

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS, CALIFORNIA, AMENDING CHAPTER 3.44 (PURCHASING) OF THE DESERT HOT SPRINGS MUNICIPAL CODE, CLARIFYING AND AMENDING PROCUREMENT PROCEDURES; AND AMENDING CHAPTER 3.45 (PUBLIC WORKS PROJECTS), INCREASING COMPETITIVE BIDDING THRESHOLD AMOUNTS IN ACCORDANCE WITH CURRENT STATE LAW**

**WHEREAS**, the City of Desert Hot Springs ("City") is a charter city and recognized for certain purposes as a political subdivision of the State of California; and

**a. Recitals for Public Works Contracts**

**WHEREAS**, the City adopted an ordinance which added Chapter 3.45 (Public Works Projects) to the Desert Hot Springs Municipal Code ("Chapter 3.45"); and

**WHEREAS**, subsequently, the City elected to follow the California Uniform Construction Cost Accounting Commission's cost accounting procedures, thereby allowing the City to avail itself of the Uniform Public Construction Cost Accounting Act ("Act"), including its alternative public works contract bidding procedures set forth in Public Contract Code Sections 22032 et seq.; and

**WHEREAS**, Chapter 3.45 provides procedural and bidding requirements and guidelines pertaining to the City's authority to enter into and perform public works contracts, all in accordance with and subject to the requirements set forth under the Act; and

**WHEREAS**, since the City's adoption of Chapter 3.45, multiple provisions of the Act have been amended, necessitating corresponding amendments to Chapter 3.45; and

**WHEREAS**, Assembly Bill 2249 ("AB 2249") which became effective January 1, 2019, codified one such amendment to the Act. Prior to AB 2249, the Act authorized public projects of \$45,000 or less to be performed by the employees of the City; authorized public projects of \$175,000 or less to be let to contract by informal bidding procedures; required public projects of more than \$175,000 to be let to contract by formal bidding procedures; and permitted the City Council, in the event all bids received through the informal bidding process for the performance of public projects were in excess of \$175,000, to award the contract at \$187,500 or less to the lowest responsible bidder by passage of a resolution by a four-fifths vote, if it determined the cost estimate of the City was reasonable; and

**WHEREAS**, now, AB 2249 authorizes public projects of \$60,000 or less to be performed by the employees of the City; authorizes public projects of \$200,000 or less to be let to contract by informal bidding procedures; requires public projects of more than \$200,000 to be let to contract by formal bidding procedures; and permits the City Council, in the event all informal bids received for the performance of public projects are in excess of \$200,000, to award the contract at \$212,500 or less to the lowest responsible bidder by passage of a resolution by a four-fifths vote, if it determines the cost estimate of the City was reasonable; and

**WHEREAS**, the City Council desires to further amend Chapter 3.45 to establish emergency contracting procedures, as described in more detail below; and

**WHEREAS**, Public Contract Code Section 22035 (a) provides that in cases of emergency when repair or replacements are necessary, a city council may proceed at once to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts and that work may be done by day labor under the direction of the city, by contractor, or by a combination of the two; and

**WHEREAS**, Public Contract Code Section 22050 (a) (1) provides that in the case of an emergency, a city, pursuant to a four-fifths vote of its city council, may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts; and

**WHEREAS**, Public Contract Code Section 22050 (a) (2) provides that before a city council takes any action specified in Section 22050 (a) (1), it shall make a finding, based on substantial evidence set forth in the minutes of its meeting, that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency; and

**WHEREAS**, in the alternative, Public Contract Code Section 22050 (b) (1) provides that a city council, by a four-fifths vote, may delegate, by resolution or ordinance, to the city manager the authority to order any action specified in Section 22050 (a) (1); and

**WHEREAS**, Public Contract Code Section 22050 (b) (3) further provides that a city manager who was delegated the authority to order any action specified in Section 22080 (a) (1) shall report to the city council the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency; and

**WHEREAS**, Public Contract Code Section 22050 (c) (2) also provides that if the city manager orders any action specified in Section 22080 (a) (1), the city council shall initially review the emergency action not later than seven days after the action, or at its next regularly scheduled meeting if that meeting will occur not later than 14 days after the action, and at least at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action, unless the city manager has terminated that action prior to the city council reviewing the emergency action and making its determination; and

**b. Recitals for Purchasing Supplies and/or Equipment**

**WHEREAS**, the City additionally desires to amend Chapter 3.44 (Purchasing) of Title 3 (Revenue and Finance), as set forth in more detail below; and

**WHEREAS**, on May 5, 2009, the City adopted Resolution Number 2009-016, which adopted the City of Desert Hot Springs Purchasing Procedures (the "Policy"), establishing procedures regarding purchasing of goods and services, which included purchasing procedures pertaining to public works construction; and

**WHEREAS**, Government Code Sections 54202 and 54203 provide that policies and procedures, including bidding regulations, governing purchases of supplies and equipment by the local agency shall be adopted by ordinance; and

**WHEREAS**, due to the overlapping nature of the Policy and this ordinance, and changes to substantive portions of said Policy via this ordinance, the City desires that this ordinance supersede said Policy and upon effective date of this ordinance, the Policy shall be repealed in its entirety, and thenceforth shall be null and void and of no further force or effect.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS DOES ORDAIN AS FOLLOWS:**

**Section 1. RECITALS**

That the above recitals are true and correct and are incorporated as though fully set forth

herein.

**Section 2.     AMENDMENT TO CHAPTER 3.44 (PURCHASING) OF TITLE 3  
(REVENUE AND FINANCE) OF THE DESERT HOT SPRINGS MUNICIPAL  
CODE**

That Chapter 3.44 (Purchasing) of Title 3 (Revenue and Finance) of the Desert Hot Springs Municipal Code is hereby amended as follows:

**Chapter 3.44 PURCHASING**

**3.44.010 Purchasing system adopted—Purpose. (Sections 3.44.010 to     )**

In order to establish efficient procedures for the purchase of supplies and/or equipment as defined in this Chapter to secure for the City supplies and equipment at the lowest possible cost commensurate with quality needed; to exercise positive financial control over purchases; to clearly define authority for the purchasing function and to assure the quality of purchases, a purchasing system is adopted. (Prior code § 34.10)

**~~3.44.020 Purchasing Department established.~~**

~~There is created a centralized Purchasing Department, in which is vested authority for the purchase of supplies and equipment.~~

**~~3.44.030 Purchasing Agent—Position established, appointment, powers and duties.~~**

~~A. Position Established—Appointment—Function. There is established the position of Purchasing Agent. The Purchasing Agent shall be appointed by the City Manager. The Purchasing Agent shall be the head and have general supervision of the Purchasing Department. The duties of the Purchasing Agent may be combined with those of any other office or position.~~

~~B. Powers and Duties. The Purchasing Agent shall have the following powers and duties:~~

~~1. To purchase or contract for supplies and/or equipment required by any using agency in accordance with purchasing procedures prescribed by this chapter, such administrative regulations as the Purchasing Agent shall adopt for the internal management and operation of the Purchasing Department and such other rules and regulations as shall be prescribed by the City Manager or the City Council;~~

~~2. To negotiate and recommend execution of contracts for the purchase of supplies and/or equipment;~~

~~3. To act to procure for the City the needed quality in supplies and/or equipment at least expense to the City;~~

~~4. To discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases;~~

~~5. To prepare and recommend to the City Council rules governing the purchase of supplies and/or equipment for the City;~~

~~6. To prepare and recommend to the City Council revisions and amendments to the purchasing rules;~~

~~7. To keep informed of current developments in the field of purchasing, prices, market conditions and new products;~~

~~8. To prescribe and maintain such forms as reasonably necessary to the operation of this chapter and other rules and regulations;~~

~~9. To supervise the inspection of all supplies and/or equipment purchased to insure conformance with specifications;~~

~~10. To recommend the transfer of surplus or unused supplies and/or equipment between departments as needed;~~

~~11. To maintain a bidders list, vendors catalog file and records needed for the efficient operation of the Purchasing Department. (Prior code § 34.12)~~

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**~~3.44.040 Exemptions from centralized purchasing.~~**

~~The Purchasing Agent, with the approval of the City Council, may authorize, in writing, any~~

~~agency to purchase specified supplies and equipment independently of the Purchasing Department; but the Purchasing Agent shall require that such purchases shall be made in conformity with the procedures established by this chapter and such other prescribed rules and regulations as pertain to purchasing. The Purchasing Agent shall further require periodic reports from the agency on the purchases made under such written authorization. (Prior code § 34.13)~~

**3.44.050 Estimates of requirements of using agencies.**

~~— All using agencies shall file detailed estimates of their requirements in supplies and equipment in such manner, at such time, and for such future periods as the Purchasing Agent shall prescribe. (Prior code § 34.14)~~

**3.44.060 Use of requisitions required.**

Using agencies City staff shall submit requests for supplies and equipment purchases of supplies and/or equipment to the Department Head Purchasing Agent by standard requisition forms, or by other means as may be established by the City Manager or his/her designee. ~~purchasing rules and regulations. (Prior code § 34.15)~~

**3.44.070 Purchase orders required.**

Purchases of supplies and/or equipment shall be made only by purchase orders, or in another form as may be established by the City Manager or his/her designee. Except as otherwise provided in this chapter, no purchase order shall be issued unless the prior approval of the Department Head Purchasing Agent or his/—or—her designated representative has been obtained. (Prior code § 34.16)

**3.44.080 Purchases to be only against unencumbered funds.**

Except in cases of emergency or in cases where specific authority has been first obtained from the City Manager, the Department Head Purchasing Agent shall not issue any purchase order for supplies and/or equipment unless there exists an unencumbered appropriation in the fund account against which such purchase is to be charged. (Prior code § 34.17)

**3.44.090 Bidding required for purchases—Exceptions.**

~~— Purchases of supplies and equipment shall be by bid procedures pursuant to Sections 3.44.100 and 3.44.110. (Prior code § 34.18)~~

**3.44.100- Formal contract procedures for Supplies and/or Equipment in Excess of \$50,000).**

~~— Purchases of supplies and equipment of an estimated value in the amount of \$30,000 set by resolution of the City Council, or less, shall be by written contract with the lowest responsible bidder pursuant to the procedures hereinafter described. The bidding procedures set forth herein shall not apply to situations wherein the subject supplies and/or equipment can only be obtained from a single source. Under such conditions, the contract must still be approved by the City Council and approval of the contract may be conditioned upon the execution of a performance bond as set forth in subsection G of this section.~~

Purchases of supplies and/or equipment of an estimated value in excess of Fifty Thousand Dollars (\$50,000) shall be by written contract between the vendor and the City Council with the lowest responsible bidder pursuant to the procedures hereinafter described. Cumulative change orders of less than thirty percent (30%) of the original contract amount, even if the original contract amount was for Fifty Thousand (\$50,000) Dollars, may be approved by the City Manager, unless such amount is otherwise dictated by contract or by law. Change orders of more than thirty percent (30%) must be approved by City Council.

A. ~~Notice Inviting Bids~~ Request for Proposals. ~~Notices inviting bids shall include a general description of the articles to be purchased, shall state where bid blanks and specifications may be secured, and the time and place for opening of bids~~ A Request for Proposal (“RFP”) shall be

**utilized by the Department Head or his/her designee.**

~~1. Published Notice. Notices inviting bids shall be published at least ten days before the date of opening of the bids. Notices shall be published at least once in a newspaper of general circulation, printed and published in the City, or if there is none, it shall be posted in at least three public places in the City that have been designated by ordinances as the places for posting public notices.~~

~~2. Bidder's List. The Purchasing Agent shall also solicit sealed bids from all responsible prospective suppliers whose names are on the bidder's list or who have made written request that their names be added thereto.~~

~~3. Bulletin Board. The Purchasing Agent shall also advertise pending purchase by notice posted on a public bulletin board in the City Hall.~~

**B. RFP shall be sent to a minimum of three (3) potential vendors/contractors. RFP shall also be placed on City's website. A list of proposals received shall be maintained by the City in accordance with its Records Retention Schedule.**

**C. Bid Opening Procedure. Sealed bids shall be submitted to the Department Head or to the City Clerk, as appropriate, and shall be identified as bids on the envelope. Bids shall be open in public at the time and place stated in the public notices.**

**D. City staff shall prepare a summary staff report, along with presentation of the item to the City Council, which will be placed on the agenda for City Council consideration.**

**E. City Manager may reject all proposals and re-advertise.**

**F. In the event two (2) or more proposals received are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay or re-advertising for RFP, the City Manager may elect to recommend one (1) proposal over the other to City Council, based on the best interest of the City.**

**G. The City Clerk shall receive and maintain all proposal documents necessary to support the proposal process and vendor/contractor selection in accordance with the records retention schedule and funding source of the purchase.**

~~B. Bidder's Security. All bids shall be accompanied by one of the following forms of bidder's security in an amount equal to at least ten percent of the amount of the bid: Cash, cashier's check made payable to the City, a certified check made payable to the City, or a bidder's bond executed by an admitted surety insurer made payable to the City. Bidders shall be entitled to return of bid security; provided, that a successful bidder shall forfeit the bid security upon his or her refusal or failure to execute the contract within ten days after the notice of award of contract has been mailed, unless in the latter event, the City is solely responsible for the delay in executing the contract. The City Council may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder. If the City Council awards the contract to the next lowest bidder, the amount of the lowest bidder's security shall be applied by the City to the contract price differential between the lowest bid and the second lowest bid and the second lowest bid and the surplus, if any, shall be returned to the lowest bidder. If the City Council rejects all bids presented and readvertises, the amount of the lowest bidder's security may be used to offset the cost of receiving new bids, and the surplus, if any, shall be returned to the lowest bidder.~~

~~C. Bid Opening Procedure. Sealed bids shall be submitted to the Purchasing Agent and shall be identified as bids on the envelope. Bids shall be open in public at the time and place stated in the public notices. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than 30 days after the bid opening.~~

~~D. Rejection of Bids. In its discretion, the City Council may reject any and all bids presented and readvertise for bids pursuant to the procedure prescribed in this section.~~

~~E. Award of Contracts. Except as otherwise provided in this chapter, contracts shall be awarded by the City Council to the lowest responsible bidder.~~

~~F. Tie Bids. If two or more bids received are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay of re-advertising for bids, the City Council may in its discretion accept the one it chooses or accept the lowest bid made by and after negotiation with the tie bidders at the time of the bid opening.~~

**GH. Performance Bonds. The City Council shall have authority to require a performance bond before entering a contract in such amount as it shall find reasonably necessary to protect the**

best interests of the City. If the City Council requires a performance bond, the form and amount of the bond shall be described in the notice inviting bids RFP. (Prior code § 34.19)

I. No Proposals or Bids Received. In the event City receives no proposals or bids pursuant to an RFP, the City may elect to either re-issue the RFP or informally solicit proposals or bids from various vendors or contractors.

**3.44.XX Exemptions from Formal Bidding Procedures for Supplies and/or Equipment.**

**A. The following financial disbursements are exempt from formal bidding procedures:**

1. Tuition as paid by the City;
2. City payment of Membership dues;
3. Bank charges and fees;
4. Insurance payments;
5. City payment for subscriptions;
6. Refunds;
7. Debt service payments;
8. Reimbursement of expenses;
9. City payment for attendance at professional meetings/conferences;
9. Public utility purchases of water, power and related services;
10. Specialized seminar, training, educational classes, meetings and travel;
11. City membership with multi-agency organizations;
12. Catering and food services; and
13. As otherwise provided in this Chapter.

**B. Sole source. City Manager may waive formal bidding of supplies and/or equipment in situations wherein the department head determines that the subject purchase can only be obtained from a single source.**

**C. Piggybacking/Cooperative Purchasing for Supplies and/or Equipment.**

**1. The City may dispense with formal contract procedures for purchases of supplies and/or equipment and avail itself of another public agency's contract prices obtained through that agency's own RFP process, so long as such prices are lower than the prices that can be obtained by the City through the City's RFP process, and provided the following findings are made by the Department Head with the consent of the City Manager:**

- a. The contract with the party awarded the contract ("Contractor") is the result of competitive bidding or negotiation and is made in compliance with the competitive bid or proposal requirements of the agency whose prices the City desires to "piggy back" off ("Participating Public Agency") devoid of fraud perpetrated by any public official or staff, or collusion or fraud among the Contractor and/or any subcontractor, all of which determination is solely based on a thorough and complete investigation and review of all relevant documents, including, but not limited to, all bid documents and specifications, staff reports and approved minutes, it being understood that certain evidence extrinsic to such documents may

not be readily available nor accessible to the Department Head and City Manager; and

- b. The contract awarded by the Participating Public Agency was awarded to the lowest responsive bidder, in compliance with the Participating Public Agency's RFP; and
- c. The purchase conforms to the City's contract specifications; and
- d. The estimated price of the purchase is lower than that estimated for the purchase if made directly by the City pursuant to other sections of this Policy.

2. City may additionally forgo competitive bidding when contracting with suppliers for supplies and/or equipment who have been awarded contracts by the State of California for purchase of supplies and/or equipment under the competitive process pursuant to California Public Contract Code Sections 10298-10299 and 12100-12113.

#### **3.44.110 Open Market Procedure for Supplies and/or Equipment \$50,000 or Less.**

Purchases of all supplies and/or equipment of an estimated value in the amount of ~~\$30,000~~ \$50,000 set by resolution of the City Council, or less, may be made by the Department Head Purchasing Agent in the open market pursuant to the procedure hereinafter described and without observing the formal bidding procedure described in Section 3.44.100, provided that the subject purchase has been authorized by an approved City Council budget. The City Council may by resolution exempt particular supplies and equipment from the requirements set forth herein to permit the Purchasing Agent to easily acquire or obtain certain items that are necessary to the daily operations of the City. Cumulative change orders of less than thirty percent (30%) of the original contract amount may be approved by the City Manager, unless such amount is otherwise dictated by contract or by law. Cumulative change orders of more than thirty percent (30%) must be approved by City Council, unless such amount is below \$50,000 accumulatively. (Prior code § 34.20)

#### **3.44.120 Inspection and testing of supplies and/or equipment.**

The Department Head Purchasing Agent shall inspect supplies and/or equipment delivered to determine their conformance with the specifications set forth in the order. The Department Head Purchasing Agent shall have 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 specifications. (Prior code § 34.21)

#### **3.44.130 Disposition of surplus supplies and/or equipment.**

~~All using agencies~~ City staff shall submit to the Purchasing Agent Department Head, at such times and in such forms as he or she shall prescribe, reports showing all supplies and/or equipment which are no longer used or which have become obsolete or worn out. The Purchasing Agent Department Head shall have authority to exchange for or trade in on new supplies and/or equipment all supplies and/or equipment which cannot be used by any agency City or which have become unsuitable for City use. (Prior code § 34.22)

#### **3.44.140 Agreements for personal, professional and consulting services Emergency Purchases of Supplies and/or Equipment.**

In emergency situations, it may be necessary to make emergency purchases of supplies and/or equipment, where such supplies and/or equipment are not already available to City. For purchasing purposes, an emergency situation is one in which there is an immediate threat to life or property or a substantial disruption of a vital public service or where the public health, welfare or safety may be at risk. The emergency must be of such a nature that a Department Head and possibly the City Manager would be contacted to advise them of the situation, regardless of when they occur. Such emergency purchases must be approved by the City Manager. Emergencies concerning procurement of public projects shall be governed by the Public Contract Code in addition to this Code.

~~— A. Definitions. As used in this section, the terms “personal,” “professional,” and “consulting” to describe services rendered shall be used to refer to contracts of an instructional, advisory, design, fiscal and legal nature, or other special services.~~

~~Policy Summary. Retention of necessary personal, professional or consulting services shall be made on the basis of demonstrated competence and qualification for the type of services required at a fair and reasonable price.~~

~~— 1. City Council Authorization and Approval. All agreements for the retention of personal, professional and consulting services, exceeding an amount of \$30,000 set by resolution of the City Council shall be authorized and approved by the City Council.~~

~~— 2. Preferences. Where competence and qualifications are approximately equal, special consideration should be given to a local firm or individual. However, this policy shall not be interpreted to imply that a local firm or individual shall be given automatic preference.~~

~~— 3. Reputation. The firm or individual selected shall be of high ethical and professional standing and should be prepared to submit references from persons of known reputation.~~

~~— 4. Professional Certification. When a professional certificate or registration is applicable, a principal member of the firm, or the individual concerned, shall hold said professional designation at the time the services agreement is executed.~~

~~— 5. Emergencies. In case of an emergency which poses an immediate threat to the public health, safety and/or general welfare, the City Manager may expend the minimal sums necessary without complying with this section, to retain personal, professional or consulting services necessary for the immediate abatement or the mitigation of the activities and/or conditions responsible for causing the emergency or for avoiding the situation. The City Manager shall provide the City Council with a written report at the next regularly scheduled City Council meeting which sets forth the facts and circumstances establishing:~~

- ~~— a. Why the situation was an emergency;~~
- ~~— b. Why the personal, professional or consulting services were immediately necessary;~~
- ~~— c. The amount of money spent for the services; and~~
- ~~— d. The name of the service provider who rendered service.~~
- ~~— C. Procedures.~~

~~— 1. Scope of Services. When a department identifies a project for which personal, professional or consulting services will be necessary, the department shall draft a scope of services to be performed. The scope of services shall define the project in general terms and shall identify the various project components and phases and the degree of participation of any state or federal agency. The scope of services shall be approved by the City Manager provided it is consistent with the policy and if the project identified is inconsistent with the current goals and policies of the City.~~

~~— 2. Request for Proposal Circulation. Following approval of the scope of services, the department which prepared the scope of services shall draft a request for proposal (RFP) which shall include all of the following:~~

- ~~— a. Description of the parameters and work program of the proposed project;~~
- ~~— b. Identification of all general and specific provisions and any insurance or bonding requirements;~~
- ~~— c. Request for a description of how the project would be conducted;~~
- ~~— d. Request for details of the proposed fee structure for the services to be rendered; and~~
- ~~— e. Request for background information, including but not limited to, the firm name, year established, former business names, business address and telephone number, type of service particularly qualified to perform, names and professional status of principals, numbers of staff available for project, outside consultants and associates usually retained, list of completed projects, description of any current project and the largest project within the last five years, banking references and information pertaining to financial capabilities.~~

~~— The department shall compile a roster of those firms and individuals who may be qualified to provide the required services using references from other cities and public agencies, past experience, advertising and professional listings. The RFP shall thereafter be mailed to all firms/individuals on the list, subject to the approval of the City Manager, and posted in City Hall.~~

~~— 3. Proposals. Upon receipt of responses to the request for proposal (proposals for service),~~



~~the City Manager and the head of the department proposing the project shall review each proposal received and shall select the top three candidates who shall be interviewed by the City Manager and the department head. Factors to be considered in the screening process shall include, but not be limited to the following:~~

- ~~— a. Whether recent clients have been satisfied with quality of performance;~~
- ~~— b. Record of accomplishing work on time and written budget;~~
- ~~— c. Record of accuracy of cost estimates;~~
- ~~— d. Evidence of sensitivity to citizen concerns;~~
- ~~— e. Geographical location of principal offices;~~
- ~~— f. Rates charged; and~~
- ~~— g. Ability to comply with all criteria set forth in the RFP.~~

~~4. Selection Report to City Council. The City Manager shall select from the firm and/or individuals interviewed, the top respondent to the request for proposal. The City Manager shall select that firm or individual best able to satisfy the general purposes of this section and the specific criteria set forth in subsection (C)(3) of this section. Thereafter, the City Manager shall submit to the City Council a written report which shall include the following information:~~

- ~~— a. A summary of the project and the scope of services;~~
- ~~— b. A list of the firms and individuals to whom the request for proposal (RFP) was mailed;~~
- ~~— c. A list of the firms and individuals who provided a timely proposal for service;~~
- ~~— d. The names of the firms and/or persons who were interviewed for the project; and~~
- ~~— e. The reasons why the City Manager's recommended selection was chosen over the respondents.~~

~~5. Action by City Council Negotiations Contract Approval. The City Council shall consider the City Manager's recommendation at a noticed public hearing after which the City Council may either adopt the City Manager's recommendation, send the matter back to the City Manager for further inquiry and investigation, or the City Council may select from the other firms and/or individuals who were interviewed for the project. The decision of the City Council to either adopt the City Manager's recommendation or to select a different candidate shall be final.~~

~~— a. After the City Council has made its final selection of the consultant to be retained for the project (Project Consultant), the City Manager shall be authorized to enter into negotiations on behalf of the City with the Project Consultant. The City Manager's authority to negotiate shall be limited to approval of those terms and fees that are consistent with the terms and fees set forth in the request for proposal, the Project Consultant's proposal for service and any other instructions provided to the City Manager by the City Council.~~

~~— b. After all the provisions and fees have been agreed upon, the necessary contracts between the City and the Project Consultant shall be drafted and/or reviewed by the City Attorney and approved by the City Council. (Prior code § 34.23)~~

### **3.44.150 Definitions.**

**"Professional services" means those services which involve the exercise of discretion and independent judgment together with an advanced or specialized knowledge, expertise or training gained by formal studies or experience, and where the qualifications of persons rendering the service are of primary importance, which includes architectural, landscape architectural, environmental, engineering, and surveying, and construction project management services (except those that may qualify as Public Projects under the California Public Contract Code).**

**"Public projects" shall have the same meaning as set forth in the Uniform Public Construction Cost Accounting Act as set forth in California Public Contract Code Sections 22000 et seq., as may be amended by the Legislature.**

As used in Section 3.44.160, the following terms shall have the meanings described below:

~~— "Excluded supplies and/or equipment" means equipment and supplies, as defined by this section, in which any City official or City employee has a financial interest.~~

"Local business" means a vendor, contractor, or consultant who has a valid physical business address and an established place of business located within the City, at least six months prior to bid or proposal opening date, from which the vendor, contractor, or consultant operates or

performs business on a day-to-day basis, and holds a valid business license continuously for at least six months issued by the City. Post office boxes are not verifiable and shall not be used for the purpose of establishing such physical address. Local business includes only companies with a significant presence of business activity in the City.

~~“Purchasing Agent” shall have the same meaning as provided in Section 3.44.030.~~

“Solicitation” means the City’s process to obtain bids or proposals as provided in this chapter ~~for the purchase of equipment and/or supplies.~~

“Supplies and/or equipment” means services, supplies, goods, materials and/or equipment that are subject to this chapter. **“Supplies and/or equipment” does not mean professional or design services, and further does not apply to public works contracts.**(Ord. 568 10-20-15; prior code § 34.24)

### **3.44.160 Local business preference program.**

#### **A. Findings.**

1. The City of Desert Hot Springs annually spends significant amounts on supplies and/or equipment, and contractual and professional services. The dollars used in making these purchases are derived in large measure from taxes and fees derived from local businesses and the City Council has determined that funds generated in the community should, to the extent possible, be placed back in the local economy. Therefore, the City Council has determined that it is in the best interest of the City to give a preference to local businesses in making such purchases whenever the application of such a preference is reasonable in light of the dollar-value received in relation to such expenditure.

2. The City Council further finds that local businesses are at a competitive disadvantage in light of the current economic conditions and hardships in Desert Hot Springs forcing many local businesses to close their doors. Many of these local business establishments have been doing business in Desert Hot Springs for many years. The City Council finds that the City should promote and stimulate local businesses by requiring that purchases of supplies and/or equipment and certain contractual services be acquired from local businesses.

3. The City Council further finds that this action is necessary to grow the local economy and preserve the local businesses that have diligently served Desert Hot Springs for many years.

4. Strategies that encourage people to buy locally are an important component of economic sustainability. Retaining local dollars within a community reduces economic export and increases the financial productivity of taxpayer dollars and increases the consumption of local supplies and/or equipment and services while fostering a sustainable community. In working towards a sustainable economy, the City Council recognizes that sustainable procurement policies are an important early step on the Desert Hot Springs path to a sustainable community. By leveraging the purchasing power of the City to buy local supplies and/or equipment and services instead of products and services from outside Desert Hot Springs it strengthens the local economic activity and employment as well as sets an example that helps foster and maintain a vital economic community for future generations.

B. Statement of Policy. **Unless otherwise prohibited by law, it** is the policy of the City to promote employment and business opportunities for local residents and firms on all contracts and give preference to local residents, workers, businesses, contractors, and consultants to the extent consistent with the law and interests of the public.

C. Local Preference in Purchasing. In the bidding of, or letting for procurement of, supplies and/or equipment, as provided in this chapter, the City Council or the Purchasing Agent may give a preference to local businesses in making such purchase or awarding such contract in an amount not to exceed five percent of the local business’ total bid price. Total bid price shall include the base bid price and also any adjustments to that base bid price resulting from alternates requested in the solicitation. In order for a local business to be eligible to claim the preference, the business must request the preference in the solicitation response and provide a copy of its current business license from Desert Hot Springs and show proof of a physical business address where regular open hours of business is conducted a minimum of five days per week within the City limits of Desert Hot Springs.

D. Local Preference in Services. In awarding contracts for services, including consultant services, preference to local business shall be given whenever practicable pursuant to this chapter

consistent with the statement of policy in subsection B of this section. The contractor or consultant will also, to the extent legally possible, solicit applications for employment and proposals for subcontractors for work associated with the proposed contract from local residents and firms as opportunities occur and hire qualified local residents and firms whenever feasible. In order for a local business to be eligible to claim the preference, the business must request the preference in the solicitation response and provide a copy of its current business license from Desert Hot Springs.

Further, the City Purchasing Agent is required to include notice of the local business preference in all public posting soliciting bids so as to assist local businesses to be aware of the bid advantage available to them.

E. Local Preference in Public Works Contracts (Subcontracting). The prime contractor shall use good faith efforts to subcontract the supply of materials and equipment to local business enterprises and to subcontract services to businesses whose work force resides within Desert Hot Springs. The prime contractor shall submit evidence of such good faith efforts at the time of submission of bids. Good faith efforts may be evaluated by placing advertisements inviting proposals in local newspapers, sending request for proposals to local subcontractors, or by demonstrating that no local subcontractors are qualified to perform the work or supply the materials or equipment. Any ~~notice inviting~~ bids which may require the use of subcontractors shall include notification of this subsection. The City Council or Purchasing Agent may reject as nonresponsive the bid of any contractor proposing to use subcontractors that fail to comply with the requirements of this subsection.

F. Exceptions to Local Business Preference Policy. The preference set forth in this section shall not apply to the following purchases or contracts:

1. Supplies and/or equipment provided under a cooperative purchasing agreement;
2. Purchases or contracts which are funded in whole or in part by a grant and/or governmental entity and the laws, regulations, or policies governing such funding prohibit application of that preference;
3. Purchases made or contracts let under emergency or noncompetitive situations.

G. Quality and Fitness. The preferences established in this section shall in no way be construed to inhibit, limit or restrict the right and obligation of the City Council or the Purchasing Agent to compare quality and fitness for use of supplies, ~~materials,~~ and/or equipment, ~~and services~~ proposed for purchase and compare the qualifications, character, responsibility, and fitness of all persons, firms, or corporations submitting bids or proposals. In addition, the preferences established in this section shall in no way be construed to prohibit the right of the City Council or the Purchasing Agent from giving any other preference permitted by law or this chapter.

H. Application. The local business preference provided in this section shall apply to new contracts for supplies and/or equipment and services first solicited as of the effective date of the enabling ordinance. This section shall be implemented in a manner consistent with otherwise applicable provisions of this chapter and competitive bidding laws.

I. Verification of Local Business Preference Eligibility. Any vendor of supplies and/or equipment or consultant claiming to be a local business, shall so certify in the bid, in writing to the Purchasing Agent. The Purchasing Agent shall not be required to verify the accuracy or any such certifications, and shall have sole discretion to determine if a vendor or consultant meets the definition of local business.

J. Enforcement.

1. The information furnished by each bidder requesting a local business preference shall be under penalty of perjury.
2. No person or business shall knowingly and with intent to defraud, obtain, retain, attempt to obtain or retain, or aid another in obtaining or retaining or attempting to obtain or retain certification as a local business for the purpose of this section.
3. No person or business shall willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a City official or employee for the purpose of influencing the certification or denial of certification of any entity as a local business.
4. A business which has obtained City certification as a local business by reason of having furnished incorrect supporting information or by reason of having withheld information, and which

knew or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded a contract to which it would not otherwise have been entitled, shall:

a. Pay to the City any difference between the contract amount and what the City's costs would have been if the contract had been properly awarded;

b. In addition to the amount described in subsection (J)(4)(a) of this section, be assessed a penalty in an amount of not more than ten percent of the amount of the contract involved.

5. The penalties identified above shall also apply to any business that has previously obtained proper certification and, as a result of a change in its status would no longer be eligible for certification, fails to notify the Finance Department of this information prior to responding to a solicitation or accepting a contract award.

K. Promulgation of Administrative Rules. The Purchasing Agent is authorized to adopt administrative rules supplemental to the provisions of this chapter as necessary or appropriate to implement the provisions of this section. The provisions of this section and the rules adopted by the Purchasing Agent shall be provided to potential bidders, vendors, and contractors to the widest extent practicable. (Ord. 568 10-20-15; prior code § 34.25)

### **3.44.170 Facility use agreements and/or non-exclusive license agreements—Negotiation, award and signature authority.**

The City Council may, by resolution, provide an officer other than the Mayor the specific authority to negotiate, award, and execute facility use agreements and/or non-exclusive license agreements for certain City-owned, operated, or controlled facilities or properties. City Council may set forth restrictions, limitations, or further prescriptions by City Council resolution, with this section being considered as enabling and directive in this regard. (Ord. 594 12-6-16)

### **3.44.180 Professional Services (Sections 3.44.160 to 3.44.170).**

**A. The selection of professional services is to be based on demonstrated competence and professional qualifications necessary for satisfactory performance of services required, as so determined by the Department Head. An RFP is not required. The emphasis for selection is therefore based upon qualifications, rather than the lowest price.**

**B. Professional services agreements in the amount of Fifty Thousand dollars (\$50,000) or less require a contract with insurance certificate(s) and any other pertinent documentation as required by City Manager. Such Agreement, or any amendments thereto, shall be negotiated, approved, and executed by the City Manager or his/her designee. Cumulative change orders of less than thirty percent (30%) of the original contract amount, even if the original contract amount was for Fifty Thousand (\$50,000) Dollars, may be approved by the City Manager, unless such amount is otherwise dictated by contract or by law. Change orders of more than thirty percent (30%) must be approved by City Council.**

**C. Professional services agreement in excess of Fifty Thousand dollars (\$50,000) shall require a contract with insurance certificate(s) and any other pertinent documentation as may be required. Such agreements are subject to City Council approval. Cumulative change orders of less than thirty percent (30%) of the original contract amount may be approved by the City Manager, unless such amount is otherwise dictated by contract or by law. Cumulative change orders of more than thirty percent (30%) must be approved by City Council.**

### **3.44.190 Contract Execution.**

**Contracts which do not require City Council approval shall be negotiated, approved, and executed by the City Manager or his/her designee upon the agreement being duly approved in accordance with this ordinance and/or applicable law. Contracts requiring City Council approval may be executed by the City Manager or his/her designee upon the City Council duly approving the contract, or by the Mayor.**

**Section 3.     AMENDMENT TO CHAPTER 3.45 (PUBLIC WORKS PROJECTS) OF  
TITLE 3 (REVENUE AND FINANCE) OF THE DESERT HOT SPRINGS  
MUNICIPAL CODE**

That Chapter 3.45 (Public Works Projects) of Title 3 (Revenue and Finance) of the Desert Hot Springs Municipal Code is hereby amended as follows:

**Chapter 3.45 PUBLIC WORKS PROJECTS**

**3.45.100 Prevailing wages.**

A. Commencing January 1, 2015, prevailing wages shall be paid for all State and locally funded public works projects except the following, which are expressly exempt from the payment of prevailing wages by Section 1782 of the California Labor Code:

1. City public works projects with contracts awarded prior to January 1, 2015, including the amendment, renewal or extension of such contracts;
2. City public projects advertised for bid prior to January 1, 2015;
3. City public works projects involving construction activities with contracts valued at \$25,000 or less; and
4. City public works projects involving alteration, demolition, repair, and maintenance activities with contracts valued at \$15,000 or less.

B. All public works projects not otherwise exempt from this section or any other applicable law or regulation shall be subject to California's prevailing wage laws (Labor Code Section 1770 et seq.). Any notice inviting bids for such public works projects shall include notification of the provisions of this section. (Ord. 557 11-4-14)

**3.45.110 California Uniform Construction Cost Accounting Procedure.**

The City, by adoption of Resolution 2017-012, has elected to become subject to the California Uniform Construction Cost Accounting Procedures referred to in the Uniform Public Construction Cost Accounting Act (the "Act," Public Contract Code Section 22000 et seq.) and to meet the requirements prescribed in the Cost Accounting Policies and Procedures Manual (the "Manual") promulgated by the California Uniform Public Construction Cost Accounting Commission, as such Manual may be amended from time to time. The terms referred to herein shall have the meanings assigned to them in the Act and the Manual. The Act sets forth different required bidding procedures depending on the dollar amounts of the contracts. (Ord. 608 4-18-17)

**3.45.120 Monetary thresholds applicable to public projects through informal and formal procedures.**

A. Public projects within the limits listed in Section 22032(a) of the Public Contract Code, as may be amended from time to time, may be performed by the employees of the City by force account, by negotiated contract, or by purchase order, as determined by the City Manager. **Such dollar thresholds shall mirror the dollar thresholds set by State Law, as may be amended.**

[Note: As of the effective date of the ordinance codified in this section **January 1, 2019, pursuant to Assembly Bill 2249**, the limit provided in Section 22032(a) of the Public Contract Code is **\$45,000 60,000** or less.]

B. Public projects within the limits listed in Section 22032(b) of the Public Contract Code, as may be amended from time to time, may be let to contract by informal procedures as set forth in the Act and this chapter. **Such dollar thresholds shall mirror the dollar thresholds set by State Law, as may be amended.** [Note: As of the effective date of the ordinance codified in this section **January 1, 2019, pursuant to Assembly Bill 2249**, the limit provided in Section 22032(b) of the Public Contract Code is **\$475,000 200,000** or less.]

C. Public projects within the limits listed in Section 22032(c) of the Public Contract Code, as may be amended from time to time, shall, except as otherwise provided in this chapter, be let to contract by formal bidding procedures as set forth in the Act and this chapter. **Such dollar**

**thresholds shall mirror the dollar thresholds set by State Law, as may be amended.** [Note: As of the effective date of the ordinance codified in this section **January 1, 2019, pursuant to Assembly Bill 2249**, the limit provided in Section 22032(c) of the Public Contract Code is more than \$175,000**200,000.**] (Ord. 608 4-18-17)

### **3.45.130 Bidding procedures for informal bids.**

A. Where a public project is to be performed which is subject to the provisions of this chapter, a notice inviting informal bids shall be mailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with Section 3.45.150, and to all construction trade journals as specified by the 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 department soliciting bids; provided, however:

1. If there is no list of registered contractors maintained by the City for the particular category of work performed, the notice inviting bids shall be sent only to the construction trade journals specified by the Commission.

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(s).

B. The notice inviting informal bids shall describe the project in general terms, shall state how to obtain more detailed information about the project, and shall state the time and place for the submission of bids.

C. All mailing of notices to contractors and construction trade journals inviting informal bids shall be completed not less than ten days before bids are due.

D. If the project is exempt from the payment of prevailing wages under California's prevailing wage laws (Labor Code Section 1770 et seq.), the notice inviting informal bids shall also provide notice that the contract is not subject to payment of prevailing wages. (Ord. 608 4-18-17)

### **3.45.140 Acceptance of informal bids in excess of one hundred seventy-five thousand two hundred thousand dollars.**

In accordance with Public Contract Code Section 22034(d), if all informal bids received are in excess of \$175,000 **200,000**, the City Council may, by passage of a resolution by a four-fifths vote, award the contract at ~~\$187,500~~**212,500** dollars or less to the lowest responsible bidder if it determines the cost estimate prepared by City staff was reasonable. **Such dollar thresholds shall mirror the dollar thresholds set by State Law, as may be amended.** (Ord. 608 4-18-17)

### **3.45.150 Contractors list.**

A list of contractors shall be developed, identified by category of work, and maintained in accordance with the provisions of Section 22034 of the Public Contract Code and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission. (Ord. 608 4-18-17)

### **3.45.160 City Manager authorized to award informal contracts.**

In accordance with Public Contract Code Section 22034(c), the City Council hereby delegates to the City Manager, or designated representative, the authority to award or reject informal contract bids in accordance with the Act and this chapter. (Ord. 608 4-18-17)

### **3.45.170 Bidding procedures for formal bids.**

A. In accordance with Public Contract Code Section 22037, at least 15 calendar days before bids are opened, mailed notice inviting formal bids shall be provided to all contractors for the category of work to be bid, as shown on the list developed in accordance with Section 3.45.150. If available, the notice shall also be sent electronically by either facsimile or email and mailed to all

construction trade journals as specified by the Commission in accordance with Section 22036 of the Public Contract Code.

B. The notice inviting formal bids shall be published at least 14 calendar days prior to the date of the bid opening and as required by Public Contract Code Section 22037, in a newspaper of general circulation, printed and published in the jurisdiction of the City of Desert Hot Springs; or, if there is no newspaper printed and published within the City's jurisdiction, in a newspaper of general circulation which is circulated within the jurisdiction of the City. If there is no newspaper which is circulated within the jurisdiction of the City, publication shall be by posting the notice in at least three locations within the City's jurisdiction. Those locations are City Hall, Carl May Center/Council Chamber and the Senior Center.

C. The notice inviting formal bids shall state the time and place for the receipt and opening of sealed bids and shall distinctly describe the project.

D. If the project is exempt from the payment of prevailing wages under California's prevailing wage laws (Labor Code Section 1770 et seq.), the notice inviting formal bids shall also provide notice that the contract is not subject to payment of prevailing wages. (Ord. 608 4-18-17)

#### **3.45.180 Opening of bids—Award or rejection of both informal and formal contracts.**

A. In accordance with Public Contract Code Section 22038, at the time provided in the notice inviting bids, all bids timely received shall be opened, evaluated and, unless all bids are rejected, the contract shall be awarded to the lowest responsible bidder.

B. If two or more bids are the same and the lowest, the City may accept the one it chooses. If no bids are received through the formal or informal procedure, the project may be performed by employees of the City by force account or by negotiated contract.

D. If the City, prior to rejecting all bids and declaring that the project can be more economically performed by employees of the City, furnishes a written notice to an apparent low bidder, the City may, in its discretion, reject all bids presented, by following the procedures specified at Public Contract Code Section 22038. If after the first invitation of bids all bids are rejected, after re-evaluating its cost estimates of the project, the City Council may elect to either abandon the project, re-advertise the project, or by passage of a resolution by a four-fifths majority of the City Council declaring the project can be performed more economically by its employees, the City may have the project done by force account. (Ord. 608 4-18-17)

**E. City Manager, upon recommendation of Public Works Director, may prepare and implement comprehensive bid protest procedures to ensure timely and efficient processing of awarding contracts.**

#### **3.45.190 Grounds for rejecting public bids.**

The City may reject a bid based on any of the following grounds:

A. Where a bid is responsive and responsible but does not represent the lowest total cost estimate of the project.

B. Failure to conform to the specifications and requirements of the bid proposal form, including, but not limited to, errors, omissions, defects and/or irregularities, shall be rejected as nonresponsive bids. The City may, but is not required to, waive any minor deviations that do not materially affect the amount of the bid or result in an unfair competitive advantage in the bidding process.

C. Bids that do not demonstrate the requisite trustworthiness, quality, fitness, capacity and/or experience to satisfactorily perform the particular requirements of the proposed work shall be rejected as nonresponsible. Elements of a nonresponsible bid may include, but are not limited to, one or more of the following:

1. Lack of or insufficient experience and/or qualifications of bidder or subcontractor(s) to perform the proposed work.

2. Lack of or insufficient financial resources of bidder.

3. Unsatisfactory references or work on previous City projects or other public projects.

4. Lack of or expired licenses or license designations of the bidder or subcontractor(s) required to perform the proposed work.
5. History of bidder's surety experience.
6. History of bidder's insurance losses and/or workers' accidental deaths.
7. Bidder's credit history.
8. Delegation of work to subcontractor(s) exceeding 50 percent of the total proposed work.
9. History of violations with state regulatory agencies, including, but not limited to, the Department of Industrial Relations, the Contractors State License Board, and the California Division of Occupational Safety and Health (Cal OSHA). (Ord. 608 4-18-17)

**Notwithstanding the above or anything inconsistent herein or otherwise provided in any bid documents, City reserves the right to reject any and all bids.**

### **3.45.200 Maintenance.**

Maintenance work, as defined by the Act, may, at the discretion of the City Manager, be performed by City employees by force account or by an outside contractor. (Ord. 608 4-18-17)

### **3.45.201 Exemption from formal and informal bidding procedures and adoption of prices obtained by other public agencies.**

**A. The formal and informal bidding requirements of this chapter shall not apply when the city is able to enter into a public works contract with a contractor pursuant to pricing and terms that have been previously established by another governmental entity ("participating public agency"), provided that the director of public works, with the consent of the city manager, finds that:**

**1. The contract with the contractor is the result of competitive bidding or negotiation and is made in compliance with the competitive bid or proposal requirements of the participating public agency devoid of fraud perpetrated by any public official or staff, or collusion or fraud among the contractor or any subcontractor(s), all of which determination is solely based on a thorough and complete investigation and review of all relevant documents, including, but not limited to, all bid documents and specifications, staff reports and approved minutes. It being understood that certain evidence extrinsic to such documents may not be readily available nor accessible to the public works director and city manager; and**

**2. The contract awarded by the participating public agency was awarded to the lowest responsive and responsible bidder, in compliance with the Public Contract Code; and**

**3. The purchase conforms to the city's contract specifications; and**

**4. The estimated price of the purchase is lower than that estimated for the purchase if made directly by the city pursuant to other sections of this chapter; and**

**5. The participating public agency's bid documents contain a provision notifying contractors that the price bid by each contractor, if awarded the contract, shall be made available to other public agencies (such as the city of Desert Hot Springs).**

**B. If staff finds that there was a protest or claim filed challenging the award from an otherwise qualified bidder, a more complete review of the participating public agency's bidding process shall be ordered by the city manager, and the city shall not dispense with the formal and informal bidding requirements of this chapter unless and until the director of public works, with the consent of the city manager, makes all the findings set forth in subsection A.**

### **3.45.202 Emergency Contracting Procedures.**

**A. In accordance with Public Contract Code Section 22035, in cases of emergency when repair or replacements are necessary, the city council may proceed at once to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the city council, by contractor, or by a combination of both.**



**B. If notice for bids to let contracts is not provided as a result of an emergency, the city shall follow the emergency procedures set forth at Public Contract Code Section 22050, as may be amended.**

**3.45.203 Alternative Delegation of Authority to City Manager in Cases of Emergency.**

**In accordance with Public Contract Code Section 22050, the City Manager or designee is hereby delegated the authority in cases of emergency to order the repair and/or replacement of any public facility, and take any directly related and immediate actions required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.**

**Section 4. SEVERABILITY**

That the City Council declares that, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

**Section 5. REPEAL OF CONFLICTING PROVISIONS**

That all the provisions of the Desert Hot Springs Municipal Code as heretofore adopted by the City of Desert Hot Springs and/or any Resolutions and Policies that are in conflict with the provisions of this ordinance are hereby repealed, including without limitation, Resolution 2009-016 and Exhibit A, attached thereto.

**Section 6. EFFECTIVE DATE**

That this ordinance shall take effect thirty (30) days after its adoption.

**Section 7. CERTIFICATION**

That the City Clerk shall certify to the passage of this ordinance and shall cause the same to be published according to law.

**PASSED AND ADOPTED** by the City Council at a meeting held on \_\_\_\_\_, 2019, by the following vote:

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

[SIGNATURES FOLLOW ON THE NEXT PAGE]

**ATTEST:**

\_\_\_\_\_  
Jerryl Soriano, City Clerk

**APPROVED:**

\_\_\_\_\_  
Scott Matas, Mayor

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Jennifer A. Mizrahi, City Attorney

DRAFT