

**ORDINANCE NO. 1902**

**AN ORDINANCE OF THE CITY OF MAYWOOD AMENDING TITLE 3 AND  
ADDING A NEW CHAPTER 7 PERTAINING TO THE BIDDING OF PUBLIC  
WORKS PROJECTS UNDER THE UNIFORM PUBLIC CONSTRUCTION  
COST ACCOUNTING ACT**

**THE CITY COUNCIL OF THE CITY OF MAYWOOD DOES ORDAIN AS  
FOLLOWS:**

Section 1. Title 3 (Finance) of the Maywood Municipal Code is hereby amended by adding a new Chapter 7 (Public Projects) to read as follows:

**Chapter 7. Public Projects**

- 3-7.01. Intent.
- 3-7.02. Definitions.
- 3-7.03. Applicability.
- 3-7.04. Bid requirements, purchasing procedures, and contracting procedures.
- 3-7.05. Delegation of authority to award informal contracts.
- 3-7.06. Delegation of design approval authority.
- 3-7.07. Bid security.
- 3-7.08. Emergencies.

**3-7.01. Intent.**

Section 3-4.06 provides that the City shall comply with all requirements of the California Public Contract Code for any public works project, as that term is defined therein. Accordingly, the intent of this chapter is to provide standardized procedures for awarding contracts for public projects in conformance with the Uniform Public Construction Cost Accounting Act as set forth in the Public Contract Code.

**3-7.02. Definitions.**

Unless the context otherwise requires, the following definitions shall govern the construction of this chapter:

“Public Project” shall be defined as that term is defined in Section 22002 of the California Public Contract Code or any successor statute thereto.

“Uniform Public Construction Cost Accounting Act” shall mean the procedures and regulations set forth in Chapter 2, commencing with Section 22000, to Part 3 of Division 2 of the California Public Contract Code or any successor act thereto.

**3-7.03. Applicability.**

All public projects shall be bid and let to contract in accordance with the procedures prescribed by the Uniform Public Construction Cost Accounting Act, or any successor act thereto, and the provisions set forth in this chapter.

**3-7.04. Bid requirements, purchasing procedures, and contracting procedures.**

This section shall govern the procedures for bidding and awarding all purchase orders and contracts to perform public projects. Bidding requirements and other purchasing and contracting procedures are categorized into three different levels set forth below. Each level shall govern purchases and contracts of different values. Notwithstanding any provision of this chapter, the bidding and other procedures for awarding public project contracts shall not violate the limitations of the Uniform Public Construction Cost Accounting Act, as they may be amended from time to time by the State Controller or the State Legislature.

(a) Level 1 Projects. Public projects that do not exceed the limit in Public Contract Code Section 22032(a), as it now exists or may subsequently be amended, may be performed by City employees by force account or may be awarded by negotiated contract or by purchase order without competitive bidding.

(b) Level 2 Projects. Public projects that do not exceed the limit in Public Contract Code Section 22032(b), as it now exists or may subsequently be amended, may be let to contract by the informal bid procedures set forth in this subsection (b). All Level 2 Project contracts shall require informal competitive written bidding, as follows:

(1) Written Bids.

(i) Bid specifications shall be prepared and written notices soliciting written bids shall be disseminated consistent with paragraph (3) of subsection (b) of this section.

(ii) Bids shall be submitted in writing and must be received prior to the bid closing date to be considered.

(iii) The City Council shall award the contract to the lowest responsible and responsive bidder. If two or more bids are the same and the lowest, the city may accept the one it chooses. The awarding authority may reject all bids, or waive any irregularities or informalities in any bid or bidding.

(2) Contractors List. The City may develop and maintain a list of qualified contractors, identified according to categories of work, in accordance with the provisions of Section 22034(a)(1) of the California Public Contract Code, or any

successor statute thereto, and the minimum criteria for development and maintenance of the Contractors List as determined by the California Uniform Construction Cost Accounting Commission.

(3) Notice Inviting Informal Bids. At least ten (10) calendar days prior to the date informal bids are due, the City shall mail, fax or email a notice inviting informal bids to one or both of the following: (i) all contractors from the applicable category of work to be bid, as shown on the Contractors List developed in accordance with paragraph (2) of subsection (b) of this section, or (ii) all construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Section 22036 of the California Public Contract Code, or any successor statute thereto. The notice shall describe the project in general terms, shall clearly indicate how to obtain more detailed information about the project, and shall set forth the time and place for the submission of bids.

(4) Minor Exception to Notice Inviting Informal Bids. Additional contractors or construction trade journals may be noticed at the discretion of the City department soliciting bids, provided, however:

(i) If there is no list of qualified contractors maintained by the City 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 California Uniform Construction Cost Accounting Commission in accordance with Section 22036 of the California Public Contract Code, or any successor statute thereto.

(ii) 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 or contractors.

(5) Excess bids. If all bids received pursuant to the procedures outlined in this subsection (b) are in excess of the limit in Public Contract Code Section 22032(b), the City Council may, by adoption of a resolution by a four-fifths (4/5) vote, award the contract to the lowest responsible bidder at the amount set forth in Public Contract Code Section 22034(d), if the City Council determines the cost estimate of the City was reasonable.

(c) Level 3 Projects. Public projects that exceed the limit in Public Contract Code Section 22032(b), as it now exists or may subsequently be amended shall, except as otherwise provided by law, be let to contract by the formal bidding procedures set forth in this subsection (c).

(1) Notice Inviting Formal Bids. The City shall publish and mail a notice inviting sealed formal bids in accordance with the provisions of California Public Contract Code Section 22037, or any successor statute thereto. Notice inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly

describe the project. The notice shall be published at least fourteen (14) calendar days before the date of opening the bids in a newspaper of general circulation, printed and published in the City; or, if there is no newspaper printed and published within the City, in a newspaper of general circulation which is circulated within the City, or, 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 places within the City as have been designated by ordinance or regulation of the City as places for the posting of its notices. The notice inviting formal bids shall also be sent electronically, if available, by either facsimile or electronic mail and mailed to all construction trade journals specified in Public Contract Code Section 22036. The notice shall be sent at least fifteen (15) calendar days before the date of opening the bids. In addition to notice required by this section, the City Manager, or his or her designee, may give such other notice as he or she deems proper.

(2) **Receipt of Bids.** Bids shall be sealed, and shall not be opened until the time and place designated in the bid specifications. Bids must be received prior to the bid opening to be considered.

(3) **Award.** The City Council shall award the bid to the lowest responsible bidder, or reject all bids pursuant to Public Contract Code Section 22038, or its successor statute. If two or more bids are the same and the lowest, the city may accept the one it chooses. The City Council may waive any irregularities or informalities in any bid or bidding.

(d) **No Bids.** If no bids are received through the formal or informal bid procedures described in this Section 3-7.04, the project may be performed by the employees of the City by force account, or negotiated contract without further complying with this Chapter.

### **3-7.05. Delegation of authority to award contracts for Level 1 Projects.**

The City Manager is authorized to award bids and enter into contracts for Level 1 public projects pursuant to Section 3-7.04(a) of this chapter, provided there exists an unencumbered appropriation in the fund account against which the expense is to be charged. In addition, the City Manager shall cause to be placed on the agenda of the City Council a quarterly report of any contracts or purchase orders awarded under this Section 3-7.05. The quarterly report shall contain the name of the contractor, a summary of the scope of work and the amount of the contract or purchase order.

### **3-7.06. Delegation of Design Approval Authority.**

The City Engineer is authorized to approve plans or designs for purposes of design immunity pursuant to Government Code section 830.6, for all public projects approved by the City Manager pursuant to Section 3-7.05. Nothing in this section is intended to, nor will it, preclude the City Council from separately or additionally approving plans or designs for purposes of design immunity pursuant to Government Code section 830.6.

**3-7.07. Bid security.**

Bid security shall be required as a condition of submitting a written bid unless deemed unnecessary by the City Manager or his or her designee. Bid security may be a bond issued by a licensed and duly qualified corporate surety, or the equivalent in cash, money order, cashier's check, certified check, unconditional letter of credit, or other form approved by the city attorney. Bid security must equal at least ten percent (10%) of the bid amount.

**3-7.08. Emergencies.**

In cases of emergency when repair or replacements are necessary, the City 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, by contractor, or by a combination of the two. In case of an emergency, if notice for bids to let contracts will not be given, the City shall comply with Chapter 2.5 of the Public Contract Code (commencing with Section 22050 or any successor statute)."

Section 2. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or its application to any person or circumstance, is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 3. The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption and implementation of this Ordinance may have a significant effect on the environment. This Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

Section 4. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published or posted in the manner prescribed by law.

PASSED, APPROVED AND ADOPTED this 10th day of July, 2019

  
Eduardo De La Riva, Mayor

ATTEST:

  
Gerardo Mayagoitia, City Clerk

APPROVED AS TO FORM:

  
Roxanne Diaz, City Attorney

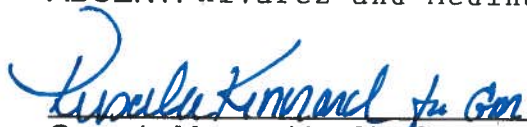
I, Gerardo Mayagoitia, City Clerk of the City of Maywood, do hereby certify that the foregoing Ordinance No. 19-02 was adopted at a regular meeting of the City Council of the City of Maywood held on the 10<sup>th</sup> of July, 2019 by the following vote:

AYES: Marquez, Lara, and DeLaRiva

NOES:

ABSTAINED:

ABSENT: Alvarez and Medina

  
Gerardo Mayagoitia, City Clerk