

ORDINANCE NO. 1168

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS BANOS AMENDING CHAPTER 16 OF TITLE 3 OF THE LOS BANOS MUNICIPAL CODE RELATING TO CONTRACTING FOR PUBLIC WORKS PROJECTS

WHEREAS, the City Council of the City of Los Banos finds and declares that due to changes in the Public Contracts Code of the State of California (AB 2249), Chapter 16 of Title 3 of the Los Banos Municipal Code, relating to Contracting For Public Works Projects requires updating and revision; and

WHEREAS, the subject Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2), 15060(c)(3) and 15061(b)(3). The activity is not subject to CEQA because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; the activity is not a project as defined in Section 15378, and the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LOS BANOS DOES ORDAIN AS FOLLOWS:

Section 1. Section 3-16.030 is hereby amended to read as follows:

Sec. 3-16.030 Public projects—General bid limits.

(a) Public projects of Sixty Thousand and No/100ths (\$60,000.00) Dollars or less may be performed by the employees of the City by force account, by negotiated contract, or by purchase order.

(b) Public projects of Two Hundred Thousand and No/100ths (\$200,000.00) Dollars or less may be let to contract by the informal procedures prescribed in Section 3-16.040.

(c) Public projects of more than Two Hundred Thousand and No/100ths (\$200,000.00) Dollars shall, except as otherwise provided in this chapter, be let to contract by the formal bidding procedures prescribed in Section 3-16.050 of this chapter.

Section 2. Section 3-16.040 is hereby amended to read as follows:

Sec. 3-16.040 Public projects—Informal bidding procedures.

The following shall govern the selection of contractors when a public project which is anticipated to fall within the monetary limits on informal bids described in subsection (b) of Section 3-16.030 is to be performed:

(a) The City shall prepare a notice of the opportunity to bid which describes the project in general terms, states the time and place for the submission of bids and describes how to obtain more detailed information about the project.

(b) The City shall mail the notice to all contractors for the category of the work to be bid, as shown on the list of contractors developed and maintained by the Department of Public Works in accordance with criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission ("Commission").

(c) The City may also mail the notice to all construction trade journals specified by the Commission for the County of Merced. Additional contractors and/or construction trade journals may also be notified at the discretion of the Director of Public Works; provided, however, (1) if the City has not prepared a list of qualified contractors for the particular category of work to be performed, the notice inviting bids shall be sent only to

the construction trade journals specified by the Commission; and (2) if the product or service is proprietary in nature such that it can be legally obtained only from a certain contractor(s), the notice inviting informal bids may be sent exclusively to such contractor(s).

(d) All mailings of notices to contractors and construction trade journals pursuant to this section shall be completed not less than ten (10) calendar days before bids are due.

(e) The City Manager shall have the authority to award informal contracts pursuant to this section with a value of Sixty Thousand and No/100ths (\$60,000.00) Dollars or less pursuant to the findings and recommendations presented by the Director of Public Works. Such contracts shall have the prior approval of, and be executed by, the City Manager and shall be approved as to form by the City Attorney. All contracts with a value in excess of Sixty Thousand and No/100ths (\$60,000.00) Dollars to be awarded pursuant to this section shall require the approval of the City Council and shall be executed by the Mayor and approved as to form by the City Attorney. Unless the agreement provides otherwise, the City Manager may approve dollar increases to contracts that have been approved by the City Council. The extent of the City Manager's authority to approve such increases shall be in the amount of ten (10%) percent of the original contract amount, unless otherwise modified by City Council at the time of the award of the contract.

(f) If all informal bids received exceed Two Hundred Thousand and No/100ths (\$200,000.00) Dollars and the City Council determines that the cost estimate was reasonable, the City Council may award the contract to the lowest responsible bidder at up to Two Hundred Twenty Thousand and No/100ths (\$220,000.00) Dollars by resolution approved by a four-fifths vote of the City Council. Such contracts shall be executed by the Mayor and approved as to form by the City Attorney. Otherwise, such work shall be awarded to the lowest responsible bidder pursuant to the formal bid procedures prescribed in Section 3-16.050 of this chapter.

Section 3. Section 3-16.080 is hereby amended to read as follows:

Sec. 3-16.080 Public projects—Award of formal bid contracts.

All contracts for public work with a value of more than Two Hundred Thousand and No/100ths (\$200,000.00) Dollars shall require the approval of the City Council and shall be executed by the Mayor and approved as to form by the City Attorney. Unless the agreement provides otherwise, the City Manager may approve dollar increases to contracts that have been approved by the City Council. The extent of the City Manager's authority to approve such increases shall be in the amount of ten (10%) percent, or as otherwise modified by City Council at the time of the award. If a contract is awarded, it shall be awarded by the City Council to the lowest responsible bidder. The determination of the "lowest responsible bidder" shall be at the discretion of the City Council pursuant to the findings and recommendations presented by the Director of Public Works at the time of award of contract. In determining the lowest responsible bidder, the following shall be considered by the City Council, in addition to price:

(a) The ability, capacity and skill of the bidder to perform the contract or provide the services required;

(b) Whether the bidder can perform the contract or provide the services promptly, or within the time specified, without delay or interference;

(c) The sufficiency of the bidder's financial resources to perform the contract or provide the service;

(d) The ability of the bidder to provide future maintenance and services where such maintenance and service is essential;

(e) The quality and timeliness of the bidder's performance on previous contracts for the City;

(f) Litigation by the bidder on previous contracts with the City;

(g) The character, integrity, reputation, judgment, experience and efficiency of the bidder;

(h) The bidder is licensed under the Contractors' State License Law (commencing with Section 7000 of the Business and Professions Code of the State of California, as the same may be amended from time to time) to perform the work for which it submitted a bid proposal.

Section 4. To the extent that the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance, motion, resolution, rule or regulation governing the same subject, the terms of this Ordinance shall prevail with respect to the subject matter thereof and such inconsistent or conflicting provisions of prior ordinances, motions, resolutions, rules or regulations are hereby repealed.

Section 5. If any section, subsection, subdivision, paragraph, sentence, clause or phrase added by this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

Section 6. The proposed amendments to the Los Banos Municipal Code do not propose any changes to City policies or regulations that would result in a direct or indirect physical environmental impact; therefore it has been determined that this ordinance amendment is covered by the general rule that the California Environmental Quality Act applies only to projects which have the potential for causing a significant effect on the environment pursuant to CEQA guidelines section 15601(b)(3) and is not subject to environmental review.

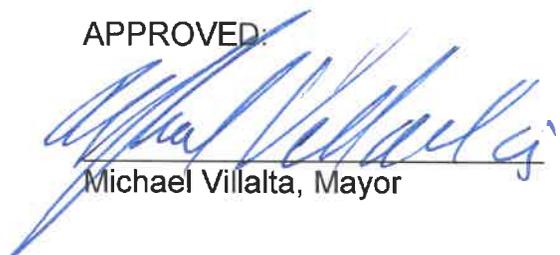
Section 7. This Ordinance shall go into effect and be in full force and operation thirty (30) days after its final passage and adoption. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

Introduced by Council Member Faria and seconded by Council Member Johnson-Santos on the 16th day of January, 2019.

Passed on the 6th day of February, 2019 by the following vote:

AYES: Council Members Faria, Johnson-Santos, Jones, Lewis,
Mayor Villalta
NOES: None
ABSENT: None

APPROVED:



Michael Villalta, Mayor

ATTEST:



Lucille L. Mallonee, City Clerk