



# CITY COUNCIL AGENDA REPORT

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MEETING DATE: FEBRUARY 26, 2019

ITEM NUMBER: 1

**SUBJECT: AUTHORIZATION OF BIDDING EXEMPTION UNDER SECTION 2-165**

**DATE: FEBRUARY 25, 2019**

**FROM: FINANCE DEPARTMENT/PARKS AND COMMUNITY SERVICES DEPARTMENT**

**PRESENTATION BY: KELLY TELFORD, FINANCE DIRECTOR / JUSTIN MARTIN,  
PARKS AND COMMUNITY SERVICES DIRECTOR**

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## **RECOMMENDATION:**

Staff recommends that the City Council:

1. Determine that compliance with the bidding requirements and procedures of the Costa Mesa Municipal Code for the procurement of supplies, services and equipment for the City's temporary bridge shelter at the Church of Nazarene/Lighthouse Church is not in the best interest of the City, such that the procurement of supplies, services and equipment for the shelter will be exempt from the Municipal Code's bidding requirements and procedures; and
2. Authorize the Acting City Manager or designee to execute all agreements and documents necessary for the procurement and purchases of such supplies, services and equipment.

## **BACKGROUND:**

Beginning in 2010, Costa Mesa City leadership introduced a course of action to address the needs and impacts of individuals experiencing homelessness in Costa Mesa. Since then, the City has established a Homeless Task Force, adopted a 9-Point Plan to address homelessness, and formed the Neighborhood Improvement Task Force (NITF), known today as the Network for Homeless Solutions (NHS). Despite the strong and collaborative efforts of the NHS, City staff and strategic community partners, people experiencing homelessness still remain in Costa Mesa and more needs to be done to address this issue.

Additionally, in January 2018, the City was named in a lawsuit initiated by OC Catholic Worker and eight plaintiffs who had been encamped at the Santa Ana riverbed. Orange County, the City of Anaheim, the City of Costa Mesa and the City of Orange were named in the lawsuit challenging enforcement of anti-camping ordinances. The lawsuit was filed in connection with Orange County's actions in clearing the riverbed of more than 400 homeless individuals who had established encampments.

As a result of the lawsuit, the City must present a solution to providing shelter for those experiencing homelessness. At this time, 50 additional shelter beds must be provided, in addition to the 12 beds that will be provided at College Hospital. No enforcement of anti-camping laws can take place until the remaining 50 beds are in operation.

On January 15, 2019, the City Council directed staff to (1) negotiate a facility-use/lease agreement with the Church of Nazarene/Lighthouse Church (located at 1885 Anaheim Avenue) to use part of the facility as a temporary bridge shelter; and (2) explore professional shelter operator options and provide a recommended shelter operator to the City Council on February 5, 2019, for the temporary and future long-term bridge shelter locations.

On February 5, 2019, the City Council approved an exemption from the City's formal bidding requirements in connection with the procurement of a shelter operator, and awarded a Professional Services Agreement to Mercy House Living Centers for services as the shelter operator for the City's temporary and long-term bridge shelters.

The City is planning to open the temporary bridge shelter by April 1st. In order to have the temporary bridge shelter operational by such date, the City needs to procure a variety of supplies and equipment.

### **DISCUSSION AND ANALYSIS:**

Subsection (b)(6) of Section 2-165 of the Costa Mesa Municipal Code creates an exception from the City's bidding procedures for the purchases of supplies, services, and equipment when the City Council determines, by minute action or resolution, that compliance with the bidding requirements and procedures is inefficient, impractical, or not in the best interest of the City, based on specifically identified conditions and supported by substantial evidence in the record.

Due to the expedited timeline to establish temporary shelter operations, staff is requesting that the City Council determine that compliance with the bidding requirements and procedures for the procurement of supplies, services, and equipment for the temporary bridge shelter is not in the best interest of the City. Such determination would create an exception from the Municipal Code's bidding procedures and requirements for the procurement of all supplies, services, and equipment for the temporary bridge shelter. As detailed in this report and in previous reports to the City Council, the City is required to provide 50 shelter beds pursuant to its obligations in connection with the *OC Catholic Worker* litigation.

Pursuant to direction from the City Council, staff negotiated a facility use/lease agreement with the Church of Nazarene/Lighthouse Church to use part of the facility as the temporary bridge shelter location. The City has a goal of opening the temporary bridge shelter by April 1st. However, the City needs to procure a variety of supplies and equipment for the operation of the temporary bridge shelter, including, but not limited to, modular trailer units for sleeping, restroom, and shower facilities, and beds, mattresses, security items and other equipment necessary for the shelter facility. As such, time is of the essence for procuring the needed supplies and equipment.

Completing a formal bidding process for purchases exceeding \$50,000 could take approximately three (3) to four (4) months per procurement. For purchases below \$50,000, completing an informal bidding process could take approximately three weeks per procurement. In addition, some of these items, such as the modular trailer units, are custom made for the customer's specific needs, such that, from the time an agreement is executed and an order is placed, it would take a minimum four (4) weeks to manufacture and deliver the units. The Municipal Code's bidding processes and requirements combined with the time required for manufacturing and delivering

certain items would delay the procurement of supplies and equipment for the shelter, which would delay the City's ability to comply with the requirement pursuant to the *OC Catholic Worker* litigation that it provide 50 additional shelter beds. Such delay would also prevent the City from opening the temporary bridge shelter by its goal of April 1st. Such delays would not be in the City's best interest, as the City would not be able to comply with the Court's directive and would continue to be unable to enforce its anti-camping ordinances.

Therefore, staff requests that the City Council determine that compliance with the Municipal Code's bidding requirements and procedures for the procurement of supplies, services, and equipment for the temporary bridge shelter is not in the City's best interest. By making this determination, the procurement of supplies, services, and equipment for the temporary shelter will be exempt from the Municipal Code's bidding requirements and procedures. Notwithstanding such exemption, staff will strive to obtain the best prices available for supplies and equipment for the temporary bridge shelter. The supplies and equipment purchased for the temporary bridge shelter will, to the extent possible, be used at the City's permanent bridge shelter facility.

#### **ALTERNATIVES CONSIDERED:**

The City Council may choose not to waive the bidding requirements for the procurement of shelter-related purchases; however, staff does not recommend this alternative action as this would require the City to complete bidding processes which would prevent the City from opening the shelter by the target opening date.

#### **FISCAL REVIEW:**

During the February 5, 2019 and February 19, 2019 City Council meetings, the City Council approved the expenditure of \$345,700 for expenses related to purchasing, procurement and contingency for the temporary bridge shelter operations. Such amount includes:

- Modular Trailers: \$150,000
- Equipment & Furniture: \$50,000
- Contingency for Unforeseen Expenses: \$145,700

Once staff completes the procurement of items for the temporary bridge shelter, staff will provide a written report to the City Council detailing the expenditures.

#### **LEGAL REVIEW:**

The City Attorney's Office reviewed this report and approves it as to form.

#### **CONCLUSION:**

In order to meet established Court deadlines and have an temporary bridge shelter in operation by April 1st, staff recommends that the City Council:

1. Determine that compliance with the bidding requirements and procedures of the Costa Mesa Municipal Code for the procurement of supplies, services and equipment for the City's temporary bridge shelter at the Church of Nazarene/Lighthouse Church is not in the best interest of the City, such that the procurement of supplies, services and equipment for the shelter will be exempt from the Municipal Code's bidding requirements and procedures; and

2. Authorize the Acting City Manager or designee to execute all agreements and documents necessary for the procurement and purchases of such supplies, services and equipment

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**KIMBERLY HALL BARLOW**  
City Attorney

DISTRIBUTION:     Acting City Manager  
                          City Attorney  
                          City Clerk  
                          Staff