

**CITY OF GILROY  
MEASURE D**

**Construction Contract Procurement and Public Noticing  
Modernization**

Shall the City of Gilroy Charter be amended to:

- Modify the bidding threshold from \$35,000 to the amount authorized by California Public Contract Code Section 22032;
- Establish authority to procure for Design-Build and Best Value contracts;
- Allow modernization of public noticing?

**YES  
NO**

**CITY ATTORNEY'S IMPARTIAL ANALYSIS OF  
MEASURE D**

The Charter of the City of Gilroy, which was adopted in 1960, contains provisions regulating the advertising and award of contracts for public projects, which are defined in the Charter as "construction or improvement of public buildings, works, drains, sewers, utilities, parks and streets (exclusive of projects for maintenance and repair of streets)." If passed by a majority vote, this Measure would amend the Charter in three respects to update its provisions regarding contracting for public projects.

First, the Measure would amend the threshold amount set in the Charter over which the City must go through a formal bidding process for a public project. The current threshold for formal contract bids is \$35,000. The Measure would tie the threshold to an amount set by the California Public Contract Code, currently \$200,000.

Second, the Measure would allow (but not require) the City to use two additional methods for awarding contracts for public projects. One method is Best Value Contracting. The current Charter language generally limits the City to awarding a public project to the low bidder; however, using Best Value Contracting the City could consider the bidders' experience and qualifications in addition to price.

The second new procurement method, for projects over \$1,000,000, is called Design-Build. This entails contracting with a single entity to manage both the design and construction for a public project, unlike the standard process which requires design and construction contracts to be awarded separately. The City could award a Design-Build contract only if the City Council follows procedures set forth in state law and makes a finding that the contract would save money or result in faster project completion.

Third, the Measure would amend the Charter's requirements for providing notice of public projects to potential bidders. The Charter currently requires notice to be published in a newspaper of general circulation. This Measure would allow three other methods of public notice, in addition to publication in a newspaper of general circulation if available: notices could be published electronically, in a trade journal, or to a list of qualified contractors. Finally, the Measure would update the definition of "newspaper of general circulation" and no longer require that the City's official advertising be published in a newspaper printed daily.

**CITY ATTORNEY'S IMPARTIAL ANALYSIS OF  
MEASURE D-Continued**

The Measure was placed on the ballot by the City Council. The above statement is an impartial analysis of Measure D. If you desire a copy of the Measure, please call the elections official's office at (408) 846-0204 and a copy will be mailed at no cost to you.

Andy Faber  
City Attorney  
City of Gilroy

## COMPLETE TEXT OF MEASURE D

That the citizens of the City of Gilroy do hereby enact the following amendment to the City Charter:

1. That Section 1109 of the City Charter be amended to read as follows:

### **Section 1109. Contracts for Public Projects.**

Every public project involving an expenditure of City monies greater than the amount allowed for informal bidding pursuant to Section 22032 of the California Public Contract Code, or successor statute, as the same may be amended from time to time, for the construction or improvement of public buildings, works, drains, sewers, utilities, parks and streets (exclusive of projects for maintenance and repair of streets) shall be let by contract to the lowest responsive and responsible bidder, or through best value contracting, after notice by one or more of the following methods:

- A. Publication in a newspaper of general circulation in the City by one or more insertions, the first of which shall be at least seven (7) days before the time for opening bids. This method of publication shall be used if available;
- B. Publication electronically so that the notice is publicly available to the general community of potential bidders;
- C. Publication in a trade journal specified by the Uniform Cost Accounting Act Commission by one or more insertions, the first of which shall be at least seven (7) days before the time for opening bids; or
- D. By using a list of qualified contractors, which includes responsible contractors who have bid in the past and qualified contractors who ask to be included on the list.

The Council may reject any and all bids, if deemed excessive or unsatisfactory and readvertise for bids, or provide for the work to be procured in the open market, but in no case of open market procurements shall the price paid be higher than the responsible low bid rejected.

The Council, without advertising for bids, following the adoption of a resolution declaring that the project can be performed more economically by day labor, or the materials or supplies furnished at a lower price in the open market, may have the project done in the manner stated without further complying with the provisions of this section.

For contracts equal to or in excess of One Million Dollars (\$1,000,000) the Council may negotiate and award a Design-Build Contract without formal public bidding if the Council finds that such a contract would save money or result in faster project completion. The process for competitively selecting a design-build contractor shall be consistent with the California Public Contract Code.

2. That Section 1111 of the City Charter be amended to read as follows:

### **Section 1111. Contracts for Official Advertising.**

The City shall procure services for the official advertising in a newspaper of general circulation in the City in accordance with the California Government Code and the City's purchasing policy.

## COMPLETE TEXT OF MEASURE D-Continued

3. That Section 1503(h) of the City Charter be amended to read as follows:

(h) "Newspaper of general circulation within the City" is as defined by the Government Code of the State of California.

## **ARGUMENT IN FAVOR OF MEASURE D**

**Voting yes on Measure D** enables Gilroy, by amending the 1960 City Charter, to stretch its public works dollars farther by:

**Saving money and time by allowing larger projects to use design-build contracts.**

Gilroy is limited to "design-bid-build" construction contracts, in which separate contracts and companies are used for the design and construction phases. This lengthens the time to start projects, resulting in higher costs. Measure D allows the City an additional method called "Design-build", allowing one entity to both design and build a project when it will reduce costs and/or project time.

**Ensuring that Gilroy taxpayers get their money's worth by protecting against unqualified or fraudulent contractors who submit below-market bids to win a contract, knowing that they will submit expensive and time-delaying "change orders" later.**

Under the Charter, the City is required to select the lowest bid. Measure D adds best-value contracting to also allow consideration of job performance history, experience, and quality when awarding contracts. This helps ensure bid integrity.

**Helping local businesses compete for City contracts by increasing the threshold requiring a formal bid process.**

The Charter requires projects of \$35,000 or more to be formally bid, forcing local businesses to compete nationwide for these lower-cost projects. Measure D increases this threshold to \$200,000, the same amount allowed by State law, expanding opportunities for local businesses to compete for smaller projects.

**Providing advertisement options to attract more bids.**

The Charter assumes that bid notifications are placed in a local newspaper printed daily. Our local newspaper is printed weekly. Measure D requires the use of the local newspaper when it is available, and allows additional options to maximize advertisement exposure.

**Measure D offers significant financial and operational benefits to the City and the community.**

**Vote YES on Measure D.**

**Mayor Marie Blankley and the Gilroy City Council**

Marie Blankley  
Mayor

**NO ARGUMENT AGAINST MEASURE D WAS SUBMITTED**