

**ORDINANCE NO. 23-1004**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AMENDING SECTION 3.08.010 OF THE MONTCLAIR MUNICIPAL CODE RELATED TO INFORMAL BIDDING PROCEDURES FOR CERTAIN PUBLIC WORKS CONTRACTS PURSUANT TO THE UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT**

**WHEREAS**, by Resolution 23-3404, adopted on August 21, 2023, the City elected to become subject to the California Uniform Public Construction Cost Accounting Act; and

**WHEREAS**, in order to take advantage of the informal bidding procedures set forth in the Act, Public Contract Code ("PCC") Section 22034 requires that the City adopt an ordinance establishing informal bidding procedures for public projects; and

**WHEREAS**, PCC 22034 sets forth the requirements of said informal bidding ordinance;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTCLAIR, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:**

**Section I.** Section 3.08.010 of Chapter 3.08 (Purchasing) of the Montclair Municipal Code is hereby amended by adding the following subsection (D):

D. Uniform construction cost accounting procedures. The City has elected to become subject to the uniform construction cost accounting procedures promulgated by the State Controller pursuant to the California Uniform Public Construction Cost Accounting Act (Public Contract Code Section 22000 et seq.). The purpose of this section is to set forth the requirements for contracting for small public projects in accordance with the California Uniform Public Construction Cost Accounting Act and state law.

Definitions. The following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Act" means the California Uniform Public Construction Cost Accounting Act, Public Contract Code section 22000 et seq.
2. "Facility" has the meaning set forth in Public Contract Code section 22002.
3. "Maintenance work" has the meaning set forth in Public Contract Code section 22002.
4. "Public Contract Code" means the Public Contract Code of the State of California.
5. "Public project" has the meaning set forth in Public Contract Code Section 22002.

Adoption of plans, specifications, and working details. The City Council delegates to the Public Works Director and/or City Engineer the authority to approve and adopt the plans, specifications, and working details for all public projects and maintenance work, including public projects exceeding the amount specified in Public Contract Code section 22032(c).

Small project procurement procedures. Public projects and maintenance work in the amount set forth in Public Contract Code Section 22032(a), as amended from time to time, or less may be performed by employees of the city by force account, by negotiated contract, or by purchase order without competitive bidding. The City Manager is authorized to approve and execute contracts or purchase orders issued pursuant to this section, provided that the expenditure is within the approved budget.

Informal bidding procedures. Public projects and maintenance work in the amount set forth in Section 22032(b) of the Public Contract Code, as amended from time to time, or less may be let to contract by informal procedures as set forth in the Act, including the following procedures:


1. Contractors list. The City shall comply with the requirements of Public Contract Code Section 22034 regarding maintaining a list of qualified contractors identified according to categories of work.
2. Notice inviting informal bids — circulation. Where a public project or maintenance work is to be performed which is subject to the provisions of this Section, a notice inviting informal bids shall be circulated using one or both of the following alternatives:
  - a. Notices inviting informal bids may be mailed or emailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with subsection (a) above.
  - b. Notices inviting informal bids may be mailed or emailed to all construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Section 22036 of the Public Contract Code. Additional contractors and/or construction trade journals may be notified at the discretion of the Public Works Director or designee.
3. Notice inviting informal bids — proprietary products and services. Notwithstanding the foregoing requirements, 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.
4. Notice inviting informal bids — mailing. All mailing of notices to contractors and Construction trade journals pursuant to this section shall be completed at least ten (10) calendar days before bids are due.
5. Notice inviting informal bids — contents. The notice 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.
6. Rejection of bids; bid irregularities. The City Manager may, in his/her sole discretion, reject any or all bids presented and waive any minor irregularity or informality in such bids.
7. Award of contract. The City Manager is authorized to award and execute contracts informally bid in accordance with this section, provided that the expenditure is within the approved budget and the contract is in a form approved by the city attorney. Such contracts shall be awarded to the lowest responsible bidder.
8. Tie bids; no bids received. If two or more bids are the same and the lowest, the City Manager may accept the one he/she chooses. If no bids are received through the informal procedures set forth in this section, the project may be performed by city employees, by force account or negotiated contract without further complying with this section.
9. Bids over informal bidding limit. If all bids received are in excess of the amount set forth in Public Contract Code section 22034 (d), as amended from time to time, the City Council may, by adoption of a resolution by a four-fifths (4/5) vote, award the contract, at the amount specified in Public Contract Code section 22034(d), as amended from time to time, or less, to the lowest responsible bidder, if it determines the cost estimate of the city was reasonable.
10. Acceptance of work. Upon the completion of work pursuant to a contract awarded pursuant to this section, the City Manager may accept the work and may authorize the filing of the notice of completion, the release of funds retained upon such filing, and the release of any bonds upon the conclusion of their respective warranty periods.
11. Performance bonds. The city may require a performance bond before entering a contract awarded pursuant to this section in such amount as the public services director or his/her designee finds reasonably necessary to protect the best interests of the city. If the city requires a performance

bond, the form and amount of the bond shall be described in the notice inviting bids.

**Section II.** If any section, subsection, subdivision, sentence, clause, phrase or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**Section III.** The City Clerk shall certify to the passage of this Ordinance and cause the same to be posted pursuant to Government Code Section 36933.

**APPROVED AND ADOPTED** this 18th day of September, 2023.

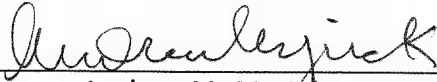
  
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Mayor

**ATTEST:**

  
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City Clerk

I, Andrea M. Myrick, City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 23-1004 of said City, which was introduced at a regular meeting of the City Council held on the 21st day of August, 2023, and finally passed not less than five (5) days thereafter on the 18th day of September, 2023, by the following vote, to-wit:

AYES: Lopez, Martinez, Ruh, Johnson, Dutrey  
NOES: None  
ABSTAIN: None  
ABSENT: None

  
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Andrea M. Myrick,  
City Clerk