

DOCUMENT REVIEWED BY:

City Clerk _____ cvw _____

City Attorney _____

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

**AN ORDINANCE ADDING CHAPTER 3.22
(INFORMAL BIDDING PROCEDURES) OF
THE FORT BRAGG MUNICIPAL CODE**

ORDINANCE NO. ____2015

WHEREAS, on April 13th, 1987, the City Council adopted Resolution 1497-87 electing to become subject to the uniform public construction accounting procedures under Public Contract Code Section 2200, et seq. ("Uniform Public Construction Cost Accounting Act"); and

WHEREAS, pursuant to such election, the Uniform Public Construction Cost Accounting Act requires the city to adopt an informal bidding ordinance to govern the selection of contractors to perform certain public projects; and

WHEREAS, the City Council has determined it is in the best interest of the City to adopt these procedures for informal bidding for Public Projects.

NOW, THEREFORE, the City Council ordains as follows:

Section 1. **Legislative Findings.** The City Council hereby finds as follows:

1. The Uniform Public Cost Accounting Act provides accounting procedures, including informal bidding procedures to be used for public projects, as defined in the Uniform Public Cost Accounting Act.
2. The City Council reconfirms its election to become subject to the Uniform Public Cost Accounting Act.
3. The use of the Uniform Public Cost Accounting procedures, including the informal bidding procedures provides a more efficient means for bidding and accounting for Public Projects subject to the Uniform Public Cost Accounting Act.
4. Adding Chapter 3.22 in the manner described in this ordinance is in the public interest for the aforementioned reasons.
5. There is no possibility that the adoption of this ordinance will have a significant impact on the environment, and therefore, the adoption of this ordinance is exempt from the California Environmental Quality Act ("CEQA"), pursuant to Section 15061(b)(3) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations).

Section 2.

TITLE 3 – REVENUE AND FINANCE

Chapter 3.22 entitled **INFORMAL BIDDING PROCEDURES** is hereby added as follows:

"CHAPTER 3.22: INFORMAL BIDDING PROCEDURES

Section

- | | |
|----------|--|
| 3.22.010 | Purpose of informal bidding procedures |
| 3.22.020 | Definitions |
| 3.22.030 | Exceptions to this Chapter |
| 3.22.040 | Procedures |
| 3.22.050 | Informal bidding procedures |

- 3.22.060 Formal bidding procedures
- 3.22.070 Award or rejection of bids
- 3.22.080 Splitting orders prohibited
- 3.22.090 Prevailing Wages

Statutory reference:

Provisions regarding the Uniform Public Construction Cost Accounting Act, see Public Contract Code §§ 22000 et seq.

Provision regarding the City's authority to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws, see Cal. Const. Art. XI, § 7.

§ 3.22.010 PURPOSE OF INFORMAL BIDDING PROCEDURES.

Pursuant to Public Contract Code Section 22000, general law cities may adopt an alternative method for the bidding of public works projects. The purpose of this chapter is to:

- A. Comply with the requirements of state law; and
- B. Establish efficient and effective processes Public Projects at the lowest feasible cost commensurate with the level of quality required. C.
- D.

§ 3.22.020 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMMISSION. Uniform Public Construction Cost Commission.

CONSTRUCTION TRADE JOURNALS. The appropriate construction trade journals for Mendocino County as determined by the Commission.

FACILITY. Any plant, building, structure, ground facility, utility system, real property, streets and highways, or other public work improvement.

PUBLIC PROJECT.

1. Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility.
2. Painting or repainting of any publicly owned, leased, or operated facility.
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, powerplants, and electrical transmission lines of 230,000 volts and higher.

QUALIFIED CONTRACTOR LIST. A list of qualified contractors, identified according to categories of work. Minimum criteria for development and maintenance of the qualified contractors list shall be determined by the Commission.

§ 3.22.030 EXCEPTIONS TO THIS CHAPTER.

The procedures described in this Chapter shall govern the purchase of Goods and Services for any Public Project except in cases of Public Projects constituting an emergency when repair or replacements are necessary. In such cases, the City Council by four-fifths vote of its members, may authorize the replacement or repair of any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the City Council, by contractor, or by a combination of the two and the City Council shall comply with the requirements of Public Contract Code §§ 22050 et seq.

§ 3.22.040 PROCEDURES.

A. Public projects of forty-five thousand dollars (\$45,000) or less may be performed by City employees by force account, by negotiated contract, or by purchase order using procedures described in Chapter 3.20.

B. Public projects of more than forty-five thousand dollars (\$45,000) and less than one hundred seventy-five thousand dollars (\$175,000) shall be let to contract after following informal bidding procedures.

C. Public projects of more than one hundred seventy-five thousand dollars (\$175,000) shall be let to contract by formal bidding procedures. In such cases, the City Council shall approve the plans, specifications, and working details.

D. The City Manager may approve contact change orders not exceeding a total of 10% of the approved contract or up to the contingency amount whichever amount is less for any one project. Such change orders shall be reported to the Finance and Administration Committee on a quarterly basis.

§ 3.22.050 INFORMAL BIDDING PROCEDURES FOR PUBLIC PROJECTS OF MORE THAN \$45,000 AND LESS THAN \$175,000.

A. The City shall compile a qualified contractor list, identified according to categories of work, using criteria determined by the Commission. ("Qualified Contractor List"). The vendor's name shall remain on the list for a period of twelve months, unless otherwise requested to be removed by the vendor. The vendor must notify the City whether or not they wish to remain on the list. IT is the responsibility of the vendor to, from time to time, insure that its name is on the Qualified Contractor List.

B. At least twice a year, the Director of Public Works or his/her designee shall publish on the City's website the Qualified Contractor List.

B. All contractors on the Qualified Contractor List for the category of work being bid and all Construction Trade Journals shall be mailed a notice inviting informal bids unless the product or service is proprietary.

C. All mailing of notices to qualified contractors and Construction Trade Journals shall be completed not less than 10 calendar days before bids are due.

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

E. The City Council may delegate the authority to award informal contracts Purchasing Officer as defined in Chapter 3.20.040.

F. Contracts shall be awarded to the lowest responsible bidder submitting a responsive bid. Upon the refusal or failure of the successful bidder to execute the contract, the contract may be awarded to the next lowest responsible bidder submitting a responsive bid.

G. If all bids received are in excess of one hundred seventy-five thousand dollars (\$175,000), the City Council may, by adoption of a resolution by a four-fifths vote, award the contract, at one hundred eighty-seven thousand five hundred dollars (\$187,500) or less, to the lowest responsible

bidder submitting a responsive bid if the Council determines the cost estimate of the public agency was reasonable.

§ 3.22.060 FORMAL BIDDING PROCEDURES FOR PUBLIC PROJECTS OF MORE THAN \$175,000.

A. Notice inviting formal bids shall state the time and place for the receiving and opening of sealed bids. The notice shall be published at least 14 calendar days before the date of opening the bids in a newspaper of general circulation, printed and published in the City.

B. The notice inviting formal bids shall also be sent electronically (by either facsimile or electronic mail) and mailed to all Construction Trade Journals. The notice shall be sent at least 15 calendar days before the date of opening the bids.

C. The notice shall include a general description of the project, where bid instructions and specifications may be obtained, the time and place for bid openings, and whether a bid deposit or bond, or other security, such as performance, payment or maintenance bonds, will be required.

D. When required by law or deemed appropriate by the City, and if included in bid instructions, bidders may be required to submit a bid deposit or bond in an amount determined by the City. Bidders shall be entitled to return of bid security, except that a successful bidder (and a successful bidder's surety, if a bid bond is required) shall be liable for any damages suffered or incurred by the City upon refusal or failure to execute a contract within ten (10) days after the notice of award of contract has been mailed, unless the City is responsible for the delay.

E. The City Council shall award the contract to the lowest responsible bidder submitting a responsive bid. The City Council may, upon refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder submitting a responsive bid. If the City Council awards the contract to the next lowest bidder, and bidders were required to provide security, following a forfeit of the bid security by the lowest bidder the amount of the lowest bidder's bid security shall be applied by the City to the difference between the low bid and the second lowest bid; the surplus, if any, shall then be returned to the lowest bidder.

F. When deemed appropriate by the City, and if included in bid instructions, any person or entity entering into a contract with the City may be required to furnish a faithful performance deposit or bond in an amount determined by the City.

G. Sealed bids shall be submitted to the City and shall be identified as bids on the envelope. Bids shall be opened in public at the time and place stated in the public notices. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than 30 calendar days after the bid opening.

§ 3.22.070 AWARD OR REJECTION OF BIDS

A. In its discretion, the City may reject any formal or informal bids presented and abandon the project or readvertise.

B. In its discretion, the City may also reject any formal or informal bids presented and, by passage of a resolution by a four-fifths vote of the City Council, declare that the project can be performed more economically by the employees of the City. However, prior to rejecting all bids, the City must first furnish written notice to the apparent low bidder informing the bidder of the City's intention to reject the bid. Such notice shall be mailed at least two business days prior to the hearing at which the City intends to reject the bid.

C. If two or more bids are the same and the lowest, the public agency may accept the one it chooses.

D. If no bids are received through the formal or informal procedure, the project may be performed by the employees of the public agency by force account, or negotiated contract without further complying with this article.

§ 3.22.080 SPLITTING ORDERS PROHIBITED.

It is unlawful to split or separate into smaller orders the purchase of Goods and Services for any Public Project for the purpose of evading the competitive bidding provisions of this chapter.

§ 3.20.090 PREVAILING WAGES.

Potential bidders for Goods and Services for any Public Contract that are subject to the requirements of the California Prevailing Wage Law (Cal. Labor Code §§ 1720, et seq.) shall be notified of the applicability of prevailing wage requirements in the bid documents and shall comply therewith.

Section 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Fort Bragg hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

Section 4. Effective Date and Publication. This ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause a summary of said Ordinance to be published as provided in Government Code §36933, in a newspaper of general circulation published and circulated in the City of Fort Bragg, along with the names of the City Council voting for and against its passage.

The foregoing Ordinance was introduced by Councilmember _____ at a regular meeting of the City Council of the City of Fort Bragg held on _____, 2015, and adopted at a regular meeting of the City of Fort Bragg held on _____, 2015, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Dave Turner,
Mayor

ATTEST:

Cynthia M. VanWormer, MMC
City Clerk

PUBLISH: _____, 2015 and _____, 2015 (by summary).
EFFECTIVE DATE: _____, 2015.