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# CITY OF POMONA

## COUNCIL REPORT

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December 16, 2019

To: Honorable Mayor and Members of the City Council

From: Linda Lowry, City Manager

Submitted By: Andrew Mowbray, Finance Director/City Treasurer

**SUBJECT: Introduction and First Reading of an Ordinance Amending Chapter 2, Article VII of the Pomona City Code Pertaining to the Requirements and Procedures for Procuring Supplies, Services, Equipment and Capital Improvement Contracts, and Sale of Surplus Property**

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### **RECOMMENDATION:**

It is recommended that the City Council introduce and give first reading to the following ordinance:

**ORDINANCE NO. 4276 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, AMENDING CHAPTER 2, ARTICLE VII OF THE POMONA CITY CODE PERTAINING TO THE REQUIREMENTS AND PROCEDURES FOR PROCURING SUPPLIES, SERVICES, EQUIPMENT AND CAPITAL IMPROVEMENT CONTRACTS, AND SALE OF SURPLUS PROPERTY**

### **EXECUTIVE SUMMARY:**

The proposed changes to the Procurement Ordinance (Ordinance) update and clarify various areas within the Ordinance which has been amended over time on a section by section basis which has resulted in a fragmented, repetitive, and in some cases conflicting policy document. The proposed amendment is a comprehensive revision that clarifies and streamlines the City's procurement requirements. Changes include provisions for Environmentally Preferred Procurement, Federal Emergency Management Agency language, and updated procurement thresholds with requirements for additional oversight and transparency.

**FISCAL IMPACT: NONE**

**PUBLIC NOTICING REQUIREMENTS: N/A**

## **PREVIOUS RELATED ACTIONS:**

On July 11 2011, the Council adopted Ordinance No. 4145 which amended Chapter 2, Article VII and Section 2-1063 Chapter 2, Article VIII pertaining to the procedures and requirements for the procurement of supplies, services, equipment and capital improvement contracts, and the sale of surplus property. On April 19, 2010, the Council adopted Ordinance No. 4129, which amended Section 2-977, Chapter 2, Article VII, by approving the City Manager's authority to approve fiscal-related sole source purchases up to \$50,000. On September 8, 2008 the City Council adopted Ordinance No. 4107 which amended Article VII of Chapter 2 by providing clarification changes to various areas of the Purchasing Ordinance. On April 18, 2005, the Council adopted Ordinance No. 4022, which amended Article VII of Chapter 2 by establishing the procedure for "Design-Build Contracts for Capital Improvements." On April 21, 2003, the sections of Article VII of Chapter 2 pertaining to purchasing goods and awarding contracts, generally, was updated with the adoption of Ordinance No. 3981.

## **DISCUSSION:**

In order to process the procurement of goods and services in the most efficient manner while still maintaining adequate fiscal control and oversight, staff routinely reviews the City Code for possible updates. Based on the implementation of revised State regulations and best practices, it became apparent that further revisions to the Purchasing Ordinance are warranted in order to maximize efficiency and effectiveness in providing services to Pomona residents and the business community.

All of the proposed changes are a result of an extensive and thorough vetting process that extended over an 18-month period. An independent contractor was tasked with reviewing the existing Purchasing Ordinance and recommend changes/updates to both the Ordinance and policy manual to improve operational efficiency and compliance and ultimately, have an ordinance that was concise, ethical, and transparent.

The process began with a review of the changes the City had made to the Ordinance over the last two decades. Individual assessment interviews ensued with the Procurement Manager and Department Directors and their key staff. Consistent feedback from the assessment interviews indicated the Ordinance was difficult to work with and understand; it was cumbersome because of duplication and conflicting information, and the thresholds were too restrictive to expedite work. Those that worked with the Public Works provisions found the provisions were unclear and antiquated. To address these provisions, the Ordinance stipulates the City does not elect nor adopt the Pubic Contracting Code, rather only refers to it regarding bidding thresholds as they relate to Public Works procurements. Overall, the assessment interviews demonstrated there were varying levels of expertise and compliance with the Ordinance, and there was an overall lack of consistency with how it was applied.

As part of the assessment, numerous ordinances and policy manuals from other like-sized agencies were evaluated and surveyed regarding procurement thresholds and authorities, see Table 1.

<b>Table 1</b>	<b>Formal Bidding</b>	
<b>City</b>	<b>Population</b>	<b>Threshold</b>
Rancho Cucamonga	179,412	\$50,000
Ontario	178,268	\$200,000
Elk Grove	174,025	\$50,000
Corona	168,101	\$175,000
Lancaster	161,604	\$125,000
Hayward	159,433	\$75,000
Palmdale	157,854	\$125,000
<b>Pomona*</b>	<b>153,310</b>	<b>\$100,000</b>
Escondido	152,739	\$100,000
Torrance	148,054	\$40,000

Data sources: 2019 Price Factor and Population Information;  
City Municipal Codes and Websites  
\*Proposed Formal Bidding Threshold

As a result, staff is recommending increasing procurement thresholds to accommodate the procurement needs of the City. While increasing thresholds facilitates the procurement process, proper oversight and analysis remain paramount. To ensure transparency, every procurement between \$30,000 and \$100,000 will be published on the Purchasing webpage on a quarterly basis, allowing any interested parties to review our procurements.

In alignment with our existing and proposed Ordinance, centralized purchasing intrinsically provides oversight and takes full advantage of economies of scale to maximize every City dollar. The Purchasing Division now has a permanent Purchasing Manager and Purchasing Technician and is currently recruiting for one full-time Buyer position and a part-time Purchasing Technical Assistant to assist in revitalizing the centralization of the procurement process. Another level of control is the use of template agreements. BBK, the City Attorney, assisted staff in creating several agreement templates with consistent language to protect the City's interest and improve the efficiency of the contract process.

The final drafting process was inclusive and incorporated Department feedback into the recommended Ordinance, along with the City Attorney's recommendations. Detailed procedures will also be included in the newly revised Procurement Policy & Procedures Manual which is forthcoming in early 2020. It is anticipated that the manual will be adopted annually by the City Council as a living document, current with new and reformed regulation and best practices.

Following are the most significant changes to the proposed Ordinance:

- Allows the Finance Director to set the dollar threshold in which a purchase order is required for purchases \$5,000 or less

- Revises the informal bidding threshold from \$3,000-\$30,000 to \$5,000-\$100,000
- Revises the formal bidding threshold from \$30,000 to in excess of \$100,000
- Clarifies Single and Sole Source procurements and revises the authority threshold for the Procurement Officer & Finance Director up to \$50,000, City Manager up to \$100,000, and City Council in excess of \$100,000
- Removes Definitions, they will reside in the Procurement Policy and Procedures Manual
- Identifies unauthorized purchases and relieves the City from any responsibility for unauthorized purchases
- Creates of a Contracts clause identifying term, contingency amounts, amendments, renewals, extensions, and retroactive contracts
- Revises the Public Works bidding thresholds to be consistent with the Public Contract Code thresholds
- Inserts an Environmental Preferred Procurement policy addressing environmentally responsible impacts related to procurement
- Clarifies Federal Emergency Management Agency procurements and mandated requirements

The proposed Ordinance (Attachment 1) is streamlined, easy to understand, and legally compliant. Dollar thresholds have been updated to current market values, are consistent with best practices and will enhance operational efficiency. The procedure manual will provide the clarity Departments need for operational consistency and will be presented to Council for approval in early 2020.

All proposed changes are identified within the attached Ordinance with new language being shown as underlined and a strikethrough for text being removed or changed.

**COUNCIL PRIORITIES & GOALS:** This item supports the 2019-2020 City Council Priority 1: Fiscal and Operational Responsibility – Goal B: Improve efficiency and effectiveness of City services to businesses and residents.

Prepared by:

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Teresa Villa  
Purchasing Manager

**ATTACHMENT(S):**

Attachment No. 1 – Proposed Ordinance # 4276

Attachment No. 2 – City of Pomona Procurement Ordinance - Redlined