

TO:
Honorable Mayor and Members of the City Council

THROUGH:
Mark Danaj, City Manager

FROM:
Stephanie Katsouleas, Public Works Director
Anne McIntosh, Community Development Director

SUBJECT:

- A. Second Reading of Ordinance No. 17-0016 Adding Chapter 2.37 to the Municipal Code
(AGENDA ITEM NO. 7)
- B. Approval of Extension with Merchants Landscape
(AGENDA ITEM NO. 8)
- C. Recent Planning Commission Quasi-Judicial Decisions
Use Permit for Animal Hospital – Manhattan Beach Animal Hospital
(AGENDA ITEM NO. 19)

SUPPLEMENTAL REPORT

- A. Second Reading of Ordinance No. 17-0016 Adding Chapter 2.37 to the Municipal Code

Item 7 on the agenda for the August 1, 2017 City Council Meeting lists second reading of Ordinance No. 17-0016. The agenda report for the July 18, 2017 regular meeting included the staff recommendation that Ordinance No. 17-0016 authorize the Public Works Director and/or City Engineer to approve plans and designs for those public projects valued at less than \$45,000. Inadvertently, the copy of the ordinance included in the agenda package for July 18th did not include the words “and City Engineer” in proposed Municipal Code Section 2.37.060. Staff recommends that the attached corrected ordinance be adopted, which includes the omitted text.

Attached to this supplemental report is the revised ordinance, with the words “and City Engineer” included in the first line of Section 2.37.060.

B. Approval of Extension with Merchants Landscape

Item 8 on the agenda for the August 1, 2017 City Council Meeting lists approval of an extension of the agreement with Merchants Landscape, Inc. There is a typographical error in the second sentence of Recital A of the draft Amendment No. 2 included in the agenda package; “June 30, 2018” should be “June 30, 2017”.

C. Recent Planning Commission Quasi-Judicial Decisions Use Permit for Animal Hospital – Manhattan Beach Animal Hospital

Item 19 on the agenda for the August 1, 2017 City Council Meeting lists the following Planning Commission quasi-judicial matters held on July 26, 2017. As shown below, the Commission approved the application, with conditions.

1. Use Permit to Allow a Veterinary Hospital in an Existing Multi-tenant Commercial Building Located at 2705 N. Sepulveda Boulevard (Manhattan Beach Animal Hospital)

The Commission Adopted a Resolution Conditionally Approving the Use Permit (5:0) with minor changes to two conditions.

No members of the public attended the meeting. The project architect and business owner spoke on the proposed project and specifically spoke on conditions regarding the restriping of existing compact spaces to full size spaces and upgrading the existing trash enclosure. The business owner stated that the property owner will not allow the restriping of the existing compact spaces since it will result in a loss of one parking space. The upgrading of the trash enclosure would include connecting to the sanitary sewer and the installation of fire sprinklers and the business owner stated this would result in a financial hardship to him. The Commissioners discussed the business owners concerns. The majority of the Commission felt that the condition of restriping the existing compact spaces should not be burdened on the business owner since the proposed project was only a minor tenant improvement and it may result in the loss of his lease. The condition of restriping the existing compact spaces was deleted and the trash enclosure condition was modified to only require that the enclosure be upgraded with a covered roof.

AGENDA ITEM NO. 7

ORDINANCE NO. 17-0016

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH AMENDING TITLE 2 (ADMINISTRATION) OF THE MANHATTAN BEACH MUNICIPAL CODE BY ADDING CHAPTER 2.37 (PUBLIC PROJECTS) TO PROVIDE INFORMAL BIDDING PROCEDURES FOR PUBLIC PROJECTS UNDER THE UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH DOES ORDAIN AS FOLLOWS:

SECTION 1. Title 2 (Administration) of the Manhattan Beach Municipal Code is hereby amended by adding a new Chapter 2.37 (Public Projects) to read as follows:

"CHAPTER 2.37 PUBLIC PROJECTS

- 2.37.010. Intent.
- 2.37.020. Definitions.
- 2.37.030. Applicability.
- 2.37.040. Bid requirements, purchasing procedures, and contracting procedures.
- 2.37.050. Delegation of authority to award informal contracts.
- 2.37.060. Delegation of design approval authority.
- 2.37.070. Bid security.
- 2.37.080. Emergencies.

- 2.37.010. Intent.

The intent of this chapter is to provide standardized procedures for awarding contracts for public projects in conformance with the Uniform Public Construction Cost Accounting Act.

- 2.37.020. Definitions.

Unless the context otherwise requires, the following definitions shall govern the construction of this chapter:

"Public Project" shall be defined as that term is defined in Section 22002(c) of the California Public Contract Code or any successor statute thereto.

"Uniform Public Construction Cost Accounting Act" shall mean the procedures and regulations set forth in Chapter 2, commencing with Section 22000, to Part 3 of Division 2 of the California Public Contract Code or any successor act thereto.

2.37.030. Applicability.

All public projects shall be bid and let to contract in accordance with the procedures prescribed by the Uniform Public Construction Cost Accounting Act, or any successor act thereto, and the provisions set forth in this chapter.

2.37.40. Bid requirements, purchasing procedures, and contracting procedures.

This section shall govern the procedures for bidding and awarding all purchase orders and contracts to perform public projects. Bidding requirements and other purchasing and contracting procedures are categorized into three different levels set forth below. Each level shall govern purchases and contracts of different values. Notwithstanding any provision of this chapter, the bidding and other procedures for awarding public project contracts shall not violate the limitations of the Uniform Public Construction Cost Accounting Act, as they may be amended from time to time by the State Controller or the State Legislature.

(a) Level 1 Projects. Public projects that do not exceed the limit in Public Contract Code Section 22032(a), as it now exists or may subsequently be amended, may be performed by City employees by force account or may be awarded by negotiated contract or by purchase order without competitive bidding.

(b) Level 2 Projects. Public projects that do not exceed the limit in Public Contract Code Section 22032(b), as it now exists or may subsequently be amended, may be let to contract by the informal bid procedures set forth in this subsection (b). All Level 2 Project contracts shall require informal competitive written bidding, as follows:

(1) Written Bids.

(i) Bid specifications shall be prepared and written notices soliciting written bids shall be disseminated consistent with paragraph (3) of subsection (b) of this section.

(ii) Bids shall be submitted in writing and must be received prior to the bid closing date to be considered.

(iii) The awarding authority shall award the contract to the lowest responsible and responsive bidder. The awarding authority may reject all bids, or waive any irregularities or informalities in any bid or bidding.

(2) Contractors List. The City shall develop and maintain a list of qualified contractors, identified according to categories of work, in accordance with the provisions of Public Contract Code Section 22034, or any successor statute thereto, and the minimum criteria for development and maintenance of the Contractors List as determined by the California Uniform Construction Cost Accounting Commission.

(3) Notice Inviting Informal Bids. At least ten calendar days prior to the date informal bids are due, the City shall mail, fax or email a notice inviting informal bids to one or both of the following: (i) all contractors from the applicable category of work to be bid, as shown on the Contractors List developed in accordance with paragraph (2) of subsection (b) of this

section, or (ii) all construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Public Contract Code Section 22036, or any successor statute thereto. The notice shall describe the project in general terms, shall clearly indicate how to obtain more detailed information about the project, and shall set forth the time and place for the submission of bids. Additional contractors or construction trade journals may be noticed at the discretion of the City department soliciting bids. 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) Excess bids. If all bids received pursuant to the procedures outlined in this subsection (b) are in excess of the limit in Public Contract Code Section 22032(b), the City Council may employ the procedure authorized in Public Contract Code Section 22034(d).

(c) Level 3 Projects. Public projects that exceed the limit in Public Contract Code Section 22032(b), as it now exists or may subsequently be amended shall, except as otherwise provided by law, be let to contract by the formal bidding procedures set forth in this subsection.

(1) Notice Inviting Formal Bids. The City shall publish and mail a notice inviting sealed formal bids in accordance with the provisions of Public Contract Code Section 22037, or any successor statute thereto.

(2) Receipt of Bids. 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.

(3) Award. 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 City Council may waive any irregularities or informalities in any bid or bidding.

2.37.050. Delegation of authority to award contracts for Level 1 Projects.

The City Manager is authorized to award bids and enter into contracts for Level 1 public projects pursuant to Section 2.37.040(a) of this chapter, provided there exists an unencumbered appropriation in the fund account against which the expense is to be charged.

2.37.060. Delegation of Design Approval Authority.

The Public Works Director and City Engineer are authorized to approve plans or designs for purposes of design immunity pursuant to Government Code Section 830.6, for all public projects approved by the City Manager pursuant to Section 2.37.050. Nothing in this section is intended to, nor will it, preclude the City Council from separately or additionally approving plans or designs for purposes of design immunity pursuant to Government Code Section 830.6.

2.37.070. Bid security.

Bid security shall be required as a condition of submitting a written bid unless deemed unnecessary by the City Manager or his or her designee. Bid security may be a bond issued by a licensed and duly qualified corporate surety, or the equivalent in cash, money order, cashier's check, certified

check, unconditional letter of credit, or other form approved by the city attorney. Bid security must equal at least 10% of the bid amount.

2.37.080. Emergencies.

In cases of emergency when repair or replacements are necessary, the City may proceed in compliance with Public Contract Code Section 22035, or any successor statute."

SECTION 2. The City Council declares that, should any provision, section, paragraph, sentence, or word of this ordinance be rendered or declared invalid by any final action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences and words of this ordinance shall remain in full force and effect.

SECTION 3. The City Clerk shall cause this Ordinance to be posted in three public places in the City within 15 days after its passage, in accordance with the provisions of Government Code Section 36933. The City Clerk shall further certify to the adoption and posting of this Ordinance, and shall cause this Ordinance and its certification, together with proof of posting, to be entered in the Book of Ordinances of the City Council of this City.

SECTION 4. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

ADOPTED August 1, 2017.

AYES:
NOES:
ABSENT:
ABSTAIN:

DAVID LESSER
Mayor

ATTEST:

LIZA TAMURA
City Clerk

APPROVED AS TO FORM:

QUINN M. BARROW
City Attorney

AGENDA ITEM NO. 8

**AMENDMENT NO. 2 TO THE AGREEMENT BETWEEN
THE CITY OF MANHATTAN BEACH AND MERCHANTS
LANDSCAPE SERVICES, INC.**

This Amendment No. 2 (“Amendment”) to that certain agreement dated July 1, 2010 by and between the City of Manhattan Beach, a California municipal corporation (“City”) and Merchants Landscape Services, Inc., a California corporation (“Contractor”) (collectively, the “Parties”) is hereby entered into as of this 1st day of August, 2017.

RECITALS

A. On July 1, 2010, City and Contractor entered into an agreement for landscape maintenance services – various locations (“Agreement”). The term of Agreement was extended until ~~June 30, 2018~~ June 30, 2017 by that certain Amendment dated June 16, 2015.

B. The Parties desire to extend the term of the Agreement by one additional year, and to specify the compensation for that additional year.

NOW, THEREFORE, in consideration of the Parties’ performance of the promises, covenants, and conditions stated herein, the Parties hereby amend the Agreement as follows:

Section 1. The term of the Agreement is hereby extended through June 30, 2018 unless previously terminated as herein provided.

Section 2. For the year July 1, 2017 through June 30, 2018, compensation shall not exceed the sum of \$600,000, in accordance with the schedule attached hereto as Exhibit A and incorporated herein by this reference.

Section 3. Except as specifically amended by this Amendment, all terms and conditions set forth in the Agreement shall remain in full force and effect.

IN WITNESS THEREOF, the Parties hereto have executed this Amendment on the day and year first shown above.

CITY OF MANHATTAN BEACH,
a municipal Corporation

Merchants Landscape Services, Inc.,
a California corporation

Mark Danaj, City Manager

By: _____

Name: _____

Title: _____

ATTEST:

Liza Tamura, City Clerk

APPROVED AS TO FORM:

Quinn M. Barrow, City Attorney

APPROVED AS TO CONTENT:

Stephanie Katsouleas, Director of Public Works