

## ARTICLE 8

### PUBLIC WORKS CONTRACTS

Section	Subject Matter
2-8.00	CONTRACTS FOR PUBLIC WORKS
2-8.01	NEW CONSTRUCTION OVER \$35,000
2-8.02	REVISION OF MINIMUM COST FOR COMPETITIVE BIDDING REQUIREMENTS
2-8.03	NOTICE INVITING BIDS
2-8.04	RECEIPT AND OPENING OF BIDS
2-8.05	BID SECURITY AND OTHER REQUIREMENTS
2-8.06	AWARD TO LOWEST RESPONSIBLE BIDDER
2-8.07	REJECTION OF BIDS
2-8.08	NEW CONSTRUCTION \$35,000 OR LESS
2-8.09	MAINTENANCE, REPLACEMENT OR REPAIR PROJECTS OVER \$10,000
2-8.10	LIST OF QUALIFIED CONTRACTORS FOR INFORMAL BIDS
2-8.11	REQUEST FOR INFORMAL BIDS
2-8.12	SELECTION OF CONTRACTORS
2-8.13	ACCEPTANCE OF COST ESTIMATES
2-8.14	ROUTINE AND ONGOING SERVICE CONTRACTS
2-8.15	EMERGENCIES

## ARTICLE 8

### PUBLIC WORKS CONTRACTS

SEC. 2-8.00 CONTRACTS FOR PUBLIC WORKS. Contracts for public works projects are of two types: new construction; and maintenance, replacement or repair. Additionally, the City contracts for routine and ongoing service by annual purchase order or agreement for services. All contracts for public works projects shall be signed by the City Manager and the Director of Public Works. Purchase orders shall be signed by the Finance Director or Purchasing Manager.

SEC. 2-8.01 NEW CONSTRUCTION OVER \$35,000. Public works projects for new construction, involving an expenditure of City monies of more than \$35,000 for new work, consisting of construction or improvement of public buildings, works, drains, sewers, utilities, parks, public plazas, playgrounds, streets, and airport taxiways, ramps, and runways shall be subject to competitive bidding as provided for in Sections 2-8.03 to 2-8.07. An improvement shall be defined as work that results primarily in adding space or capacity to an existing facility or work that results in extending the useful life of an existing facility. Notwithstanding the above, the Council may, without advertising for bids, provide for the work to be procured in the open market if it deems it more beneficial or economical to do so.

SEC. 2-8.02 REVISION OF MINIMUM COST FOR COMPETITIVE BIDDING REQUIREMENTS. Every three years after the adoption of this provision, the City's Department of Public Works shall revise the minimum dollar amount for competitive bidding requirements for new construction. The value shall be adjusted in accordance with the Engineering News Record Construction Cost Index, or equivalent index, and published in a newspaper of general circulation.

SEC. 2-8.03 NOTICE INVITING BIDS. Where competitive bidding is required, a notice inviting bids shall be published once in a newspaper of general circulation not less than nine days before the day of opening of bids.

SEC. 2-8.04 RECEIPT AND OPENING OF BIDS. All bids shall be sealed, identified on the envelope, and submitted to the City Clerk at or before the time specified in the notice. At the time specified, the bids shall be publicly opened and read. Any bid submitted after the time specified in the notice shall be rejected and returned unopened.

SEC. 2-8.05 BID SECURITY AND OTHER REQUIREMENTS. Each bid shall be accompanied by security in the form of a bid deposit or bond as required by Section 1304 of the charter of the City of Hayward, and such bid or security shall be subject to the provisions of said Section 1304.

SEC. 2-8.06 AWARD TO LOWEST RESPONSIBLE BIDDER. Except as otherwise provided in this Article, the Council shall award a contract for a public works project to the lowest responsible bidder whose bid complies with the specifications. In determining whether a bidder is deemed responsible, the Council shall consider: the known reliability, resources, experience with similar projects, and the integrity and the reputation for workmanship, of the various bidders. The Council may waive any informalities or irregularities in bids received.

SEC. 2-8.07 REJECTION OF BIDS. The Council, in its discretion, may reject any and all bids received and may, or, if no bids are received, may:

- (1) abandon the project;
- (2) readvertise;
- (3) provide for the work to be procured in the open market;
- (4) find that the work may be performed more reliably or more economically, or both, by City employees, and order that a public works project be accomplished by City employees; or
- (5) provide that any portion of the work be done by any combination of the above.

SEC. 2-8.08 NEW CONSTRUCTION \$35,000 OR LESS. Public works projects involving new construction valued at less than \$35,000 shall be authorized by a purchase order or an agreement for services in accordance with City policies and procedures governing purchasing activity. Such work shall be subject to an informal bid process as provided for in Sections 2-8.10 to 2-8.13. A competitive bid process may be conducted for such projects, but shall not be required. Projects shall not be separated into smaller projects for the sole purpose of avoiding the requirements for competitive bidding.

SEC. 2-8.09 MAINTENANCE, REPLACEMENT OR REPAIR PROJECTS OVER \$10,000. Public works projects consisting primarily of maintenance, replacement, or repair work and involving estimated expenditures of City monies of more than \$10,000, shall be authorized by a purchase order or agreement for services in accordance with City policies and procedures. Such work shall be subject to informal bidding as provided for in Sections 2-8.10 to 2-8.13, unless the Director of Public Works determines that competitive bids would be in the City's interest because of project costs or other factors. Maintenance, replacement, or repair shall include, but not be limited to: repair or replacement of existing sewer, water, or stormwater facilities; repair or installation of fencing or other security measures; repair of existing streets, sidewalks, or traffic signals; repair of airport taxiways, runways, or ramps; replacement or repair of landscaping, including irrigation; and repair of existing City buildings, such as City Hall, libraries, fire and police stations, airport, corporation yard, and Centennial Hall.

SEC. 2-8.10 LIST OF QUALIFIED CONTRACTORS FOR INFORMAL BIDS. The City's Department of Public Works, in cooperation with the Purchasing Manager, shall maintain a list of qualified contractors for new construction and maintenance and repair work. This list shall be established and maintained in accordance with City policies and procedures governing purchasing activity. Contractors desiring to be added to the list shall provide the City with information regarding qualifications, relevant experience, resources, licenses and certifications, and insurance types and amounts possessed. The City shall have sole discretion in determining whether a contractor may be added to the list.

SEC. 2-8.11 REQUEST FOR INFORMAL BIDS. The City shall contact qualified contractors by telephone or other means to request bids. The City shall, at its sole discretion, determine the number of contractors to contact, but generally a minimum of three qualified contractors shall be invited to provide bids. When the City recognizes that a sole vendor has the qualifications, experience, equipment, insurance, licenses and/or certifications to perform the

required work, a bid may be solicited from only one contractor. The Director of Public Works shall make a recommendation to the Finance Director or the Assistant City Manager, in accordance with City purchasing policies and procedures, that a sole vendor is appropriate. All contractors contacted shall be given a description of the project, project location, an opportunity to request additional information, and a date by which bids must be received.

SEC. 2-8.12 SELECTION OF CONTRACTORS. The City shall select contractors on the basis of price, qualifications to perform work, experience with similar projects, availability to complete work in timely manner, and any other factors that the City deems relevant.

SEC. 2-8.13 ACCEPTANCE OF COST ESTIMATES. The City recognizes that unforeseen events and unknown factors occasionally make it infeasible for contractors to provide a firm bid. Projects that may involve unanticipated circumstances or unforeseen field conditions include, but are not limited to, repair of damaged water and sewer pipes where the extent of damage is not fully known, projects involving excavation to unknown depths or material, and any project in which the current state of underground utilities cannot be assessed in advance. In such cases, the City, at its sole discretion, may accept cost estimates and authorize the work to be completed on a time and materials basis in accordance with City policies and procedures governing purchasing activity.

SEC. 2-8.14 ROUTINE AND ONGOING SERVICE CONTRACTS. Certain routine and ongoing service contracts, regardless of the dollar amount, shall be authorized on an annual open purchase order or an agreement for services in accordance with City policies and procedures governing purchasing activity. These contracts shall include but not be limited to service contracts for: landscape maintenance; equipment repair; sewer root control; instrumentation calibration, repair or replacement; laboratory analyses; generator load bank testing; HVAC, roof and gutter repairs; glass replacements; building and facility maintenance; and traffic signal maintenance. Contractors wishing to be considered for ongoing service contracts may provide the City with information regarding qualifications, relevant experience, resources, insurance, licenses and certifications. The City shall have sole discretion in determining whether a contractor may be considered for ongoing service contracts.

SEC. 2-8.15 EMERGENCIES. Upon a determination by the City Manager or designee that any emergency exists which threatens the public health, safety, or welfare, the City Council or the City Manager may award a contract for a public works project without competitive bidding or informal bids or may order that a public works project be accomplished by City employees.