

ORDINANCE NO. 2024-013

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHINO, CALIFORNIA, REPEALING CHAPTERS 3.32 AND 3.34 OF THE CHINO MUNICIPAL CODE, AND ADOPTING A NEW CHAPTER 3.32 ESTABLISHING A PURCHASING SYSTEM

WHEREAS, the City of Chino, California (“City”) is a municipal corporation, duly organized under the California constitution and the laws of the State of California; and

WHEREAS, the City is dedicated to operating efficiently, effectively and streamlining operations where possible; and

WHEREAS, on October 1, 2019, the City Council adopted a resolution electing for the City to be subject to the California Uniform Public Construction Cost Accounting Act (Public Contract Code section 22000 et seq.) (the "Act"); and

WHEREAS, the City’s current purchasing system is outlined in Chapter 3.32 of the Chino Municipal Code, and City staff has conducted a review of Chapters 3.32 and 3.34, identifying the need to repeal Chapter 3.34 (Local Business Preference) and adopt a new Chapter 3.32, incorporating the Local Business Preference provisions into the newly adopted Chapter 3.32; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CHINO DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds that the above recitals are true and correct and are incorporated into this ordinance by reference.

SECTION 2. Chapter 3.32 of the Chino Municipal Code is hereby repealed in its entirety and replaced with the following new provisions.

SECTION 3. Chapter 3.34 of the Chino Municipal Code is hereby repealed in its entirety.

SECTION 4. A new Chapter 3.32 of the Chino Municipal Code is added, to read as follows:

CHAPTER 3.32 – PURCHASING SYSTEM

- 3.32.010 Short Title
- 3.32.020 Legislative Purpose
- 3.32.030 Definitions
- 3.32.040 Ethics Statement
- 3.32.050 Local Business Preference

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- 3.32.200 Bidding for Goods and Professional Services (Non-Public Projects)
- 3.32.210 Professional Services Agreements
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- 3.32.230 Public Projects: Bidding Procedures
- 3.32.240 Design/Build
- 3.32.250 Change Orders
- 3.32.260 Surplus Equipment and Supplies

3.32.010 – Short Title

This chapter shall be known as the “Purchasing Ordinance of the City of Chino.”

3.32.020 – Legislative Purpose

The purpose of this chapter is to establish a centralized and efficient process for acquiring goods, professional services, and public projects within the City. It aims to reduce transactions, minimize purchase periods, and set criteria for extraordinary purchases. Additionally, it seeks to decrease staff procurement time by coordinating purchases across departments, eliminating duplication, and maximizing automation.

3.32.030 – Definitions

In this chapter, the following terms shall have the assigned meanings unless the context indicates otherwise. These terms and their variants will be interpreted as defined here or as specified by state statute.

Best Value Selection: A procurement method that evaluates proposals based on experience, qualifications, past performance, project approach, proposal responsiveness, and cost to determine the most beneficial outcome.

Blanket Purchase Order: An open purchase order with a specific vendor for the purchase of goods or professional services where the price of individual items available for purchase under the purchase order has not been established through competitive bidding.

Capital Assets: Assets with a value of \$10,000 or more and an expected useful life greater than one year.

City: The City of Chino.

Commodities: Routine goods or professional services, such as gasoline, office supplies, emergency repairs, utility services, real property transactions, and services from other public agencies, essential for daily operations.

Competitive Bidding: A transparent process where multiple vendors submit offers to provide goods or professional services, ensuring fair competition.

Cooperative Purchasing Programs: A method that combines the procurement needs of two or more government entities to achieve benefits like volume pricing and reduced administrative costs, which may include cooperative purchasing agreements with governmental entities and recognized organizations, such as Sourcewell, to benefit the City under Cal. Gov. Code § 6502, and participation in other agencies' procurement processes, also known as "piggybacking" utilizing awarded contracts from other governmental agencies, provided all requested products or equipment meet the specified technical requirements of the original bid.

CUPCAA: California Uniform Public Construction Cost Accounting Act (Public Contract Code Section 22000 et seq.).

Department: Any department, division, or section within the City of Chino.

Goods: Tangible personal property, such as materials, supplies, and equipment.

Maintenance Work: As defined by California Public Contract Code § 22002 and includes janitorial and custodial services.

Professional Services: Services requiring specialized knowledge, such as advisory, auditing, consulting, legal, architectural, or engineering, as well as maintenance work.

Public Project: Defined by California Public Contract Code § 22002, this includes construction, alteration, improvement, demolition, or repair of public facilities or

infrastructure, excluding maintenance work.

Purchases: The acquisition or rental of equipment, goods, materials, professional services, or real property by the City.

Responsive and Responsible Bidder: A bidder who meets all the requirements of the city's solicitation and this chapter and demonstrates the expertise, qualifications, and capabilities to successfully perform the requested work.

Services: Labor, time, or effort provided by a contractor or vendor, excluding services by City employees.

Sole Source or Unavailable From Any Other Source: A non-competitive procurement method used when only one vendor can provide the required goods or services.

Surplus: Equipment or supplies identified by any department as unnecessary, obsolete, or unsuitable for use, and available for disposition.

3.32.040 – Ethics Statement

It is essential for taxpayers, residents, and businesses in the City to have complete confidence in the integrity of their public servants, particularly in the procurement of goods, services, and public projects. All City employees, elected and appointed officials must uphold high standards of integrity in their conduct and ensure that their procurement activities align with City policies as well as applicable federal, state, and local laws. At a minimum, City employees are required to adhere to the standards outlined in CMC 2.60 – Conflict of Ethics Code, the Political Reform Act, Government Code Section 8100 et seq., regulations from the Fair Political Practices Commission (FPPC), Government Code Section 1090, and the Anti-Kickback Enforcement Act of 1986.

3.32.050 – Local Business Preference

The City encourages local participation in the procurement process to promote economic vitality. To this end, the City may provide a preference to local businesses in awarding contracts. The Purchasing Manager will prioritize purchasing from local vendors when feasible and maintain a list of City businesses offering goods used by the City, which will be distributed to all City departments.

A business is considered local if it has fixed facilities and employees within the City for at least one year and holds a valid City business license. It must also have paid all required fees and taxes to the City, consent to a bid reduction of up to five percent, and meet all other qualifications to perform the contract.

3.32.060 – Centralization Purchasing Division

Centralized Purchasing refers to a procurement system where purchasing activities are managed by a designated purchasing department for enhanced efficiency. A Centralized Purchasing Division is established within the Finance Department, vested with the authority and responsibility to procure goods, services, and public projects for the City.

3.32.070 – Purchasing Manager

The Purchasing Manager or designee oversees the procurement of goods, services, and public projects in accordance with City Council directives and City Manager procedures. The Purchasing

Manager is responsible for awarding contracts to responsive and responsible bidders, ensuring adherence to competitive bidding practices, and promoting open competition while discouraging collusion. Additionally, the Purchasing Manager manages contracts for compliance with laws and policies, maintains records of purchasing activities, facilitates the transfer and disposal of surplus goods, and assigns asset numbers to capital assets.

3.32.080 – Supplemental Regulations

The City Council may periodically adopt resolutions to establish supplemental regulations that further clarify the provisions of this chapter, ensuring alignment with its intent and purpose. In the event of a conflict between these resolutions and the provisions of this chapter, the chapter shall take precedence. The City Manager is authorized to interpret this chapter and adopt written policies to clarify its application. These interpretations and regulations must conform to this chapter's intent and purpose.

3.32.090 – Use of Electronic Means

In alignment with the City's commitment to efficient public contracting practices, and pursuant to the authority granted under California Public Contract Code §§ 1600-1601, the City is authorized to implement electronic methods in the procurement and administration of contracts. This authorization includes the use of online bidding platforms, electronic signatures in compliance with all applicable state, local, and federal regulations, and electronic mail for notices where "mailed" delivery is specified. Where "sealed" bids or proposals are required, any electronic method that ensures secure submission of bid data may be used. Additionally, when bids are to be "opened," they shall be made accessible simultaneously to both the City and the public through a secure electronic format that allows for public readability.

3.32.100 – Purchase Requisition and Purchase Order

All requests for goods, services, and public projects must be submitted through the approved electronic procurement system in accordance with the purchasing policy. The Purchasing Manager may require additional justification from departments when reviewing requisitions. Training will be provided to ensure staff understands system use and compliance requirements.

Purchases must follow the approved purchase order process; any purchases made without prior approval, except in emergencies, are not binding or chargeable to City funds. Employees are prohibited from requesting goods, services, or starting projects without the Purchasing Manager's authorization.

A blanket purchase order may be utilized for a specific vendor for the purchase of goods or services. A blanket purchase order may not be used when a single piece or unit of any good or one-time service is more than the open market threshold.

3.32.110 – Budgeted Funds Required

Except in cases of an emergency, the Purchasing Manager shall not issue any purchase orders for goods, services, or public projects unless there exist budgeted funds against which such purchase is to be charged.

3.32.120 – Grant Funds

Notwithstanding any other provision of this chapter, if a purchase is funded in whole or in part by grant funds and the grant requires the City to use specific purchasing procedures that are inconsistent with the requirements of this chapter, then the City shall follow the grant requirements.

3.32.130 – Approval Authority

The City Manager is hereby authorized to approve acquisitions and execute contracts of up to \$150,000. The City Manager is authorized to delegate signature authority within this limit to appropriate City staff. The City Council shall retain the authority to approve all acquisitions and contracts exceeding \$150,000.

3.32.140 – Inspection of Services

The Department shall inspect goods delivered and contractual services performed to determine their conformance with the specifications set forth in the purchase order or contract. The Department shall have the right to waive any defect or informality. The Department shall have the 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 required specifications.

3.32.150 – Environmentally Preferred Procurement

Whenever feasible, the Purchasing Manager shall incorporate environmental considerations into purchasing decisions such as, aiming to procure products with the highest possible recycled content. The City acknowledges its significant role as a major consumer of goods and services and understands that its purchasing decisions can have a considerable impact on the environment. By factoring in environmental considerations alongside traditional priorities such as price, performance, and availability, the City can maintain fiscal responsibility while fostering practices that enhance public health and safety, reduce pollution, and conserve natural resources. This policy aims to promote the purchase of recycled and environmentally friendly products.

3.32.160 – Unauthorized Purchases

Except for authorized exceptions (CMC 3.32.170) or emergencies (CMC 3.32.180), no purchase may be made without a valid purchase order number issued by the City of Chino. Purchases made without this authorization are void and do not constitute an obligation of the city. Invoices lacking a valid purchase order number may be returned unpaid to the supplier. The city assumes no responsibility for unauthorized purchases or those that do not comply with its procurement policies and procedures.

3.32.170 – Exceptions

The Purchasing Manager may make any of the following procurements exceptions for goods, services or public project, without complying with the procurement methods set forth in this Chapter, as follows:

- A. Sole source or unavailable from any other source.

- B. Cooperative Purchasing Program, as defined in this chapter.
- C. Emergency, as defined in this chapter.
- D. When the City Council determines by resolution that bidding would be impractical, inefficient, or otherwise not in the best interest of the City, provided that the City Council shall state the basis for its determination in the resolution.
- E. The City Manager may establish guidelines to exempt certain purchases from the procedures outlined in this section. Exemptions may include methods such as petty cash, purchasing card (P-Card), and request for check. Examples of exempted purchases include:
 - 1. **Commodity items** – Routine items such as gasoline, oil, office supplies, emergency repairs for equipment, vehicles, and facilities, as well as real property purchases and leases, utility services, and related charges, or work or services performed by another public agency.
 - 2. **Non-commodity items** – Pre-approved payments for expenses such as debt service, deposits, dues, insurance premiums, legal advertising, memberships, publications, self-insurance claims, seminar registration fees, subscriptions, and travel costs.

3.32.180 – Emergencies

An emergency is defined as a sudden, unforeseen event posing an immediate threat to life, health, property, or essential public services, necessitating prompt action to prevent or mitigate harm. For public projects, "emergency" refers to the definition provided in California Public Contract Code § 22050, while for other purchasing or contracting purposes, it indicates a situation where formal or informal bidding procedures are impractical or not in the best interest of the City. The City Council may declare an emergency when public health, safety, or property is at risk, and where following the regular competitive bidding process would compromise public welfare. In the absence of the City Council, the City Manager is authorized to initiate emergency procurement actions, which must be ratified by the City Council at its next meeting. Emergency procurements may bypass standard competitive bidding requirements and are limited to goods or services essential for addressing the emergency. The City will maintain thorough records of the emergency's nature, justification for procurement, acquired goods or services, and associated costs, submitting a report detailing the emergency actions taken to the City Council for ratification. The City Council shall review the status of the emergency at each regularly scheduled meeting until resolved, with a four-fifths vote required to extend the bypass of standard procedures beyond the initial declaration. Emergency procurements must comply with all relevant provisions of the Public Contract Code, particularly § 22050, to prevent misuse of emergency provisions.

3.32.190 – Procurement Competitive Requirements

The City has established the following competitive requirements for non-Public Projects and Professional Services agreements. The threshold amounts for Public Projects shall be subject to the amounts authorized under the California Uniform Public Construction Cost Accounting Act (Public Contract Code Section 22000 et seq.), as amended from time-to-time.

| COMPETITIVE REQUIREMENTS | GOODS | PROFESSIONAL SERVICES |
|---------------------------------|------------------------|------------------------------|
| Open Market | Up to \$25,000 | Up to \$75,000 |
| Informal Bid | > \$25,000 - \$100,000 | N/A |
| Formal Bid | Over \$100,000 | Over \$75,000 |

3.32.200 – Bidding for Goods and Professional Services (Non-Public Projects)

A. Open Market: Purchases shall not require competitive bidding but do require a quote or proposal. Purchases shall not be split to circumvent these procedures.

B. Informal Bid: Purchases shall be made following the receipt of at least three quotes or proposals, which may be solicited using any means reasonably calculated to obtain a combination of the lowest price and highest quality of goods or services available. The Purchasing Manager shall keep a record of all such solicitations and the price quotes or proposals.

C. Formal Bid: Formal bidding requires preparing an Invitation For Bid (IFB) or Request for Proposal (RFP) with a general description, instructions for obtaining additional information, and submission details. The solicitation must be posted in a publicly accessible location, which may include an electronic bulletin board or another method as determined by the Purchasing Manager. A notice must be published at least fourteen (14) calendar days before the bid opening in a newspaper of general circulation within the city or posted in at least three (3) designated locations if no such newspaper exists. It must also be sent electronically to specified construction trade journals at least fifteen (15) calendar days prior to the opening. The procedure must comply with state or federal law. The City may reject all bids in its sole discretion. If no bids are received, the City may make the purchase by any reasonable and available means, notwithstanding the other requirements of this chapter.

In determining whether a bidder is responsible, consideration may be given to the following factors: (a) The quality of the items or services offered; (b) The ability, capacity and skill of the bidder or vendor to perform the contract or provide the services; (c) The ability, capacity and skill of the bidder or vendor to perform the contract or provide the service promptly, within the time specified, and without delay or interference; (d) The character, integrity, reputation, judgment, training, experience and efficiency of the bidder; (e) The sufficiency of the bidder's financial resources; and (f) The ability of the bidder to provide such future service as may be needed.

Award of Contract for RFP: If a contract is awarded, it may be awarded based on a best value selection. Selection of the most qualified individual or firm shall be based on demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. An evaluation committee shall evaluate the proposals for services that exceed the informal bidding threshold and make a recommendation regarding the award of the contract. The evaluation committee shall be composed of at least three members selected by the Purchasing Manager, who shall be knowledgeable about the content of the services. In determining the best-qualified person or firm to perform the professional services, the following shall be considered: experience/qualifications, past performance/references, plan methodology/project approach, quality of responsiveness of proposal, and cost. The committee may request an interview of the top firm(s).

3.32.210 – Professional Services Agreements

All professional service agreements shall be made with the most qualified individual or firm based on demonstrated competence and the necessary professional qualifications for satisfactory service performance. All professional services agreements shall be subject to approval as to form by the City Attorney prior to execution. All professional services agreements must be in writing and may be extended without additional City Council approval, unless the amount thereof has been increased beyond the City Council authority threshold. All amendments must be in writing.

3.32.220 – Public Projects.

The City adopted the California Uniform Public Construction Cost Accounting Act (CUPCCAA) (Public Contract Code Section 22000 et seq.) for all public project expenditures. All public project contracts shall be subject to approval as to form by the City Attorney prior to execution. Contractors may not proceed without a written notice to proceed from the Purchasing Manager or Department. The City shall not be liable if such notice is not issued. The Public Works Director, City Engineer or designee shall be responsible for preparing and adopting plans, specifications, Engineer's Estimate and working details for all public projects that are formally bid. Purchases shall not be split to circumvent these procedures.

3.32.230 – Public Projects: Bidding Procedures

A. Informal Bidding Procedures: Informal bidding shall be authorized for projects estimated to be less than the maximum amount authorized pursuant to the CUPCCAA, as such amount may be amended from time-to-time. A notice inviting bids must be prepared, providing a general description of the project, instructions for obtaining detailed information, and the time and place for bid submission. Notices must be distributed to all construction trade journals as specified by the Commission in accordance with Cal. Pub. Contract Code § 22036 and shall be sent at least ten (10) calendar days prior to the bid due date via email or electronic bid posting. If the project involves proprietary products or services, notices shall only be sent to specific contractors.

B. Formal Bidding Procedures: Formal bidding shall be required for projects estimated to be greater than the amount authorized pursuant to the CUPCCAA, as such amount may be amended from time-to-time. Formal bidding requires preparing an Invitation For Bid (IFB) or Request for Proposal (RFP) with a general description, instructions for obtaining additional information, and submission details. The solicitation must be posted in a publicly accessible location, which may include an electronic bulletin board or another method as determined by the Purchasing Manager. A notice must be published at least fourteen (14) calendar days before the bid opening in a newspaper of general circulation within the city or posted in at least three (3) designated locations if no such newspaper exists. It must also be sent electronically to specified construction trade journals at least fifteen (15) calendar days prior to the opening. The procedure must comply with state or federal law. The City may reject all bids in its sole discretion. If no bids are received, the City may make the purchase by any reasonable and available means, notwithstanding the other requirements of this chapter.

C. Award of Contract: Contracts will be awarded to the lowest responsive and responsible bidder, with the option to award to either bidder in the case of identical lowest bids. The City has the authority to reject all bids and may abandon the project, re-advertise as described, or declare that the project can be completed more economically by City employees through a force account, following written notice to the apparent low bidder and a four-fifths vote by the Council. The bidding

procedures specified in this chapter shall not apply when state or federal law establishes exemptions. These exemptions may relate to contracts or projects that fulfill certain criteria, thereby permitting a departure from standard bidding requirements.

In determining whether a bidder is responsive and responsible, consideration may be given to the following factors: (a) The quality of the items or services offered; (b) The ability, capacity and skill of the bidder or vendor to perform the contract or provide the services; (c) The ability, capacity and skill of the bidder or vendor to perform the contract or provide the service promptly, within the time specified, and without delay or interference; (d) The character, integrity, reputation, judgment, training, experience and efficiency of the bidder; (e) The sufficiency of the bidder's financial resources; and (f) The ability of the bidder to provide such future service as may be needed.

3.32.240 – Design/Build

Notwithstanding any provisions in this chapter, the City is authorized to employ a design-build procurement method as permitted by law, including, but not limited to, California Public Contract Code §§ 22160 et seq. and 20194. This design-build method enables the City to procure both design and construction services from a single entity. It may also encompass additional functions such as construction management, inspection, soil and materials testing, financing, operations, and maintenance.

3.32.250 – Change Orders

Any modification to an approved purchase that results in costs exceeding the awarded amount may be authorized as long as the total of all change orders, when combined with the original purchase order amount, does not surpass the authority limits. If the total exceeds the set authority limit, City Council approval is required.

3.32.260 – Surplus Equipment and Supplies

When City-owned supplies or equipment are declared surplus, the Purchasing Manager will evaluate whether to transfer, sell, exchange, or dispose of them. City Manager approval is required for all equipment with an estimated value above the capital asset threshold. Departments must retain surplus items until a transfer or disposal decision is made, and they cannot be loaned, donated, destroyed, or removed without the Purchasing Manager's written consent. The Purchasing Manager may dispose of surplus items through transfer, sale, auction, trade, negotiation, destruction if unsellable, or donation. City employees, elected or appointed officials may not benefit from the surplus process.

SECTION 4. The Ordinance shall take effect thirty (30) days after its adoption.

SECTION 5. City Clerk of the City of Chino shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the city in a manner permitted under section 36933 of the Government Code of the State of California.

PASSED, APPROVED, AND ADOPTED THIS 7TH DAY OF JANUARY 2025.

CITY COUNCIL OF THE CITY OF CHINO:

BY: _____
EUNICE M. ULLOA, MAYOR

ATTEST:

NATALIE GONZAGA, CITY CLERK

