

**ORDINANCE NO. 2210**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE, CALIFORNIA, AMENDING CHAPTER 3.20 (PURCHASING SYSTEM AND CONTRACTS FOR PUBLIC PROJECTS) OF TITLE 3 (REVENUE AND FINANCE) OF THE HAWTHORNE MUNICIPAL CODE**

**WHEREAS**, Section 54201 *et seq.* of the Government Code requires the City to adopt policies and procedures, including bidding regulations, governing the purchase by the City of supplies and equipment.

**WHEREAS**, Section 2.04.040(F) of the Hawthorne Municipal Code requires and empowers the City Manager, as agent of the City Council, (i) to supervise the expenditure of all departments, divisions or services of the city government, (ii) to act as purchasing agent for the purchase of all supplies, goods, wares, merchandise, equipment and material which may be required for any of such departments, divisions or services, and (iii) to execute any purchase orders or specialized or professional services agreements that comply with the city’s adopted purchasing policy; and

**WHEREAS**, in 2019, the City Council adopted its Ordinance No. 2180, which established a comprehensive purchasing system for the City by adding Chapter 3.20 to the Municipal Code; and

**WHEREAS**, the City Council, on the recommendation of the City Manager and the Finance Director, desires to amend Chapter 3.20 to clarify the purchasing procedure and set limits on the amounts of specific purchase authorizations.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HAWTHORNE DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** Chapter 3.20 of Title 3 (Revenue and Finance) of the Hawthorne Municipal Code (“HMC”) is hereby amended to read as follows:

**Chapter 3.20 PURCHASING SYSTEM AND CONTRACTS FOR PUBLIC PROJECTS**

Article 1. General Provisions

**3.20.010. Purpose**

The purpose of this chapter is to establish a system for the acquisition of property and services, for the construction of public projects, and for the disposition of property which, based on the circumstances of a particular project, meets the following goals:

1. Obtains the most cost-effective result for the city, which avoids improvidence, extravagance, and any other waste of public funds or public

property, and which also achieves an appropriate balance between the costs and benefits of maximizing quality within available resources.

- 2. Takes into consideration all reasonably available relevant information regarding the range of types, effectiveness, quality, and costs of potential property, services, public projects, and contractors available to achieve the city’s project goals. Depending upon the particular requirements of the project (and the more particular procedures identified in this chapter), the information to be considered shall include data gathered from one or more of the following sources: similar city projects, other public agencies, professional journals, private businesses, outreach to potential contractors, and private businesses, competitive bids, formal or informal quotes, proposals, or qualification statements.
- 3. Guards against favoritism, fraud, corruption, and conflicts of interest.
- 4. Efficiently uses city resources in the preparation, approval, administration, and enforcement of contracts which are effective tools in achieving the city’s goals.

All city contracts, and all purchasing regulations, shall implement the purpose and goals identified in this section.

3.20.020 **State and Federal Laws**

All city contracts shall be prepared in a manner consistent with all state and federal laws, in particular the requirements for public works construction, public project construction, and private development construction, real property acquisition and disposition, and the requirements related to funding received from other public agencies.

3.20.030 **Unauthorized Contracts Void**

Any contract made, or purported to be made, by the city in violation of this chapter shall be void and of no force or effect.

3.20.040 **Violation of Requirements Unlawful**

It shall be unlawful for an officer, employee, or agent of the city to order the purchase of supplies, equipment, or services in a manner that is in violation of this chapter to make any order, purchase or contract in violation of this article. Any such order, purchase or contract shall not be binding on the city, and the city shall not be obligated thereunder.

Article 2. **Purchasing System**

3.20.050 **Centralized Purchasing Division**

There is hereby created within the finance department of the city a centralized purchasing division, in which is vested authority for the purchase of supplies, materials, equipment, and services.

3.20.060      **Purchasing Manager**

The centralized purchasing division shall be overseen by the purchasing manager, who shall be under the general supervision of the city manager in his or her capacity as the city's purchasing agent.

The director of finance shall serve as purchasing manager, unless the city manager, as purchasing agent, (i) removes the director of finance from the position of purchasing manager and (ii) either opts to serve as purchasing manager or appoints some other city employee to serve as purchasing manager. Any action by the city manager to remove or replace the purchasing manager pursuant to the previous sentence shall be documented, in writing, by a letter that is distributed to all members of the city council.

Except where such authority is specifically assigned by this code to some other person, the purchasing manager shall have authority to:

- A. Purchase or contract for supplies, materials, equipment, and services required by departments in accordance with the requirements of section 54201 et seq. of the California Government Code, the requirements of this Chapter and this Code, and such other rules and regulations as shall be established by the city council and the city manager;
- B. Establish such rules, methods and procedures for the centralized purchasing division as he or she finds necessary to (i) procure for the city the needed quantity of supplies, materials equipment and services, (ii) discourage collusion and encourage competition in bidding, and (iii) otherwise further the purposes of this chapter;
- C. Negotiate and recommend execution of contracts for the purchase of supplies, materials, equipment, and services;
- D. Prepare and recommend to the council revisions and amendments to the chapter;
- E. Keep informed of current developments in the field of purchasing, prices, market conditions and new products;
- F. Prescribe and maintain such forms as are reasonably necessary to the operation of this chapter and other rules and regulations;
- G. Recommend the transfer of surplus or unused supplies and equipment between departments as needed and the sale of all supplies and equipment which cannot be used by any agency and which have become unsuitable for city use.
- H. Exercise any purchasing authority reserved to him or her by this chapter.

3.20.070      **Centralized Purchasing**

A. Except as otherwise provided in this article, all purchases or contracts for supplies, materials, equipment or services must be made through the centralized purchasing division.

B. The city manager may, and where legally required to do so, shall, authorize in writing, any department to purchase or contract for certain specified classes of supplies, materials, equipment, or services, independently of the centralized purchasing division. Any such authorization shall establish a financial limit for such authorization, and any purchase or contract made pursuant to such authorization shall be made in conformity with the applicable provisions of this chapter. The city manager may also rescind such authorization to purchase independently, by written notice to the department or departments concerned, unless otherwise prohibited by law.

C. The city manager or the purchasing manager (with the approval of the city manager) may obtain the assistance of any staff member for negotiating purchases or contracts for supplies, materials, equipment or services.

D. At all times, all persons involved in the approval of purchases, contracts and purchase orders shall make their decisions with the goals of (i) achieving the most cost-effective result for the city, (ii) avoiding improvidence, extravagance, and any other waste of public funds or public property, and (iii) achieving an appropriate balance between the costs and benefits of maximizing quality within available resources. Each person involved in the purchasing process is authorized to question any proposed purchase or contract that does not achieve these goals and to report such proposed purchase or contract to the city manager or the city council as appropriate.

### 3.20.080 **Purchase Orders**

#### **A. Numbered Purchase Orders Required**

Except as otherwise provided in this chapter, purchases of supplies, materials, equipment, and services shall be made only by a numbered purchase order issued by the centralized purchasing division.

#### **B. Request for Purchase Order**

The centralized purchasing division shall not process a request for a purchase order unless the request is submitted to the centralized purchasing department in the manner approved for such purpose by the purchasing manager.

#### **C. Appropriation Required**

The centralized purchasing division shall not issue any purchase order unless there exists an unencumbered appropriation in the fund account against which such purchase is to be charged.

**C. Department Head Approval Required**

The centralized purchasing division shall not issue any purchase order unless the request for such purchase order has been approved by the head of the department making the request.

**E. Additional Approval Requirement**

The centralized purchasing division shall not issue any purchase order unless the request has received such additional approvals as are required by Section 3.20.100.

**F. Petty Cash**

Notwithstanding any other requirement of this section, purchases for supplies, materials and services and payments and advances for incidental meeting and travel expenses may be made and paid for out of the petty cash fund without a purchase order, subject to the limitations on the use of petty cash funds established by resolution of the city council.

**3.20.090 Change Orders and Blanket Purchase Orders**

**A. Blanket Purchase Orders**

The city may, when pricing and terms are favorable, and as a convenience for users, establish an account with a vendor by means of a blanket purchase order. When a blanket purchase order has been established with a vendor, subsequent budgeted purchases may be made from that vendor.

The city will, when satisfied regarding the need, pricing, and terms, issue a blanket purchase order with the approval of the city manager or city council, based on the total planned value of the purchase. The blanket purchase order will be "open" in that only the general nature of the purchases will be specified. The annual value limit will be defined prior to issuance of the blanket purchase order and renewed each fiscal year.

**B. Change Orders**

Any change order for an approved purchase or contract shall be documented by a purchase order addendum, which shall be subject to the same requirements as a purchase order.

**3.20.100 Additional Approval Requirements**

The centralized purchasing department shall not issue a purchase order unless, in addition being approved by the head of the department requesting the purchase order, the applicable purchase or contract has been approved by:

- A. The purchasing manager, if the purchase or contract is for between five thousand dollars and one cent (\$5,000.01) and fifteen thousand dollars (\$15,000.00);
- B. The city manager, if the purchase or contract is for between fifteen thousand dollars and one cent (\$15,000.01) and twenty-five thousand dollars (\$25,000.00); or
- C. The city council, if the purchase or contract is for more than twenty-five thousand dollars (\$25,000.00).

Purchase and contracts shall not be split, divided, or staged for the purpose of circumventing the bidding or approval requirements of this policy. With respect to purchase order addendums for change orders, the requirements of this section shall be applied by combining the amounts of all related purchase orders and purchase order addendums that have not been approved by the city council. For example, (i) a \$3,000 change order to a \$4,000 purchase shall be treated as a \$7,000 purchase and require the approval of the purchasing manager, (ii) a \$2,000 change order to a \$24,500 purchase shall be treated as a \$26,500 purchase and require the approval of the city council, and (iii) a \$4,000 change order to a \$30,000 council-approved contract may be approved by the head of the department administering the contract.

Unless otherwise limited by law, the term of a contract shall be as set forth in the contract, and may include extensions as authorized in the contract. The department head, purchasing manager, or city manager may approve a multiyear contract, provided that the potential cumulative value of the multiyear contract as potentially extended does not exceed that officer's purchasing authority. Otherwise, multiyear contracts shall be approved by the city council.

3.20.110      **Selection of Vendor**

Except as provided in Section 3.20.140, no purchase order shall be approved by any city employee or issued by the central purchasing department and no purchase or contract may be made unless the purchase or contract is supported by evidence that the vendor was selected as set forth in this section.

A.      **Purchases or Contracts Under \$5,000**

No special requirements.

B.      **Purchases or Contracts Between \$5,000 and \$15,000**

Purchases valued at five thousand dollars and one cent (\$5,000.01) or more but less than fifteen thousand dollars (\$15,000.00) must be supported by evidence that the department

requesting the purchase order has obtained quotes (which may be oral, written, or in electronic form) from at least three different vendors (or by quotes from two vendors if it is not possible to locate three vendors).

**C. Purchases or Contracts Between \$15,000 and \$25,000**

Purchases valued between fifteen thousand dollars and one cent (\$15,000.01) and twenty-five thousand dollars (\$25,000.00) must be supported by evidence that the department requesting the purchase order has obtained quotes (which must be in written or electronic form) from at least three different vendors (or by quotes from two vendors if it is not possible to locate three vendors).

**D. Purchases or Contracts Above \$25,000**

Purchases valued at more than twenty-five thousand dollars (\$25,000.00) shall be made using the formal bidding process set forth in section 3.20.130.

**3.20.120 Exceptions to Bidding and Quotation Requirements**

A. The city manager (or the purchasing manager, with respect to purchases or contracts of \$15,000 or less) may, in writing, authorize the selection of a vendor via a process other than that which would otherwise be required by Section 3.20.130 of this Chapter if he or she determines, in writing based on a written explanation of the circumstances, that any of the following circumstances exist:

1. An essential/critical need requires that an order be placed with the nearest available source of supply due to time constraints;
2. The commodity or service can be obtained from only one vendor;
3. There is a break-down in essential machinery or in an essential service, or when unforeseen circumstances arise including delays by contractors, delays in transportation, and unanticipated volume of work which requires the immediate attention of a professional or immediate service/repair in order to protect the public health, safety or welfare;
4. An essential operation affecting the preservation of life or property, public health, safety or welfare would be greatly hampered if the prescribed procedure would cause an undue delay in the procurement of the needed services or materials;
5. The city is already using a certain product or service and would be disruptive of existing operations to obtain additional products or services of the same type from other than the current vendor;

6. The contract is for professional services or the services of a specially trained person.
  7. The contract involves the purchase of supplies, equipment or services with another governmental entity.
  8. Emergency procurement as set forth in Section 3.20.140 of this policy.
  9. The purchase involves real property leases or purchases and related title and escrow fees, to the extent permitted by law and authorized by the City Council.
  10. The purchase is for insurance and bonds.
  11. The purchase is for advertising in magazines, newspapers or other media.
  12. The purchase is for works of art, entertainment or performers.
  13. The purchase is for library collection materials or services or other books or periodicals.
  14. The purchase is for memberships in professional organizations, attendance at meetings or conventions, travel.
  15. The needed equipment, supplies or services are proprietary items of original equipment manufacturers and/or their authorized exclusive distributors.
- B. In granting an exception pursuant to paragraph (a) of this Section, the purchasing manager or city manager shall, as circumstances allow, and in the application of his or her best judgement, require that quotations be obtained from multiple vendors even if the formal bidding process is not required. Any such requirements, and the quotations obtained, shall be documented.
- C. Nothing in this section shall be interpreted to alter any requirements of this Chapter other than the requirements of Section 3.20.110.

3.20.130      **Formal Bidding Process**

Where the formal bidding process is required by this Article, the following shall apply:

A.      **Notices Inviting Bids.**

The purchasing manager shall be responsible for posting notification of solicitation of bids, which shall include a general description of the articles to be purchased, state where bid specifications may be secured and the time and place for opening of the bids. The



notice shall specify the factors referred to in Paragraph H of this Section, which factors will be given special consideration in determining the lowest responsible bid for the supplies or equipment to be purchased. Notices shall be posted on the city's website as well as other online locations as determined by the purchasing manager.

**B. Bidders' Security.**

When deemed necessary by the purchasing manager, bidders' security may be prescribed in the notices inviting bids. Bidders shall be entitled to the return of bid securities; provided, however, a successful bidder shall forfeit his bid security upon his refusal or failure to execute the contract within the time designated in the bid specifications unless the city is solely responsible for the delay in executing the contract. The council, on the refusal or failure of the successful bidder to execute the contract, may award the contract to the next lowest responsible bidder or reject all bids. If the council awards the contract to the next lowest bidder, 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. If the city council rejects all bids presented and re-advertises, the amount of the lowest bidder's security may be used to offset the cost of receiving new bids, and the surplus, if any shall be returned to the lowest bidder.

**C. Performance Bonds.**

The purchasing manager shall have authority to require a performance bond before entering a contract in an amount reasonably necessary to protect the best interests of the city. If a performance bond will be required, the form and the amount of the bond shall be described in the notice giving bids.

**D. Bid Opening Procedure.**

Sealed bids shall be submitted to the city clerk's office and shall be identified as bids on the envelopes. Bids shall be opened in public at the time and place stated in the public notices. A tabulation of all bids received shall be available for public inspection.

**E. Confidentiality of Bids.**

Any written bid received pursuant to the provisions of this chapter shall not be revealed directly or indirectly to any other bidder until the bidding process is completed and all submitted bids have been received and opened. A tabulation of all bids received shall be open for public inspection during regular business hours after the bid opening.

**F. Rejection of Bids.**

The purchasing manager may reject any and all bids presented and re-advertise for bids.

**G. Award of Contracts.**

Any resulting contract shall be awarded by the Council to the lowest responsible bidder as defined in Paragraph H of this Section. At its discretion, the city council may reject any and all bids presented and re-advertise for 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 of re-advertising for bids, the city council may accept the one it chooses or accept the lowest bid made by negotiation with the tie bidders at the time of the bid opening.

#### **H. Definition**

"Lowest responsible bidder," as used in this section, means bidder who best responds in price, quality, service, fitness, or capacity to the particular requirements of the city. Price alone shall not be the determining factor but shall be considered along with the other factors, including, but not limited to, the ability of the bidder to deliver, availability of parts or service, prior experience and other factors relating to the particular needs of the city for the supplies, equipment or services to be purchased.

#### **3.20.140 Emergency Procurement**

When a local emergency or disaster is proclaimed, the city is not required to engage in either informal or formal competitive bidding. During such an emergency or disaster, The city council delegates to the city manager the authority to waive any procedures in this policy that are not statutorily mandated when making emergency purchases of supplies, equipment, materials or services.

"Emergency purchases" are those procurements required to prevent the immediate interruption or cessation of necessary city services or to safeguard life, property or the public health and welfare and are subject to the following conditions:

- A. If the purchase exceeds twenty-five thousand dollars (\$25,000.00), those expenditures will be presented to the council for ratification within sixty (60) days.
- B. If the emergency purchase exceeds five thousand dollars (\$5,000.00) and can only be made by use of the city's credit card, either due to the practicality of the situation or a vendor's refusal to accept the city purchase orders, the city manager is authorized to make those expenditures, subject to the presentation of the purchase to the city council for ratification within sixty (60) days.
- C. If the emergency requires the immediate procurement of supplies, equipment or services needed to preserve life and/or property, the purchase may be made without following bidding procedures. However, written justification enumerating one (1) or more of the following rationale, must be included with the purchase request: emergency protective measure, scarce commodity, emergency consulting services, emergency road clearance, other emergency requirement, and/or lack of bids. The use of a preexisting contract may be utilized under these circumstances.

D. During a declared emergency or disaster, the purchasing manager has the authority to rescind a contract for non-performance within twenty-four (24) hours when a contractor or vendor, once awarded a contract, is unable to perform under the terms of the contract and the resulting delay or nonperformance present an immediate threat to life, safety or improved property.

E. All purchases made under emergency or disaster conditions shall require separate invoicing from routine (non-disaster related) purchases. All invoices shall state the goods, services or equipment provided and shall specify where the purchases were delivered and/or used.

3.20.150 **Waiver**

At its discretion, the council may, at any time by majority vote and without amending this policy, waive purchasing procedures or alter these proceedings to fit a specific purchase when such waiver is not in violation of California law.

3.20.160 **Cooperative Purchasing**

Cooperative purchasing is used by municipalities in the purchase of goods and services. This arrangement offers the participants significant economies of scale. Although one municipality may issue specifications and receive bids, each entity independently executes its own contract, administers the procurement function, and finances the purchase.

This is an acceptable practice that allows municipal agencies to "piggy- back" on contracts for services and supplies, issued by a wide range of other governmental agencies. Cooperative purchasing agreements may be entered into with state, city governments, public or quasi-public entities, and non-profit entities.

Where purchases are to be made in concert with or through agreements executed by other governmental agencies, formal bid requirements of this chapter may be waived with city council approval.

3.20.170 **Disposition of Surplus and Obsolete Property**

The city manager shall have the authority to sell, exchange, or otherwise dispose of all unneeded, unsuitable, or obsolete supplies and equipment, provided the item sold or disposed of does not have a current salvage value, as reasonably estimated by the city manager of more than twenty-five thousand dollars (\$25,000.00). The city manager is charged with the responsibility to secure the highest value possible in the disposal of city goods.

3.20.180 **Credit Card Program**

The city maintains a credit card program to provide a convenient method of making small purchases and to reduce the need for purchase orders, expense reimbursements, and the use of petty cash. Credit cards may be issued to each department head, and with the approval of the city manager, may be issued to other employees on the recommendation of their department head. The city manager or the purchasing manager may cancel or suspend any credit card at any time.

Such purchases are subject to the following restrictions:

- A. The amount of any single purchase cannot exceed five thousand dollars (\$5,000.00).
- B. Purchases may not be split in order to stay within the single purchase limit.
- C. The credit card may not be used for services, unless the services have an approved contract on file, the contract amount does not exceed five thousand dollars (\$5,000.00), and the use is approved in writing by the city manager.
- D. Purchases related to lodging, airfare, and other travel-related expenses shall only be made after receiving prior written approval from the city manager. The city manager may, in writing, delegate to department heads the authority to grant such approval for the members of their departments; however the travel of a department head must be personally approved by the city manager.

Article 3. **Public Projects**

3.20.190 **Requirements for Public Projects**

A. Notwithstanding any other provision of this chapter, contracts for public projects, as defined in this section, shall be administered by the city's director of public works, or designee, and shall be awarded in accordance with the Uniform Public Construction Cost Accounting Act ("UPCCAA") commencing at California Public Contract Code Section 22000, et seq., and in compliance with the provisions of this section. To the maximum extent permitted by law, the provision of this section shall be alternative to any other means provided by law for effecting the completion of public projects. However, nothing contained herein shall limit or preclude the use of a design-build delivery method provided by Public Contract Code Section 20175.2, or any other authority or procedure provided by law, and the city council expressly authorizes the director of public works to utilize any such procedures with the concurrence of the city manager.

B. **Definitions.** Unless otherwise provided by law, for purposes of this section the following terms shall have those definitions as are set forth next to each:

- 1. "Facility" means any plant, building, structure, ground facility, utility system (subject to the limitation found in subsection (B)(2)(c) of this Section), real property, streets and highways, or other public work improvement.

2. "Public project" means any of the following:
  - 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. In the case of a publicly owned utility system, public project includes only the construction, erection, improvement or repair of dams, reservoirs, power plants and electrical transmission lines of two hundred thirty thousand volts and higher.
3. Public project does not include maintenance work. For purposes of this section, 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 for its intended purposes;
  - 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, including, but not limited to, dams, reservoirs, power plants and electrical transmission lines of two hundred thirty thousand volts and higher.

**C. Classification of Projects.**

1. The director of public works shall review all city public projects with respect to the monetary limits imposed by Public Contract Code Section 22032, or any successor provision thereto, and shall designate such projects as follows:
  - a. Projects that may be performed with the city's own forces by force account, by negotiated contract, or by purchase order;
  - b. Projects that may be let by contract after informal bidding, and the director shall accomplish such identified projects by informal bidding;
  - c. Projects that may be let by contract only after formal bidding, and the director shall accomplish such identified projects by formal bidding.
2. Projects shall not be split to avoid any of the bidding requirements contained in Public Contract Code Section 22000, et seq.

**D. Informal Bidding Procedures.**

1. Development, Maintenance and Use of List of Qualified Contractors.

a. The director of public works shall develop a list of qualified contractors eligible to bid on projects awarded by informal bidding, in accordance with the provisions of Public Contract Code Section 22034(a).

b. The list shall be organized in accordance with the license classifications of the Contractor's State License Board.

c. Any licensed California contractor may request to be added to the list of qualified contractors at any time by filing a completed application with the director of public works on a form provided by the Director. The contractor will be added to the list if the contractor meets all criteria established by the California Uniform Construction Cost Accounting Commission (Commission).

2. Plans, Specifications and Working Details. The director of public works shall prepare and adopt plans, specifications and working details for all contracts awarded by informal bidding to enable a qualified contractor to perform the work required for each contract awarded by informal bidding.

3. Identifying and Inviting Bids.

a. The director of public works shall mail notice inviting informal bids to all contractors on the list of qualified contractors for the category of work being bid, and/or to all construction trade journals as specified by the Commission pursuant to Public Contract Code Section 22036.

b. The director of public works shall complete the mailing of notices inviting informal bids, as required by this subsection, not less than ten calendar days before bids are due.

c. The notice inviting informal bids shall describe the projects in general terms, how to obtain more detailed information about the project, and state the time and place for the submission of bids.

4. Opening of Informal Bids and Award of Contract.

a. At the time provided in the notice inviting informal bids, the city clerk shall open all bids timely received. If a contract is awarded, it shall be awarded by the city council to the lowest responsible and responsive bidder. If two or more responsive bids are the same and lowest, the city council may award the contract by drawing lots. If no bids are received, the project may be performed by city forces, negotiated contract, or by

any other means provided by law, as the city council determines to be in the best interests of the city.

b. If all competent bids received are in excess of the informal bidding limit, the city council may, by adoption of a resolution by a four-fifths vote, award the contract, at or below the provisional limit set forth in Public Contract Code Section 22034(f), to the lowest responsible bidder, if it determines that the city's cost estimate was reasonable.

**E. Formal Bidding Procedures.**

1. Contracts for public projects determined by the director of public works to require formal bidding pursuant to the provisions of Public Contract Code Section 22032 and subsection (C)(1) of this Section, shall be formally bid and awarded or rejected, in accordance with the provisions of Public Contract Code Sections 22037 and 22038.

2. The city council shall adopt plans, specifications and working details for all formally bid public projects.

3. If a contract is awarded, it shall be awarded by the city council to the lowest responsible and responsive bidder. If two or more bids are the same and the lowest, the city council may accept either bid. If no bids are received, the project may be performed by city forces, negotiated contract, or by any other means provided by law, as the city council determines to be in the best interests of the city.

3.20.195 **Adjusted Monetary Limit for Public Projects**

Each contract for public project construction shall be subject to all applicable requirements of state and federal law including all provisions of the California Public Contract Code applicable to local agency public works contracts not in conflict with the UPCCAA.

A. Changes in Dollar Limits. In the event that the monetary limits specified in Sections 22032 and 22034 of the UPCCAA are amended by the State Legislature or adjusted by the State Controller pursuant to Section 22020 of the UPCCAA, such amendment or adjustment in the monetary limits shall prevail and apply in place of the monetary limits specified in subsections B, C, D, and E of this Section.

B. Formal Bidding. Each contract for public project construction in an amount of more than two hundred thousand dollars shall be subject to the formal bidding process as set forth in Section 22037 of the UPCCAA. This includes a notice inviting formal bids published by the city in a newspaper at least fourteen calendar days before the bid deadline. This also includes a notice mailed to the construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Section 22036 of the UPCCAA at least thirty calendar days before the bid deadline.

C. Informal Bidding. Each contract for public project construction in an amount of more than sixty thousand dollars, and less than or equal to two hundred thousand dollars, shall be subject to the informal bidding process set forth in Section 22034 of the UPCCAA as follows:

1. Bidder's List. A list of qualified contractors identified according to categories of work shall be developed and maintained in accordance with the provisions of Section 22034 of the UPCCAA and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission

2. Notice Inviting Informal Bids. A notice inviting informal bids (describing the project in general terms, how to obtain more detailed information about the project, and the time and place for the submission of the bids) shall be mailed at least ten calendar days before the bid deadline to the qualified contractors on the relevant bidders list. The city shall also endeavor, but shall not be required, to provide prior notice of informally bid projects to the construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Section 22036 of the UPCCAA. If, after following sole-source exception procedures set forth in Section 3.20.200, the product or service is determined to be 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.

D. If all bids received pursuant to the informal bidding process are in excess of two hundred thousand dollars, the city council may, by passage of a resolution by a four-fifths vote, award the contract, at two hundred twelve thousand five hundred dollars or less, to the lowest responsible bidder, if it determines that the original cost estimate of the city was reasonable.

E. Minor Project Process. Each contract for public project construction in an amount of sixty thousand dollars or less shall be subject to the minor project process as set forth in Section 3.20.197.

3.20.197      **Minor Project Requirements**

A. Each contract subject to minor project requirements shall comply with this Section.

B. The city shall request either formal bids, informal bids, qualifications, or proposals from qualified potential contractors on the bidders list, or by such other means which, in the discretion of the city manager, provide notice of the potential project to a reasonable number of potential contractors.

C. The bids, qualifications, or proposals shall be submitted to the city in a form appropriate for the level of detail of the project requirements, as identified in the city's request (which may be based in whole or in part on the requirements set forth in this chapter for informal bidding or competitive negotiations, either in writing or telephonically).



D. After receiving bids, qualifications, or proposals, the city, may, in its discretion, negotiate the contract terms with any or all potential contractors who meet the city's project needs. The city may enter into a contract with any or all potential contractors who meet the city's project needs; provided, that the terms of the contract meet the purpose and goals identified in Section 3.20.010

**SECTION 2.** The provisions of Article 3 of Chapter 3.20 of Title 3 of the Municipal Code, as adopted by this Ordinance, are intended to be a restatement of the existing Sections 3.20.190 through 3.20.197 of the Municipal Code. No change to these Code provisions is intended and it is intended that there be no interruption in the applicability of these provisions.

**SECTION 3.** If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstance shall be held invalid or is preempted by state law, such invalidity or preemption shall not affect the other provisions of this Ordinance which can be given effect without the invalid provisions or application, and to this end the provision of this Ordinance are declared to be severable.

**SECTION 4.** Pursuant to Government Code Section 36933(c)(1), the City Attorney is authorized to prepare a summary of this ordinance. The City Clerk is also authorized to publish a summary of the text of this ordinance in the Herald Tribune at least five days prior to the adoption of this ordinance. Within 15 days after adoption of the ordinance, the City Clerk is directed to publish a summary of this ordinance in the Herald Tribune.

**SECTION 5.** The City Clerk is directed to forward a copy of Ordinance No. 2210 to Quality Code Publishing.

**PASSED, APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_ 2021.**

\_\_\_\_\_  
**ALEX VARGAS, Mayor**  
**City of Hawthorne, California**

**ATTEST:**

\_\_\_\_\_  
**Dr. Paul Jimenez**  
**City Clerk**  
**City of Hawthorne, California**

**APPROVED AS TO FORM**

\_\_\_\_\_  
**RUSSELL I. MIYAHIRA, City Attorney**  
**City of Hawthorne, California**