

## ORDINANCE NO. 1025

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROSEMEAD, CALIFORNIA, AMENDING ROSEMEAD MUNICIPAL CHAPTER 3.24 (PURCHASING SYSTEM), AMENDING CHAPTER 3.28 (PUBLIC PROJECT BIDDING PROCEDURES) TO PROVIDE INFORMAL BIDDING PROCEDURES UNDER THE UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT (SECTION 22000, ET SEQ. OF THE PUBLIC CONTRACT CODE) AND OTHER RELATED ACTIONS

The City Council of the City of Rosemead ordains as follows:

**SECTION 1. Findings.** The City Council of the City of Rosemead finds as follows:

- A. The City's purchasing regulations are currently codified in Chapter 3.24 and Chapter 3.28 of the Rosemead Municipal Code ("RMC").
- B. The City wishes to amend its purchasing procedures.
- C. The City Council held a duly noticed public meeting on December 10, 2024, at which time all persons interested in the proposed ordinance had the opportunity to address the City Council.

**SECTION 2. Environmental Findings.** The City Council exercises its independent judgment and finds that this Ordinance is not subject to California Environmental Quality Act (CEQA) pursuant to the following sections of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3: (1) Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); (2) Section 15060(c)(3) (the activity is not a project as defined in Section 15378); and 15061(b)(3), because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. This ordinance outlines a mechanism for purchasing and its approval will not involve any commitment to any specific project. As such, there is no possibility that this ordinance may have a significant adverse effect on the environment, and the adoption of this ordinance is exempt from CEQA.

**SECTION 3. Amendment and Restatement of Chapter 3.24 (Purchasing System for Non-Public Works Projects).** Chapter 3.24 of the RMC is amended and restated in its entirety, as set forth in the attached Exhibit A.

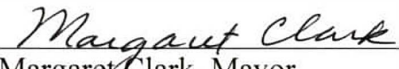
**SECTION 4. Amendment and Restatement of Chapter 3.28 (Public Project Bidding Procedures).** Chapter 3.28 of the RMC is amended and restated in its entirety, as set forth in the attached Exhibit B.

**SECTION 5. Severability.** If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this

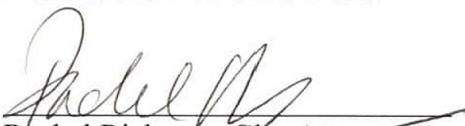
ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 6. Publication and Effective Date.** The City Clerk shall publish this ordinance as required by law. This Ordinance shall take effect and be enforced thirty (30) days after its adoption.


PASSED, APPROVED AND ORDAINED this 14th day of January, 2025.

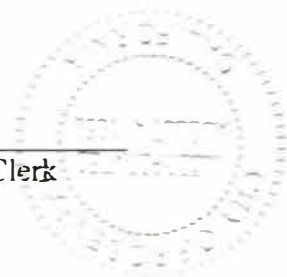
  
Margaret Clark, Mayor

APPROVED AS TO FORM:

  
Rachel Richman, City Attorney

ATTEST:

  
Ericka Hernandez, City Clerk



STATE OF CALIFORNIA           )  
COUNTY OF LOS ANGELES    ) ss  
CITY OF ROSEMEAD            )

I, Ericka Hernandez, City Clerk of the City of Rosemead, County of Los Angeles, State of California, hereby certify that Ordinance No. 1025 was first introduced at the regular meeting of December 10, 2024, by first reading. Said Ordinance was approved and adopted by the City Council of the City of Rosemead at a regular meeting held on the 14<sup>th</sup> day of January, 2025, by the following vote:

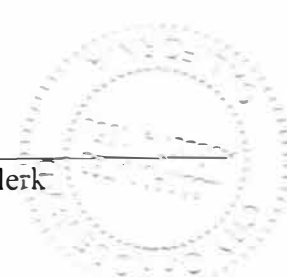
AYES:    ARMENTA, CLARK, DANG, AND LOW

NOES:    NONE

ABSENT: LY

ABSTAIN: NONE

  
Ericka Hernandez, City Clerk



## ***Chapter 3.24 PURCHASING SYSTEM FOR NON-PUBLIC WORKS CONTRACTS<sup>1</sup>***

### **3.24.010 Definitions.**

Unless otherwise indicated, the following definitions shall apply to all provisions of this chapter:

"Authorized Contracting Party" means the City official or body provided with authority under this chapter to approve a contract or to make a purchase.

"City Manager" means the City Manager or person designated by the City Manager to act on behalf of the City Manager.

"Formal Competitive Purchasing Procedure" means a procedure which meets the requirements of state and local law, including this chapter and any policies and procedures approved by the City Manager consistent with this chapter.

"Local Area Veteran Vendor" means a veteran vendor, as defined herein, who is a contractor, or consultant that has a valid physical business address located within the boundaries of the City of Rosemead or within any of the cities that directly border the City which include, Alhambra, Montebello, Monterey Park, San Gabriel, Temple City, El Monte and South El Monte, 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 issued by the City of Rosemead or one of cities listed above, and designates, for sales tax purposes, the City of Rosemead or one of the cities listed above, as the point of sale for retail transactions within the City. Post office boxes are not verifiable and shall not be used for the purpose of establishing such physical address.

"Negotiated Contract" means a letter of agreement, vendor agreement, contract, professional services agreement, maintenance services/public works projects agreement or written documentation which details terms and conditions of the purchase.

"Professional Services" means all services performed by persons in a professional occupation, including, but not limited to, consulting and performance services for accounting, auditing, computer hardware and software support, engineering, architectural, planning, redevelopment, financial, economic, personnel, social services, animal control, legal, management, environmental, cable television, communication and other similar professional functions which may be necessary for the operation of the City.

"Rosemead Vendor" means a local business enterprise whose business address at the point of sale is located within the geographical boundaries of the City and who maintains a valid license or permit to do business in the City.

"Solicitation" means the City's process to obtain bids, quotes, or proposals as provided in Chapter 3.24 for the purchase of goods or services.

"Veteran Vendor" means a person who served in the active military, naval, or air service and who was discharged or released under conditions other than dishonorable as verified by a Form DD214 or other acceptable proof of service, who owns a business where at least fifty (50) percent of the company is owned by a veteran.

(Ord. No. 988, § 3(Exh. A), 6-25-19; Ord. No. 990, § 3 (Exh. A), 12-10-19)

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<sup>1</sup>Editor's note(s)—Ord. No. 988, § 3(Exh. A), adopted June 25, 2019, amended Chapter 3.24 in its entirety to read as herein set out. Former Chapter 3.24, §§ 3.24.010—3.24.130, pertained to similar subject matter, and derived from prior code; Ord. 864 adopted in 2008; Ord. No. 920, adopted October 11, 2011; and Ord. No. 964, adopted September 13, 2016.

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### **3.24.015 Purchasing methods.**

Value of Purchase	Purchase method	Method of Approval
\$5,000.00 or less	No quotations required	Credit card holder or Department Director.
\$5,000.01 to \$15,000.00	Informal purchasing procedure, unless subject to an alternative purchasing procedure.	Department Director.
\$15,000.01 to \$50,000.00	Informal purchasing procedure, unless subject to an alternative purchasing procedure.	City Manager.
\$50,000.01 or More	Formal competitive purchasing procedure, unless subject to an alternative purchasing procedure.	City Council.

(Ord. No. 988, § 3(Exh. A), 6-25-19)

### **3.24.020 Purchasing Officer—Position created—Appointment.**

There is established in the office of the City Manager the role of a Purchasing Officer. The Purchasing Officer shall be the City Manager or his or her designee(s). If the City Manager designates one or more persons to act in this role, the Purchasing Officer(s) shall serve at the pleasure of the City Manager. The duties of the Purchasing Officer may be combined with those of any other officer(s) or position(s).

(Ord. No. 988, § 3(Exh. A), 6-25-19)

### **3.24.030 Purchasing Officer—Powers and duties.**

The Purchasing Officer, in accordance with the policies set forth in this chapter and in any written procedures approved by the City Manager that are consistent with this chapter, shall have the power to:

- A. Purchase or contract for supplies, services and equipment required by the City;
- B. Negotiate and recommend to the City Council execution of contracts for the purchase of supplies, services and equipment;
- C. Prepare and implement policies and procedures governing the bidding, contracting, purchasing, storing, distribution and disposal of supplies, services and equipment for the City;
- D. Prescribe and maintain such forms as may be reasonably necessary to the implementation of this chapter and any other policies and procedures approved by the City Manager consistent with this chapter;
- E. Review the working details, drawings, plans and specifications for any projects or purchases requiring such review in this chapter;
- F. Inspect or supervise the inspection of purchased supplies, services and equipment to ensure conformity with any specifications established or required by the City;
- G. Transfer among departments any supplies, services and equipment not needed by one such department, but which are necessary for the operation of one or more other departments;
- H. Sell any supplies and equipment not needed for public use or that may become unsuitable for their intended use;

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- I. Develop and maintain any bidder's list, service provider's list or vendor's catalog file necessary to the operation of this chapter and any other policies and procedures approved by the City Manager consistent with this chapter.

(Ord. No. 988, § 3(Exh. A), 6-25-19)

### **3.24.040 Purchasing policies and procedures.**

- A. The City shall secure supplies, services and equipment at the lowest total cost commensurate with the quality and scope needed, and subject to any limitations imposed by state law. Notwithstanding the foregoing, professional services including but not limited to, legal services, architectural, design, engineering services, financial services, IT services, consulting services, or other services of a nature characterized by the necessity for specialized knowledge, expertise, or qualifications, shall be acquired based on proven competency, professional credentials or certificates, and project and scope of work appropriateness. While cost may be a relevant consideration for professional services, it shall not be the primary determinant unless specified by the authorized contracting party.

In order to promote the economic health and development of the City, to recognize the amount of sales tax that is returned to the City as a result of the award of a purchase contract for supplies and equipment to a Rosemead vendor, to encourage local participation in the procurement process, and to exercise the prudent use of public funds, the City Council may, by minute action, award a bid to a Rosemead vendor provided the local bid does not exceed the lowest bid by more than five percent or ten thousand dollars (\$10,000.00), whichever is less.

- B. The Purchasing Officer shall develop, for approval by the City Manager, such policies and procedures as are necessary to implement the provisions of this chapter. The policies and procedures shall be written and implemented in such a way to encourage open and competitive bidding, provide equal opportunity based on merit, make each selection process free of invidious discrimination, provide for efficient and timely acquisition of needed supplies, services and equipment, and provide effective fiscal controls.
- C. In purchasing, supplies, services, and equipment, the City shall make use of competitive bidding, either direct, formal or informal, whenever required by law, this chapter, or any policies and procedures approved by the City Manager consistent with this chapter, while ensuring the quality of supplies, services, and equipment meets the required standards.
- D. Direct, formal or informal competitive bidding is not required if there is an alternative procedure set forth in this chapter.

(Ord. No. 988, § 3(Exh. A), 6-25-19)

### **3.24.050 Purchasing and contracting procedures.**

- A. Five thousand dollars (\$5,000.00) or less. Any purchase of five thousand dollars (\$5,000.00) or less may be awarded by the director of the department responsible for the project with no quotations required.
- B. Five thousand dollars and one cent (\$5,000.01) to fifteen thousand dollars (\$15,000.00). Any purchase of more than five thousand dollars (\$5,000.00) and not greater than fifteen thousand dollars (\$15,000.00) may be awarded by the Department Director by any informal purchasing procedure as defined herein.
- C. Fifteen thousand dollars and one cent (\$15,000.01) to fifty thousand dollars (\$50,000.00). Any purchase of more than fifteen thousand dollars (\$15,000.00) and not greater than fifty thousand dollars (\$50,000.00) may be awarded by the City Manager by any informal purchasing procedure as defined herein.
- D. Fifty thousand dollars and one cent (\$50,000.01) or more. Any purchase of more than fifty thousand dollars (\$50,000.00) shall, except as otherwise provided in this chapter, be awarded by the City Council pursuant to the formal competitive purchasing procedure set forth below.

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- E. Purchasing Officer Approval. The Purchasing Officer, or his or her designee, shall review and approve all contracts of fifteen thousand dollars and one cent (\$15,000.01) or more before the contract is effective.
  - F. Five-Year Term Limitation. No agreement or contract shall extend for a period of more than five years, including any authorized extensions.

(Ord. No. 988, § 3(Exh. A), 6-25-19)

### **3.24.070 Informal purchasing procedure.**

- A. This informal purchasing procedure shall be used for purchases between five thousand dollars and one cent (\$5,000.01) and fifty thousand dollars (\$50,000.00).
- B. Service Provider/Vendor List. The department shall maintain a list of qualified service providers or vendors.
- C. Distribution of Notice Inviting Informal Bids. At least three vendors or service providers shall be asked to submit informal bids, and the City shall endeavor to receive informal bids from at least three vendors or service providers. Notices inviting informal bids shall be sent to the list of qualified service providers, vendors, and/or trade journals not less than ten (10) days before bids are due.
- D. Contents of Notice Inviting Informal Bids. When soliciting informal bids, staff shall:
  - 1. Describe to the vendor in general terms the project, service or item;
  - 2. Advise vendors how to obtain additional information about the project;
  - 3. State the date, time and manner for the submission of bids; and
  - 4. Include any other information required by state or local law, as determined by the City Attorney.
- E. Proprietary Projects or Products. If the director of the using department certifies that, to the best of his or her knowledge, the product or service is proprietary in nature and can be obtained only from a limited number of service providers or vendors, and that no equivalent products or services are available, the notice inviting informal bids may be sent exclusively to such vendor(s) or service provider(s).
- F. Contents of Remaining Bid and Contract Documents. The contents and form of the remaining bid and contract documents shall be approved by the director of the using department, as well as the City Attorney.
- G. City's Authority. The City may reject any or all bids received, and may waive any minor irregularities in each bid received.
- H. Bid Submittal. Service providers or vendors shall submit their bids in writing.
- I. No Bids Received. If no bids are received, the authorized contracting party may award the contract by any alternative purchasing procedure.

(Ord. No. 988, § 3(Exh. A), 6-25-19)

### **3.24.080 Formal competitive purchasing procedure.**

- A. Use of Formal Competitive Purchasing Procedure. This formal purchasing procedure shall be used for purchases greater than fifty thousand dollars (\$50,000.00) or whenever formal competitive purchasing is otherwise required by this chapter.
- B. Required Process. The formal competitive purchasing procedure shall comply with all aspects of state and local law governing formal competitive bidding, including, but not limited to, the Public Contract Code, Government Code, Labor Code, resolutions of the City Council as may be adopted from time to time, and policies and procedures as the City Manager may approve from time to time.

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- C. Distribution of Notice Inviting Formal Bids. The notice inviting formal bids shall substantially comply with procedures set forth in Chapter 3.24.070.
  - D. Contents of Notice Inviting Formal Bids. At a minimum, the notice inviting formal bids shall:
    - 1. Describe the project in general terms;
    - 2. State how to obtain more detailed information about the project;
    - 3. State the date, time and place for the submission of sealed bids; and
    - 4. Include any other information required by state or local law, as determined by the City Attorney.
  - E. Contents of Remaining Bid and Contract Documents. The contents and form of the remaining bid and contract documents shall be approved by the director of the using department, as well as the City Attorney.
  - F. City's Authority. The City may reject any or all bids received, and may waive any minor irregularities in each bid received.
  - G. Bid Submittal. Service providers or vendors shall submit their bids in writing.
  - H. No Bids Received. If no bids are received, the authorized contracting party may award the contract by any alternative purchasing procedure.

(Ord. No. 988, § 3(Exh. A), 6-25-19)

### **3.24.090 Using alternative purchasing procedures.**

For situations provided in this section, an alternative purchasing procedure which results in a negotiated contract, force account, purchase order or any other procedure determined by the authorized contracting party to be in the best interests of the City and in compliance with the City's policies and procedures may be used.

- A. Emergencies. For situations determined by the City Manager to constitute an emergency, the City may use the emergency procedures set forth in Chapter 3.28.040.
- B. Professional Services. When purchasing professional services.
- C. Computers. When purchasing computer software, hardware maintenance services or software maintenance services.
- D. Competitive Bidding Already Completed. When the authorized contracting party determines that a competitive bid procedure has been conducted by another public agency (e.g. through CMAS or GSA) and the price to the City is equal to or better than the price to that public agency.
- E. State Purchase. When the purchase is made on behalf of the City by the State Department of General Services.
- F. No Bids Received. When no bids are received pursuant to either the informal competitive purchasing procedure or the formal competitive purchasing procedure.
- G. No Competitive Market. When the authorized contracting party determines that a competitive market does not exist, such as, but not limited to, with memberships in certain professional organizations, meetings, conventions, some forms of travel, legal advertising and when the needed supplies, services and equipment are proprietary and can only be provided by one source.
- H. Best Interests of the City. When the City Council, on recommendation of the City Manager, determines that an alternative procedure will be in the best interests of the City and the policies set forth in this chapter.

(Ord. No. 988, § 3(Exh. A), 6-25-19)

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### **3.24.100 Inspection and testing.**

The Purchasing Officer shall inspect supplies and equipment delivered, and contractual services performed, to determine their conformance with the specifications set forth in the order or contract. The Purchasing Officer 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.

(Ord. No. 988, § 3(Exh. A), 6-25-19)

### **3.24.110 Surplus supplies and equipment.**

All using agencies shall submit to the Purchasing Officer at such times and in such form as he or she shall prescribe, reports showing all supplies and equipment which are no longer used or which have become obsolete or worn out. The Purchasing Officer shall have authority to sell all supplies and equipment which cannot be used by any agency or which have become unsuitable for City use, or to exchange the same for, or trade in the same on, new supplies and equipment.

(Ord. No. 988, § 3(Exh. A), 6-25-19)

### **3.24.120 Local area veteran vendor.**

#### **A. Local Area Veteran Vendor Preference in Purchasing Supplies and Equipment.**

1. In the solicitation of supplies and equipment, as provided in Chapter 3.24, the City Council or the City Manager or his/her designee may give a preference pursuant to this chapter to local area veteran vendor in making such purchase or awarding such contract.
2. If the vendor that submits the lowest responsive bid or quote is not a local area veteran vendor as defined herein, the lowest responsive bid or quote submitted by a local area veteran vendor (if there is one) that is within five percent or ten thousand dollars (\$10,000.00), whichever is less, of the lowest bid or quote may be deemed to be the lowest bidder. However, said local area veteran vendor must elect to reduce its bid or quote to match the bid or quote of the lowest bidder, in writing, within one business day (excluding weekends and holidays) of being notified of their status by the City.
3. If the lowest local area veteran vendor within five percent or ten thousand dollars (\$10,000.00) of the lowest bid or quote does not elect to reduce its bid or quote to match the bid or quote of the lowest bidder, then the next lowest local area veteran vendor shall be given the opportunity to match the bid or quote of the lowest bidder as set forth above, providing that this local area vendor or veteran vendor is also within five percent or ten thousand dollars (\$10,000.00) whichever is less, of the lowest bid or quote that has been deemed responsive.
4. In order for a local area veteran vendor to be eligible to claim the preference, the local area veteran vendor must request the preference in the response to the solicitation and provide a copy of its current business license issued by a qualifying City and veteran vendor verification.

#### **B. Local Area Veteran Vendor Preference in Services.**

1. In the solicitation of contracts based on evaluation criteria which best serves the needs of the City and provides the City with the highest quality and cost effectiveness, as provided in this title, the City Council or the City Manager or his or her designee may give a preference pursuant to this chapter to a local area veteran vendor in making such purchase or awarding such contract.



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2. The equivalent of a ten percent preference will be added to final evaluated score of each local area veteran vendor. If the ten percent preference causes the local area veteran vendor to have the best overall score, the local area veteran vendor may be deemed the vendor that best serves the needs of the City and provides the City with the highest quality and cost effectiveness. However, said local area veteran vendor must elect to reduce the price portion of its bid, quote, or proposal to match the price portion of current best overall score vendor if lower, in writing, within one business day (excluding weekends and holidays) of being notified of their status by the City.
  3. If the local area veteran vendor does not elect to reduce the price portion of its bid, quote, or proposal to match the price portion of the lowest bidder, then the next lowest local area veteran vendor shall be given the opportunity to match the price portion of the lowest bidder as set forth above, provided the ten percent preference causes said local area veteran vendor to have the best overall score, and provided the local area veteran vendor is deemed the vendor that best serves the needs of the City and provides the City with the highest quality and cost effectiveness.
  4. In order for a local area veteran vendor to be eligible to claim the preference, the local area veteran vendor must request the preference in the response to the solicitation and provide a copy of its current business license issued by a qualifying City and veteran vendor verification.
- C. Exceptions to Local Area Veteran Vendor Preference. The local preference set forth in this chapter shall not apply to the following purchases or contracts:
1. Supplies, equipment, and services provided under a cooperative purchasing agreement;
  2. Purchases or contracts which are funded in whole or in part by a governmental entity, such as the State or Federal government and the laws, regulations, or policies governing such funding prohibit application of a local preference;
  3. Purchases made or contracts let under emergency or noncompetitive situations;
  4. Purchases with an estimated cost of five thousand dollars (\$5,000.00) or less; or
  5. Application of the local area veteran vendor preference to a particular purchase, contract, or category or contracts for which the City Council is the awarding authority may be waived at the City Council's discretion.
- D. Quality and Fitness. The local preference set forth in this chapter shall in no way be construed to inhibit, limit or restrict the right and obligation of the City Council and the City Manager to compare quality and fitness for use of supplies, 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 set forth in this chapter shall in no way be construed to prohibit the right of the City Council or the City Manager from giving any other preference permitted by law or this title.
- E. Application. The local area veteran vendor preference provided in this chapter shall apply to new contracts for supplies, equipment, and services first solicited on or after the effective date of the ordinance from which this section is derived. This chapter shall be implemented in a manner consistent with otherwise applicable provisions.
- F. Verification of Local Area Veteran Vendor Preference Eligibility. Any vendor, contractor, or consultant claiming to be a local area veteran vendor shall so certify in the bid, in writing to the City Manager or his or her designee. The City Manager or his or her designee shall not be required to verify the accuracy or any such certifications, and shall have sole discretion to determine if a vendor, contractor, or consultant meets the definition of "local area veteran vendor". The decision of the City Manager declaring that any person or business is not a local area veteran vendor shall be final.

(Ord. No. 990, § 3 (Exh. A), 12-10-19)

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### **3.24.130 Contract change orders.**

- A.** Change orders shall be for similar kinds of work to that awarded in the original contract and shall only arise in good faith from unforeseen items and/or events since the time of the award.
- B.** Change order authorization limits are established as follows:
  - Contracts less than or equal to \$50,000.00: 10% of contract or up to \$5,000 whichever is greater
  - Contracts greater than or equal to \$50,000.01: 10% of contract or up to \$50,000 whichever is less
- C.** The limits noted are for change order amounts in the "aggregate". Change orders for amounts more than these limits must be approved by the City Council as a regular agenda item.

### **3.24.140 Adjustments for Consumer Price Index.**

The value of authorization thresholds as presented within section 3.24.015 shall be adjusted for inflation on July 1 of every year by the percent change in the Consumer Price Index. "Consumer Price Index" means the average of the percent change in Consumer Price Index for Urban Clerical and Wage Earners, as reported by the Bureau of Labor Statistics or successor agency, from the December of the preceding calendar year over the preceding December, for the Los Angeles-Long Beach-Anaheim, CA area. Increases or decreases shall be rounded off to the nearest dollar.

## ***Chapter 3.28 PUBLIC PROJECT BIDDING PROCEDURES***

### **3.28.010 Purpose.**

This chapter is enacted for the purpose of implementing procedures for contracts related to certain public projects in accordance with California Uniform Public Construction Cost Accounting Act (California Public Contract Code Section 22000 et seq., the "Act"), including but not limited to notice and publication of the bids and the award of the contract to the lowest responsible bidder. A "public project" is as defined in Public Contract Code Section 20161.

### **3.28.011 Definitions.**

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

- A. "Contractors list" shall mean a list of qualified contractors, identified according to categories of work. The minimum criteria for the development and maintenance of the list shall be determined by the California Uniform Construction Cost Accounting Commission.
- B. "Public project" is as defined in Section 22002 of the Public Contract Code, and means any of the following, but does not include "maintenance work":
  - a. Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility.
  - b. Painting or repainting of any publicly owned, leased, or operated facility.
- C. "Maintenance work" includes all of the following:
  - a. Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility.
  - b. Minor repainting.
  - c. Resurfacing of streets and highways at less than one inch.
  - d. Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.
  - e. Work performed to keep, operate, and maintain publicly owned water, power, or waste disposal systems.
- D. "Facility" is as defined in Section 22002 of the Public Contract Code, and means any plant, building, structure, ground facility, real property, streets and highways, or other public works improvement.

### **3.28.020 Informal bidding.**

Informal bidding. Public projects subject to informal bid procedures may be let to contract as follows:

- a. The Public Works Department shall maintain a list of Qualified contractors, identified according to categories of work.
- b. All contractors on the list for the category of work being bid or all construction trade journals specified in Section 22036, or both all contractors on the list for the category of work being bid and all construction trade journals specified in Section 22036, shall be mailed a noticed inviting informal bids unless the product or service is proprietary.

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- c. All mailing of notices to contractors and construction trade journals pursuant to subsection (b) of this section shall be completed not less than ten (10) calendar days before bids are due.
  - d. The noticing inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project, and state the time and place for the submission of bids.
  - e. The award of project shall be made to the lowest responsible bidder provided the contractor has posted the required bonds and insurance.
  - f. If all bids received are in excess of the informal bidding amount as provided by State law, the governing body of the public agency may, by adoption of a resolution by a four-fifths vote, award the contract, at an amount provided by CUPCCAA or less, to the lowest responsible bidder, if it determines the cost estimate of the public agency was reasonable.

### **3.28.030 Formal bidding.**

- A. Notice Inviting Bids. Notices inviting bids shall adhere to the regulations established by State law.
- B. Bidder's Security.
  - 1. Application. Unless otherwise provided by the City Manager before the letting of public notice inviting bids, each bid shall be accompanied by bidder's security.
  - 2. Return. Bidders shall be entitled to return of bid security; provided, however, that a successful bidder shall forfeit his or her bid security upon his or her refusal or failure to execute the contract within ten (10) days after the preparation and mailing of the contract, unless in the latter event the City is solely responsible for the delay in executing the contract. On refusal or failure of the successful bidder to execute the contract, the contract may be awarded to the next lowest responsible bidder. In such event, 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 surplus, if any, shall be returned to the lowest bidder.
- C. Receipt and Opening of Bids. The notice inviting bids shall specify if bids may be submitted in physical form or electronically. Bids submitted in physical form shall be in a sealed envelope, identified as a "bid" on the envelope, and submitted to the City at or before the time specified in the notice. Bids submitted electronically shall be identified as specified in the notice and submitted to the City at or before the time specified in the notice. At the time and place specified in the notice, the bids shall be publicly opened and read. Notwithstanding the foregoing, if the notice inviting bids specified that bids are to be submitted by electronic transmission, the City may open the bids electronically without a public bid opening; provided, that the bid results are available on the internet at, or immediately after, the date and time noticed for the bid opening. If the results are not immediately available on the internet, the City shall provide the bid results upon request of a bidder or the public as soon as reasonably possible.
- D. Rejection of Bids. At its discretion, the City Council may reject any and all bids presented and readvertise for bids pursuant to the procedure prescribed in this chapter.
- E. Award of Contracts. Except as otherwise provided herein, contracts shall be awarded 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 or readvertising for bids, the City, at its discretion, may accept the one it chooses.
- G. Payment Bonds. A direct contractor awarded a public works contract above twenty-five thousand dollars (\$25,000) must provide a payment bond, approved by the City, prior to commencing work. The City specifies in its bid solicitation that a payment bond is mandatory for any public works contract over twenty-five thousand

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dollars (\$25,000). A payment bond issued and sanctioned under this section will authorize the execution of and offer coverage for work related to a public works contract that supplements the contract for which the bond is provided, contingent upon the public entity waiving the necessity for a new bond. Note that a design professional is not considered a direct contractor and is not obligated to provide a payment bond. This requirement is inapplicable to a public works contract with a "state entity". A payment bond must be at least 100 percent of the entire payable amount under the public works contract. The bond must exist as a bond and not as a deposit in place of a bond. The bond must be executed by a licensed surety insurer.

- H. Insurance. All contracts for public projects shall require the contractor to furnish evidence, in a form satisfactory to the City, that the contractor has taken out and has in force liability and worker's compensation insurance in such amounts and form as may be required by the City, in addition to any other insurance required by the City's Risk Manager.
- I. Contract Retention. No contract for a public project shall provide for, authorize or permit the payment of more than ninety (90) percent of the contract price before the completion of the work done under the contract, and acceptance thereof by the City, and the expiration of the stop notice claim period and the resolution of any such claims filed thereunder.

(Ord. No. 988, § 4(Exh. B), 6-25-19)

### **3.28.015 Public Projects.**

The City of Rosemead has opted in to the California Uniform Public Construction Cost Accounting Act (California Public Contract Code Section 22000 et seq., the "Act"). Pursuant to the Act, public projects will be procured as follows:

1. The current threshold set forth in California Public Contract Code Section 22032(a) or less may be let by negotiated contract, purchase order or performed by the City's own employees by force account.
2. The current threshold set forth in California Public Contract Code Section 22032(b) or less may be let by informal bidding procedures as set forth in the California Uniform Public Construction Cost Accounting Act (PCC Section 22034 et seq.).
3. The current threshold set forth in California Public Contract Code Section 22032(c) or more will be let by formal bidding procedures as set forth in the California Uniform Public Construction Cost Accounting Act (PCC Section 22037 et seq.).
4. Pre-Qualified List – A list of contractors may be developed 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 (CUCCAC).
5. In the event that the monetary limits specified in Sections 22032 and 22034 of CUPCAA are amended by the State Legislature or adjusted by the State Controller, such amendment in monetary limits shall prevail and apply.

### **3.28.040 Emergencies.**

The City Manager is delegated the power to declare a public emergency and take any directly related and immediate action required by the emergency, up to a total of one hundred thousand dollars (\$100,000.00), pursuant to Public Contract Code Section 22050. Emergency expenditures of more than one hundred thousand dollars (\$100,000.00) must first be approved by the City Council. Work may be performed without the benefit of competitive purchasing, either formal or informal, only so long as necessary under Section 22050.

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### 3.28.050 Delegation of authority to award contracts.

A table summarizing the methods of approval and bidding requirement is provided below.

Value of Public Project	Public Works Director	City Manager	City Council
The current threshold set forth in California Public Contract Code Section 22032(a) or less may be let by negotiated contract.	X (≤\$15k)	X (≤\$50k)	
The current threshold set forth in California Public Contract Code Section 22032(b) or less may be let by informal bidding procedures.			X (>\$50k)
The current threshold set forth in California Public Contract Code Section 22032(c) or more will be let by formal bidding procedures.			X (>\$50k)

In the event that the monetary limits specified in Sections 22032 and 22034 of CUPCAA are amended by the State Legislature or adjusted by the State Controller, such amendment in monetary limits shall prevail and apply.

### 3.28.060 Contract change orders.

A change order is the written authorization that changes the awarded contract. The change order shall be for similar kinds of work to that awarded in the original contract and shall only arise in good faith from unforeseen items and/or events since the time of the award. Request for change order authorization to the City's purchasing authority shall be accompanied by a purchase order. Change orders shall comply with limits set forth in Chapter 3.24.130.

### 3.28.070 Adjustments for Consumer Price Index.

The value of authorization thresholds for Public Works Director, City Manager, and City Council as presented within section 3.28.050 shall be adjusted for inflation on July 1 of every year by the percent change in the Consumer Price Index. "Consumer Price Index" means the average of the percent change in Consumer Price Index for Urban Clerical and Wage Earners, as reported by the Bureau of Labor Statistics or successor agency, from the December of the preceding calendar year over the preceding December, for the Los Angeles-Long Beach-Anaheim, CA area. Increases or decreases shall be rounded off to the nearest dollar.