

ORDINANCE NO. 3160

FAIR AND OPEN COMPETITION ORDINANCE

The people of the City of Chula Vista hereby declare and ordain as follows:

**SECTION 1. Statement of the People's Intent**

- (a) The People of the City of Chula Vista ("the People") desire fair and open competition for public works projects that are paid for, in whole or in part, with the funds of the City of Chula Vista or its Redevelopment Agency.
- (b) The People believe fair and open competition enables government to expand the pool of qualified candidates to perform work and, in turn, to save public funds by lowering the cost of public works projects. The people likewise seek to remove limits or impediments to the consideration of qualified parties to work on public projects.
- (c) The People believe fair and open competition creates more local jobs and improves Chula Vista's economy, and provides equal opportunity for all workers, both union and non-union.
- (d) The People believe public money should be spent only on public works projects that allow fair and open competition.
- (e) The People intend the following Proposition to amend the Municipal Code of the City of Chula Vista, as follows:

**SECTION 2. Chula Vista Municipal Code, Title 2, "Administration and Personnel" is amended by adding Chapter 2.59, to read as follows:**

Chapter 2.59

Fair and Open Competition in Contracting

**2.59.010 Purpose and Intent** The purpose and intent of this chapter is to establish criteria that will ensure fair and open competition for public works projects funded in whole or in part with public funds; to aid in lowering the cost of public works projects; and to ensure that all workers, both union and non-union, have a fair and equal opportunity to work on public works projects.

**2.59.020 Definitions** For purposes of this Chapter, the following definitions shall apply:

"Act" shall mean the National Labor Relations Act, Title 29 USC §§ 151 - 169.

"City" shall mean and include both the City of Chula Vista and the Redevelopment Agency of the City of Chula Vista.

"Contracting party" shall mean and include an owner, developer, contractor, subcontractor or material supplier, involved in a public works project.

"Labor organization" shall have the same meaning ascribed to it in Section 2 of the Act (29 USC §152)

"Public works project" shall mean and include all construction projects paid for, in whole or in part, by the funds of the City or the Redevelopment Agency, including but not limited to any building, road, street, park, playground, water system, irrigation system, sewer, storm water conveyance system, reclamation project, redevelopment project, or other public facility.

**2.59.030 Requirements for Fair and Open Competition in Contracting**

In contracting for the construction, maintenance, repair, improvement or replacement of public works projects:

(a) The City shall not fund, in whole or in part, or enter into, any contract which contains a requirement that a contracting party:

(1) execute, comply with, or become a party to an agreement between a Labor organization, on the one hand, and the City, the Contracting Party, or any third party on the other;

(2) become a signatory to a collective bargaining agreement;

(3) be required to make payments on behalf of employees to union benefit plans or other trust funds;

(4) require its employees to be represented by a Labor organization; or

(5) encourage or discourage employees of a contracting party to have representation by a Labor organization.

(b) The City shall not impose, as a bid specification, contract prerequisite, contract term or otherwise, any requirement prohibited by subsection (a) of this Section.

(c) Nothing in this Section shall be construed as prohibiting private parties covered by this provision from entering into individual collective bargaining relationships, or otherwise as regulating or interfering with activity protected by applicable law, including bu[t] not limited to the Act.

(d) Any person aggrieved or injured in any way by a violation of this Section shall be entitled to injunctive relief in the Superior Court of the State of California, County of San Diego, including by way of an action filed pursuant to California Code of Civil Procedure section 526a.

**SECTION 3. Effective Date**

To the extent permitted by law, the provisions of this Chapter 2.59 shall become effective 10 days after the vote is declared by the Chula Vista City Council, as provided by California Elections Code § 9217. Contracts awarded before this effective date and subcontracts awarded pursuant to such contracts, whenever awarded, shall not be governed by this ordinance.

**SECTION 4. Amendment; Repeal**

This ordinance may be amended or repealed only by a majority vote of the voters of the City of Chula Vista.


**SECTION 5. Severability**

If any Section of this Proposition, or any provision contained in this Proposition, is held by a court of law to be invalid, or is superseded by a numerically superior vote as provided in Section 6 of this measure, the remaining Sections and provisions of this Proposition shall not be affected but shall remain in full force and effect, and to that end the provisions of this Proposition are severable.

**SECTION 6. Conflicting Measures**

If any other measure, appearing on the same ballot as this measure, addresses the same subject matter in a way that conflicts with the treatment of the subject matter in this Proposition, and if each measure is approved by a majority vote of those voting on each measure, then as to the conflicting subject matter the measure with the highest affirmative vote shall prevail, and the measure with the lowest affirmative vote shall be deemed disapproved as to the conflicting subject matter.

I, Donna R. Norris, City Clerk of Chula Vista, California, do hereby certify that at the General Municipal Election held in the City of Chula Vista, California on June 8, 2010, a majority of the voters voting on Proposition G, Fair and Open Competition in Contracting Ordinance, voted in favor of it; it is deemed adopted on July 13, 2010, the date that the vote was declared by the City Council of the City of Chula Vista; and it shall become effective July 23, 2010, 10 days from that date, pursuant to Elections Code section 9217.

  
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Donna R. Norris, CMC, City Clerk