CITY ATTORNEY