



## AGENDA REPORT

**Meeting Date:** April 2, 2013  
**Item Number:** E-2  
**To:** Honorable Mayor & City Council  
**From:** David D. Gustavson, Director of Public Works and Transportation  
**Subject:** AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE REGARDING PUBLIC WORKS CONTRACTS  
**Attachments:** Ordinance

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### **RECOMMENDATION**

Staff recommends that the City Council move to waive the full reading of the ordinance and that the ordinance entitled "AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE REGARDING PUBLIC WORKS CONTRACTS" be introduced and read by title only.

### **INTRODUCTION**

The City has elected to become subject to the California Uniform Construction Cost Accounting Act ("Act"). The Act prescribes the minimum required bidding procedures for public projects. The procedures vary depending on the value of the contract. Higher value projects require more formal bidding procedures. The Act was recently amended by the State Legislature to increase the maximum value of contracts that do not require formal bidding procedures. The proposed ordinance amends the City's local bidding requirements to make them consistent with the new State law.

### **DISCUSSION**

The Act was recently amended by the State Legislature to increase the maximum value of contracts that do not require formal bidding procedures. The proposed ordinance makes changes to the bidding procedures in the City's municipal code to make the City's code consistent with State law as follows:

- Public projects of \$45,000 (formerly \$30,000) or less may be performed by city employees or may be awarded by negotiated contract or purchase order;
- Public projects of \$175,000 (formerly \$125,000) or less may be let to contract by the informal bid procedures of the Act;
- Public projects of more than \$175,000 (formerly \$125,000) shall be let to contract by the formal bidding procedures of the Act.

Please note that even the informal bid procedures of the Act require that requests for bids be mailed to a list of qualified contractors or published in the appropriate trade journals. However, the informal procedures allow for a more expedited bid period.

Please also note that nothing in this ordinance changes the general requirement that contracts of more than \$50,000 in value must be approved by the City Council.

**FISCAL IMPACT**

The fiscal impact will be minimal. Bid packages for some public projects may require less staff time to prepare and the bidding process for some public projects may require less staff time to administer.

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David Gustavson  
Approved By

# **Attachment 1**

ORDINANCE NO. 13-O-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING  
THE BEVERLY HILLS MUNICIPAL CODE REGARDING PUBLIC  
WORKS CONTRACTS

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS  
FOLLOWS:

Section 1. The City Council hereby amends Section 3-3-113 (“Exceptions to Bidding Requirement”) of Article 1 (“General Provisions”) of Chapter 3 (“Purchasing, Public Works Contracts and Disposition of Property”) of Title 3 (“Taxation, Finance, Purchasing, and Risk Management”) of the Beverly Hills Municipal Code to read as follows:

**3-3-113: Exceptions to Bidding Requirement:**

Except with regard to public projects of more than forty-five thousand dollars (\$45,000.00), the bidding requirements of this chapter shall not apply in the following circumstances:

A. Where competition does not exist, such as membership in professional organizations, attendance at meetings or conventions, travel, and when needed equipment, supplies or services are proprietary items of original equipment manufacturers and/or their authorized exclusive distributors.

B. Where items to be purchased are for resale to the public.

C. Where items to be purchased are circulating library materials, including books, periodicals, films, and recordings; computer software, hardware maintenance services or software maintenance services; food, condiments and similar items; or art.

D. Any contract involving the purchase of supplies, equipment or services entered into with another governmental entity.

E. Any contract for professional services such as attorneys, physicians, architects, engineers, consultants, accountants, specialized printers or other individuals or organizations possessing a high degree of professional, unique, specialized or technical skill or expertise.

F. Sole source procurement as set forth in Section 3-3-108 of this article.

G. Emergency procurement as set forth in Section 3-3-206 and 3-3-303 of this chapter.

Section 2. The City Council hereby amends Section 3-3-301 (“Contracts for Public Projects”) of Article 3 (“Public Works Contracts”) of Chapter 3 (“Purchasing, Public Works Contracts and Disposition of Property”) of Title 3 (“Taxation, Finance, Purchasing, and Risk Management”) of the Beverly Hills Municipal Code to read as follows:

**3-3-301: Contracts for Public Projects:**

The following procedures shall govern the award of contracts for public projects:

A. Public Projects of \$45,000 or Less: Public projects of forty-five thousand dollars (\$45,000) or less, may be performed by city employees, may be awarded by negotiated contract, or may be awarded by purchase order. A contract or purchase order shall require competitive oral bidding as described in Section 3-3-202 of this chapter unless the Purchasing Agent determines that a different competitive bidding procedure is in the best interest of the city. In such case, the Purchasing Agent may solicit written bids as provided in Section 3-3-203 of this chapter or solicit sealed written bids as provided in Section 3-3-204.

B. Public Projects of More than \$45,000, but Less than \$175,000: Public Projects of more than forty-five thousand dollars (\$45,000), but less than one hundred and seventy-five thousand dollars (\$175,000), shall require competitive written bidding as described in this subsection.

1. Bid specifications shall be prepared and notices inviting sealed bids shall be disseminated as set forth in subsection B.2 of this section.

2. All notices inviting sealed bids shall be sent to: a) the construction trade journals specified in California Public Contract Code section 22036, or b) a list of qualified contractors, identified according to categories of work and which has been developed in compliance with the criteria issued by the California Uniform Construction Cost Accounting Commission, or c) both, unless the supplies, equipment or services are proprietary. Such notices shall be mailed not less than ten (10) calendar days before bids are due. The notices shall describe the project in general terms, how to obtain more detailed information regarding the project, and the time and place for the submission of bids.

If all bids received are in excess of one hundred and seventy-five thousand dollars (\$175,000.00), the City Council may, by passage of a resolution by a four-fifths (4/5) vote, award the contract at one hundred and eighty-seven thousand and five hundred dollars (\$187,500.00) or less, to the lowest responsible bidder, without complying with the bidding procedures set forth in subsection C of this section, provided that the City Council determines that the cost estimate of the project was reasonable.

C. Public Projects of More than \$175,000: Public projects of more than one hundred and seventy-five thousand dollars (\$175,000.00) shall require competitive written bidding. A notice inviting sealed bids shall be published and sent in compliance with the provisions of California Public Contract Code section 22037, or the successor statute thereto. In addition, bid plans and working details shall be adopted by the City Council for all public projects exceeding one hundred and seventy-five thousand dollars (\$175,000.00).

D. Bid Requirements: When sealed bids are requested, the 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.

E. Award: When bids are solicited, the appropriate Contracting Officer or 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. The Contracting Officer or the City Council may waive any irregularities or informalities in any bid or bidding.

F. Waiver: Except with regard to public projects of more than forty-five thousand dollars (\$45,000.00), upon determining that conformance with the procedures set forth in this article would be contrary to the best interests of the city or upon determining that compliance with the procedures would be impractical, the Purchasing Agent may waive any or all of the requirements of this article.

Section 3. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 4. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance and shall cause this Ordinance and the City Clerk's certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

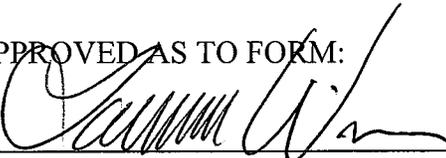
Section 5.    Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:  
Effective:

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JOHN A. MIRISCH  
Mayor of the City of  
Beverly Hills, California

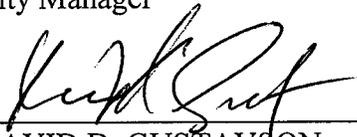
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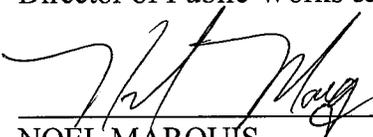
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(SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
JEFFREY C. KOLIN  
City Manager

  
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DAVID D. GUSTAVSON  
Director of Public Works & Transportation

  
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NOEL MARQUIS  
Acting Director of Administrative Services