

FINAL DRAFT

Approved by Charter Review Commission

April 23, 2014

Sec. 1009. Contracts on Public Works.

In—When the City contracts for the construction, reconstruction, improvement or repair (excluding routine maintenance) of public buildings, streets, drains, sewers, utilities, parks, playgrounds and other public works, similar public facilities (each a "Public Work" and collectively, "Public Works"), the furnishing of labor, supplies, materials, equipment or other contractual services for same shall be done by written contract approved as to form and legality by the City Attorney.

The City Council shall, by ordinance, adopt specific policies and procedures for the award of Public Works contracts. This ordinance must contain provision for the following:

a. City Council reservation of authority to approve what it defines as "major" contracts or "special" contracts, based on factors such as contract cost, value or other relevant factors;

b. Competitive bid processes for all contracts, with formal advertisement for bids and sealed bids required for all "major" contracts;

c. The award of contracts to the lowest responsive and responsible bidder;

d. The ability to reject any and all bids, to readvertise for bids, or to waive minor defects in any bid, where determined by the designated contract-approving authority that such action is necessary or appropriate for the benefit of the public;

e. Emergency authority to waive the applicable competitive bid process requirements if the City Manager determines that the work required is of urgent necessity for the preservation of life, health or property; and

f. Such other provisions consistent with this section as may be necessary or appropriate to implement a

Public Works procurement process that is consistent with best practices.

The ordinance may also provide for one or more exceptions to the approval and competitive bid processes described in a. through c., above, provided that any such exception is implemented as part of a City-wide policy or program that has been approved and determined to be in the best overall interests of the City by at least four affirmative votes of the City Council.

~~Every project involving an expenditure of fifty thousand dollars (\$50,000.00) or more for the construction, reconstruction, improvement or repair of public buildings, streets, drains, sewers, utilities, parks and playgrounds and other public works, and the furnishing of supplies, materials, equipment or contractual services for same shall be done by written contract except as otherwise provided in this chapter, and the Council, upon the recommendation of the City Manager, shall let said contract to the lowest responsible bidder after notice by publication in the official newspaper for sealed bids for the work contemplated by one or more insertions, the first of which shall be at least ten days before the time for opening bids. If the cost of said public works project is more than the sum of twenty five thousand dollars (\$25,000.00) but less than fifty thousand dollars (\$50,000.00), the City Council may let said contract without advertising for bids after the City Manager or his designated agent has secured competitive prices from interested contractors; which shall be considered by the Council before said contract is let.~~

~~If the project involves the expenditure of twenty five thousand dollars (\$25,000.00) or less, the City Manager may cause such written contract to be let without advertising for bids. However, except in emergencies, the City Engineer or the Purchasing Agent shall obtain informal bids. The project shall be awarded to the lowest responsible bidder whose bid is determined to be, in all respects, most advantageous to the public interest. The City Engineer may solicit such bids personally, by telephone or by mail, and shall submit to the Purchasing Agent and the City Manager a written account of the procedures used and the bids thus obtained. A copy of said informal bidding procedure shall be filed in the Office of the City Clerk as a public record.~~

~~The City Council may, however, declare and determine that, in its opinion, based upon estimates approved by and the recommendations of the City Manager, said projects may be excepted from the requirements of this section because the work in question may be performed better or more economically by the City with its own employees, and by a resolution to this effect, adopted by at least four affirmative votes of the Council, order the performance of any such construction, reconstruction, improvement or repair by appropriate City forces.~~

~~All bids of more than fifty thousand dollars (\$50,000.00) shall be accompanied by either a certified or cashier's check, or a bidder's bond executed by a corporate surety authorized to engage in such business in California, made payable to the City.~~

~~Such security shall be in an amount not less than that specified in the notice inviting bids or in the specifications referred to therein, or if no amount be so specified, then in an amount not less than ten percent (10%) of the aggregate amount of the bid. If the successful bidder neglects or refuses to enter into the contract within the time specified in the notice inviting bids or specifications referred to therein, the amount of his bidder's security shall be declared forfeited to the City and shall be collected and paid into its general fund and all bonds so forfeited shall be prosecuted and the amount thereof collected and paid into such fund.~~

~~The City Council shall be competent to award any contract by comparison of bids on the basis of several factors including timely completion. Such an award shall be secured by a surety bond as hereinabove provided with adequate sureties and penalties, and provided, further, that for any contract awarded solely or partially on a specified time for completion, the Council shall not extend such time limits unless such extension be recommended by the City Manager and the head of the Department concerned.~~

~~The City Council may reject any and all bids presented and may readvertise in its discretion. The City Council may waive any defects in any bid to the extent it finds at a public hearing held for that purpose that it is necessary to do so for the benefit of the public.~~

~~Contracts may likewise be let without advertising for bids if such work shall be deemed by the City Council to be of urgent necessity for the preservation of life, health or property, and shall be authorized by resolution, passed by at least four affirmative votes of the Council and containing a declaration of the facts constituting such urgency; provided, however, that nothing in this section shall prevent the City Manager from taking any and all means necessary to make emergency repairs in the event of immediate need arising from any calamity or disaster.~~

Notwithstanding any provisions of this Charter to the contrary, the City may employ a design-build process for the construction, reconstruction or repair of public works. A "design-build process" shall mean a process in which the design and construction of a project are procured from a single entity. Prior to employing the design-build process, the City shall establish, by ordinance, specific procedures and standards to be used to solicit, qualify, evaluate and select design-build proposals by competitive bid or negotiation process.