

CERTIFICATION OF CITY CLERK

ORDINANCE NO. 289.2

I, Mary Lavelle, City Clerk of the City of Milpitas, do hereby certify that the attached Ordinance is a true and correct copy of Ordinance No. 289.2 of the City of Milpitas, that this Ordinance was duly enacted and adopted by the City Council of the City of Milpitas at a meeting of the City Council held on the 15th of May 2018 and that the Ordinance was published in the local newspaper and posted in the manner required by law.

WITNESS my hand and the Official Seal of the City of Milpitas, California, this 17th day of May 2018.



Mary Lavelle
Milpitas City Clerk

REGULAR

NUMBER: 289.2

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 2 AND CHAPTER 4 OF TITLE I OF THE MILPITAS MUNICIPAL CODE RELATING TO PURCHASING AND CONTRACT AUTHORITY

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of May 1, 2018, upon motion by Councilmember Nuñez, and was adopted (second reading) by the City Council at its meeting of May 15, 2018 upon motion by Vice Mayor Grilli. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

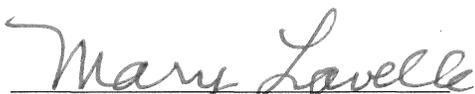
AYES: (5) Mayor Tran, Vice Mayor Grilli, Councilmembers Barbadillo, Nuñez, and Phan

NOES: (0) None

ABSENT: (0) None

ABSTAIN: (0) None

ATTEST:



Mary Lavelle, City Clerk

APPROVED:



Rich Tran, Mayor

APPROVED AS TO FORM:



Christopher J. Diaz, City Attorney

RECITALS AND FINDINGS:

WHEREAS, Chapter 4 of Title I (Contract Authority) of the Milpitas Municipal Code authorizes the City Manager to enter into and execute for and on behalf of the City of Milpitas, without the prior approval of the City Council, any contract, for which (a) funds have been appropriated; and (b) there is an unexpended and unencumbered balance of such appropriation sufficient to pay the contract expense; and (c) the total cumulative monetary value of the contract does not exceed \$50,000; and

WHEREAS, the level of City Manager Contract Authority was \$100,000 prior to the implementation of Ordinance 289.1 on December 7, 2017; and

WHEREAS, to increase transparency, Ordinance 289.1 added the requirement of monthly reporting of contracts approved under City Manager contract authority to the City Council Finance Sub-Committee, which has been performed diligently since December 7, 2017, and will continue to be performed diligently; and

WHEREAS, Ordinance 289.1 added the requirement of review and approval of all City contracts by the Director of Financial Services and the City Attorney, which has been performed diligently since December 7, 2017, and will continue to be performed diligently; and

WHEREAS, City Council wishes to return the level of City Manager contract authority to \$100,000; and

WHEREAS, City Council wishes to modify the Municipal Code so that all sections are consistent with the level of City Manager contract authority provided.

NOW, THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD AND BASIS FOR ACTION

The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. AMENDMENT OF MILPITAS MUNICIPAL CODE

Section 3.03-1 (Formal Bid Procedures) of Chapter 2 of Title I of the Milpitas Municipal Code is amended to read as follows:

I-2-3.03 – Purchases of Twenty Thousand Dollars (\$20,000) or More

3.03-1 Formal Bid Procedures. The Purchasing Agent shall solicit bids for supplies, equipment or services of a value of Twenty Thousand Dollars (\$20,000) or more using the following formal sealed bid procedures. The purchase of supplies, equipment or services for a value less than or equal to One-Hundred Thousand Dollars (\$100,000) may be approved by the City Manager. The purchase of supplies, equipment or services for a value in excess of One-Hundred Thousand (\$100,000) must be approved by the City Council.

(a) A Notice of Invitation for Bid shall include a general description of the supplies, equipment or services to be purchased, state where the bid forms and specifications may be secured, and

state the final deadline and method for submitting bids. Notice shall be given as provided in Section I-2-3.05. The Purchasing Agent may also solicit sealed bids from responsible prospective suppliers and contractors whose names are not in the Vendor database.

(b) Bidders shall submit electronic bids through the City's eProcurement System per the instructions in the bid documents. Bids shall be opened at the time and date indicated in the bid document. A tabulation of all bids received shall be delivered by electronic mail to all registered bidders via the eProcurement System within 72 hours after the bid opening. A tabulation of all bids received shall be posted on the City's website for a period of not less than thirty (30) calendar days after the bid opening.

(c) The Purchasing Agent or City Council shall have the discretion to reject any and all bids presented, and readvertise for bids.

(d) The bid shall be awarded to the lowest responsive and responsible bidder.

(e) If no responsive bid is received after soliciting bids under this section, the Purchasing Agent may proceed to purchase the supplies, equipment hire or have services performed in the open market.

Section 3.12-2 (Contracting for Consultants) of Chapter 2 of Title I of the Milpitas Municipal Code is amended to read as follows:

I-2-3.12-2 – Contracting for Consultants

3.12-2 The Requesting Department shall be empowered to engage a consultant (including, but not limited to, material testing services and construction inspection services) without the necessity of competitive bidding or notice thereof:

(a) Without City Council approval if the consultant's total fee for materials and services under the contract by which the consultant is engaged does not exceed One-Hundred Thousand Dollars (\$100,000).

(b) With City Council approval if the consultant's total fee for materials and services under the contract by which the consultant is engaged exceeds One-Hundred Thousand Dollars (\$100,000).

Section 2.01 (Contract Authority of the City Manager) of Chapter 4 of Title I of the Milpitas Municipal Code is amended to read as follows:

I-4-2.01

The City Manager is authorized to enter into and execute for and on behalf of the City of Milpitas, without the prior approval of the City Council, any Contract, for which:

- a. Funds have been appropriated; and
- b. There is an unexpended and unencumbered balance of such appropriation sufficient to pay the Contract expense; and

c. The total cumulative monetary value of the Contract, including amendments, does not exceed \$100,000.00.

d. The City Attorney and Risk Manager/Finance Director have signed off and approved.

The contract authority of the City Manager in this Section does not include the authority to execute any Contracts within the authority of the City Attorney.

SECTION 3. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

SECTION 4. EFFECTIVE DATE AND POSTING

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.