



CITY OF FORT BRAGG

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COUNCIL COMMITTEE ITEM SUMMARY REPORT

MEETING DATE: October 2, 2013
TO: Finance & Administration Committee
FROM: Linda Ruffing, City Manager
AGENDA ITEM TITLE: **Receive Report and Provide Input to Staff Regarding Purchasing Ordinance, Informal Bidding Procedures Ordinance, and Resolution Reconfirming Election to Become Subject to the Uniform Construction Cost Accounting Procedures**

ISSUE:

City staff has identified the need to update Fort Bragg Municipal Code (FBMC) Chapter 3.20, which governs purchasing, procurement and leasing of supplies, equipment, and services. The current ordinance contains inconsistencies and is difficult to understand and administer. Additionally, staff believes the City's purchasing procedures would be improved by allowing for informal bidding procedures in certain circumstances, consistent with the Uniform Public Construction Cost Accounting Act. This report is presented to the Finance & Administration Committee for discussion purposes and for staff to receive input regarding recommended changes to the City's purchasing procedures.

SUMMARY:

Attached are four documents:

- A. General purchasing ordinance to replace FBMC Chapter 3.20
- B. Proposed ordinance establishing FBMC Chapter 3.22 to allow informal bidding procedures for certain "public projects"
- C. Proposed resolution reconfirming the City's election to become subject to the uniform accounting procedures
- D. Current Administrative Regulation No. P-4

FBMC Chapter 3.20 governs purchasing, procurement and leasing of supplies, equipment, and services. It provides the City Manager with authority to negotiate the purchase, procurement and leasing of supplies, equipment, vehicles and services up to \$25,000 but does not grant her the authority to execute such contracts unless approved by the City Council (see FBMC Sections 3.20.140 and 3.20.160 – exception for contracts under \$5,000).

**FAC Agenda Item #3
(10/02/2013)**

For purchases up to \$50,000, the City may use informal bidding procedures. Administrative Regulation No. P-4 contains a description of what these informal bidding procedures consist of (minimum of three bids solicited by any reasonable means). For purchases of \$50,000 or more, the City must use formal bidding procedures. Those are described in FBMC Section 3.20.080 and Administrative Regulation No. P-4, paragraph 7.

Exceptions to competitive bidding may be made for the following:

1. commodities available from only one vendor;
2. purchases during instances of declared City emergencies;
3. purchases from state procurement sites established for local government efficiencies and economies;
4. situations where no responsive bids have been received following a call for bids;
5. other items exempt by law from competitive bidding requirements; and
6. contracts for professional or expert services, including services rendered by architects, attorneys, engineers, and other specialized consultants.

Although it is not mentioned in FBMC Chapter 3.20, by law the City is required to abide by statutory competitive bidding requirements (Public Contracts Code 20160 et seq.) when contracting for certain “public projects” requiring an expenditure that exceeds \$5,000.

Staff has found that the FBMC creates inefficiencies by:

- Requiring the cumbersome and costly competitive bidding process for almost every “public project” given the \$5,000 threshold and
- Requiring City Council approval for almost every contract resulting in delays, staff time in preparing staff reports and resolutions, etc.

To address this, the City Clerk and the City Attorney have prepared the attached ordinances and resolution to update the City's purchasing ordinance and to allow the City to adopt certain statutory informal bidding procedures in Public Contracts Code 22000 et seq. allowing for higher dollar thresholds for certain “public projects”. In addition, a resolution has been prepared to reconfirm the City's election to abide by certain uniform accounting standards. The resolution is a prerequisite to adopting the statutory bidding procedures.

The ordinances are set up to work as follows:

Every purchase must begin with the understanding that the procedures in Chapter 3.20 govern the purchase of all goods and services (see Section 3.20.030). Then, we take a look at the exceptions in Section 3.20.030. If one of these exceptions applies, we do not use Chapter 3.20:

1. If the purchase involves a “public project,” staff is directed to use the informal bidding procedures in Chapter 3.22.
2. If it is a contract for certain professional services.
3. If it is a contract for certain special services.
4. In case of an emergency.
5. Situations where no bids have been received or all bids exceed budget appropriations or cost estimates.
6. Contracts for which other public agencies have gone through a competitive bidding process.

7. When, by a four-fifths vote, the City Council specifically waives the procedures in Chapter 3.20.

If no exception applies, then the City Manager can negotiate and sign any contract up to and including \$5,000. The City Manager can also sign any contract between \$5,001 and \$50,000 once she obtains firm quotes (i.e., in writing) from at least three vendors. She is, however, limited to contracting with the vendor that provides the City with the greatest cost savings and the quotes must address prevailing wage requirements when applicable. For contracts more than \$50,000, formal bidding procedures apply as described in Section 3.20.060 and the Council must award the contract. Additionally, the City Manager can delegate her purchasing authority to any staff member.

Jumping over to the informal bidding ordinance, here are the salient points:

As mentioned above, under the current code, the City is required to abide by statutory competitive bidding requirements (Public Contracts Code 20160 et seq.) when contracting for certain “public projects” requiring an expenditure that exceeds \$5,000. “Public projects” are defined in Section 20161 as “(a) A project for the erection, improvement, painting, or repair of public buildings and works. (b) Work in or about streams, bays, waterfronts, embankments, or other work for protection against overflow. (c) Street or sewer work except maintenance or repair. (d) Furnishing supplies or materials for any such project, including maintenance or repair of streets or sewers.”

The informal bidding ordinance replaces the process in Section 20160 with a new process. The important differences are as follows:

1. The definition of “public project” is different. A “public project” for purposes of the informal bidding ordinances is “(1) construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility or (2) painting or repainting of any publicly owned, leased, or operated facility.” This means certain projects (e.g. street or sewer repair) that were not subject to statutory competitive bidding will be subject to the informal bidding ordinance.
2. Instead of having to competitively bid every public project in excess of \$5,000, the City Manager can negotiate and execute contracts for public projects less than or equal to \$45,000 and the City can use the informal bidding procedures described in Section 3.22.050 for contracts between \$45,001 and \$175,000. Formal bidding procedures apply after that. The City Council awards all public project contracts more than \$45,000 to the lowest responsible bidder submitting a responsive bid.

The policy decisions for the Finance & Administration Committee (and then the City Council) to consider include:

- Does the Council want to give the City Manager authority to enter into contracts for goods and services up to \$50,000, or public projects up to \$45,000 without having to come to Council for approval?
- Does the Council want to give the City Manager power to delegate her authority to any staff member?
- Does the Council want to relax the statutory competitive bidding procedures for certain

public projects?

RECOMMENDATION:

Staff is seeking input from the Finance & Administration Committee regarding the new ordinances and will revise them, as necessary, prior to bringing them forward to the City Council for discussion and action.

ATTACHMENTS:

- A. General purchasing ordinance to replace FBMC Chapter 3.20
- B. Ordinance to establish FBMC Chapter 3.22 to allow informal bidding procedures for certain "public projects"
- C. Resolution reconfirming the City's election to become subject to the uniform accounting procedures
- D. Administrative Regulation No. P-4