



NOTICE OF ADJOURNED REGULAR MEETING LAKEPORT CITY COUNCIL

(ALSO MEETS AS THE CITY OF LAKEPORT MUNICIPAL SEWER DISTRICT, THE LAKEPORT INDUSTRIAL DEVELOPMENT AUTHORITY, THE MUNICIPAL FINANCING AGENCY OF LAKEPORT and THE SUCCESSION AGENCY TO THE LAKEPORT REDEVELOPMENT AGENCY)

June 27, 2017

City Council Chambers, 225 Park Street, Lakeport, California 95453

TO THE MEMBERS OF THE CITY COUNCIL OF THE CITY OF LAKEPORT:

NOTICE IS HEREBY GIVEN that the Lakeport City Council, at a regular meeting held June 20, 2017, in the City Council Chambers at City Hall, 225 Park Street, Lakeport CA 95453 adjourned said meeting to **June 27, 2017, at 6:00 p.m.** at the same location, for the purpose of discussing and acting on the following:

PUBLIC HEARING: Hold a public hearing to consider a proposed Ordinance repealing and replacing Chapter 3.05 to the Lakeport Municipal Code to comply with the Uniform Public Construction Cost Accounting Act.

Dated: June 21, 2017

Hilary Britton, Deputy City Clerk



CITY OF LAKEPORT

City Council
City of Lakeport Municipal Sewer District
Lakeport Redevelopment Successor Agency
Lakeport Industrial Development Agency
Municipal Financing Agency of Lakeport

STAFF REPORT

RE: Public Hearing of the Revision of the State of California
Uniform Construction Cost Accounting Ordinance

MEETING DATE: 06/27/2017

SUBMITTED BY: Nicholas Walker, Finance Director

PURPOSE OF REPORT: Information only Discussion Action Item

WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:

The Council and Board of Directors are being asked to conduct a Public Hearing and to adopt the proposed Ordinance repealing and replacing Chapter 3.05 of the Lakeport Municipal Code to comply with the Uniform Public Construction Cost Accounting Act.

BACKGROUND/DISCUSSION:

Due to changes in regulations and recent events, staff has prepared revisions to the ordinance to ensure compliance with applicable laws and regulations of the Uniform Cost Accounting Policies and Procedures (UCAPP). The UCAPP program, promulgated by the California Uniform Construction Cost Accounting Commission (Commission), is a comprehensive set of policies and procedures based on the accounting requirements of the Uniform Public Construction Cost Accounting Act (Act) of 1983.

The UCAPP and the Act were created in 1983 to allow local agencies to perform, or procure contract services to perform, public works projects without the need to engage in formal bidding requirements, up to certain dollar thresholds, so long as an agency adopts and practices cost accounting procedures outlined in the Cost Accounting Policies and Procedures Manual of the California Uniform Construction Cost Accounting Commission (Manual). Public agencies may perform such projects with internal personnel (Force account) up to \$45,000 or engage a contractor using alternative bidding procedures as follows:

1. Public projects of \$45,000 or less using a negotiated contract, force account, or standard purchase order,
2. Projects of or below \$175,000 by informal bidding procedures pursuant to the Act (PCC 22032(b)), or
3. Projects in excess of \$175,000 by formal bidding procedures pursuant to the Act (PCC 22032(c)).

The updated ordinance sets forth the requirements of the UCAPP in regard to establishing and maintaining a list of contractors, provides for updated policy related to informal and formal bidding procedures.

At the June 20, 2017 regular City Council meeting, Council adopted Resolution No. 2625 (2017) electing to become subject to the Uniform Public Construction Cost Accounting Act, and conducted the first reading of the proposed Ordinance.

OPTIONS:

1. Hold a Public Hearing and adopt the proposed Ordinance amending Chapter 3.05 to the Lakeport Municipal Code to comply with the Uniform Public Construction Cost Accounting Act.
2. Hold a Public Hearing and do not adopt but provide direction to staff.

FISCAL IMPACT:

None Undetermined Budgeted Item? Yes No

Budget Adjustment Needed? Yes No If yes, amount of appropriation increase: \$

Affected fund(s): General Fund Water OM Fund Sewer OM Fund Other: Storm Drain Improvement Fund, Water Expansion Fund, Sewer Expansion Fund

Comments:

SUGGESTED MOTIONS:

1. Move to adopt the proposed Ordinance repealing and replacing Chapter 3.05 to the Lakeport Municipal Code to comply with the Uniform Public Construction Cost Accounting Act.

Attachments:

1. Proposed Ordinance repealing and replacing Chapter 3.05 of the Lakeport Municipal Code to comply with the Uniform Public Construction Cost Accounting Act.
2. Resolution 2625 (2017) electing to become subject to the Uniform Public Construction Cost Accounting Act.

ORDINANCE NO. 913 (2017)

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKEPORT REPEALING
AND REPLACING CHAPTER 3.05 OF THE LAKEPORT MUNICIPAL CODE TO
COMPLY WITH THE UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT**

WHEREAS, the City Council adopted Resolution No. 2625 (2017) causing the City to become subject to the Uniform Public Construction Cost Accounting Act (“UPCCAA”) procedures set forth in Article 2 of Chapter 2 of Part 3 of Division 2 of the Public Contract Code (commencing with section 22010);

WHEREAS, the City Clerk will provide a copy of Resolution No. 2625 (2017) to the California State Controller, consistent with the requirements of Public Contract Code section 22030;

WHEREAS, Public Contract Code section 22034 requires any agency that is to become subject to the UPCCAA to adopt an ordinance in compliance with the requirements of that section;

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

SECTION 1. Municipal Code Amendment Chapter 3.05 of the Lakeport Municipal Code is hereby repealed in its entirety and replaced with the following:

CHAPTER 3.05. AWARDING PUBLIC WORKS CONTRACTS

3.05.010 Purpose

This Chapter is intended to establish regulations to apply to all public contracts in a manner that is consistent with the requirements of the Uniform Public Construction Cost Accounting Act (Public Contract Code section 22000 *et seq.*).

3.05.011 Public projects

A. Except as provided in subsection E of this section, the city manager may cause public projects of forty-five thousand dollars (\$45,000) or less to be performed by employees of the City by force account, by negotiated contract, or by purchase order.

B. Except as provided in subsection E of this section, public projects of one hundred seventy-five thousand dollars (\$175,000) or less, may be let to contract by informal procedures as set forth in Section 3.05.013.

C. Except as provided in subsection E of this section, and subsection E of section 3.05.013, public projects of more than one hundred seventy-five thousand dollars (\$175,000) shall be let to contract by the formal bidding procedure outlined in Sections 3.05.014 and 3.05.015.

D. The term “public project” shall have the definition set forth in Public Contract Code section 22002.

E. The dollar limits set forth in subsections A and B of this section shall adjust without city council action as necessary to comply with any adjustment mandated by the Controller pursuant to the authority granted by Public Contract Code section 22020.

3.05.012 List of contractors

A list of contractors shall be developed and maintained in accordance with Public Contract Code section 22034, subdivision (a) and any criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission (Commission). Such list will be maintained by the city manager.

3.05.013 Informal bidding procedure

The following apply to informal bids for public projects:

A. Notice inviting informal bids.

1. Required noticing. When a public contract is to be bid pursuant to the procedures in this section, a notice inviting informal bids shall be mailed to all construction trade journals specified by the Commission in accordance with Public Contract Code section 22036.

2. Optional noticing. Notification may be also provided to the contractors on the list created pursuant to Section 3.05.012 for the category of work being bid, and to any additional contractors and/or construction trade journals.

3. Exception. 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.

B. Mailing notices. All mailing of notices to contractors and construction trade journals pursuant to subsections A.1 and A.3, above, shall be completed not less than 10 calendar days before bids are due.

- C. Description of project. 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.
- D. Authority to award contracts. The city manager is authorized to award a contract if the lowest bid received is forty-five thousand dollars (\$45,000) or less. Contracts valued at more than forty-five thousand dollars (\$45,000) can only be awarded by the city council.
- E. Bids exceeding \$175,000. If all bids received pursuant to the informal process are in excess of one hundred seventy-five thousand dollars (\$175,000), the city council may adopt a resolution by a four-fifths vote to award the contract at one hundred eighty-seven thousand five hundred dollars (\$187,500) or less, to the lowest responsible bidder, if it determines the City's cost estimate was reasonable. Otherwise, the project shall be re-bid pursuant to section 3.05.014 and awarded pursuant to sections 3.05.014 and 3.05.015 of this chapter.
- F. Award of contract. The contract shall be awarded to the lowest responsible bidder.

3.05.014 Notice inviting formal bids.

The following rules apply to notices for bids for public projects pursuant to the formal bidding process:

- A. Contents of notice. Notice inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project.
- B. Publication of notice. 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, or otherwise comply with the requirements of Public Contract Code section 22037.
- C. Electronic transmission of notice. The notice inviting formal bids shall also be sent electronically, if available, by either facsimile or electronic mail and mailed to all construction trade journals specified in accordance with Public Contract Code section 22036. The notice shall be sent at least 15 calendar days before the date of opening the bids. The city may provide additional notice.

3.05.015 Awarding formal bids

The following rules apply to awarding formal bids for public projects:

- A. Rejecting formal bids. In its discretion, the city council may reject any bids presented, if the city, prior to rejecting all bids and declaring that the project can be more economically performed by employees of the city, furnishes a written notice to an apparent low bidder. The notice shall inform the bidder of the city's intention to reject the bid and shall be mailed at least

two business days prior to the hearing at which the city intends to reject the bid. If after the first invitation of bids all bids are rejected, after reevaluating its cost estimates of the project, the city shall have the option of either of the following:

1. Abandoning the project or re-advertising for bids in the manner described by this chapter.
 2. By passage of a resolution by a four-fifths vote of the city council declaring that the project can be performed more economically by city employees, may have the project done by force account without further complying with this Chapter.
- B. Lowest bidder. If a contract is awarded, it shall be awarded to the lowest responsible bidder. If two or more bids are the same and the lowest, the city may accept the one it chooses.
- C. No bids. If no bids are received through the formal or informal procedure, the project may be performed by the employees of the city by force account or negotiated contract without further complying with this Chapter.

3.05.016 Emergencies

- A. In cases of emergency when repair or replacements are necessary, the city council may proceed at once to replace or repair 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. The city council's authority under this section may be exercised by the city manager during an emergency declared pursuant to Chapter 2.28 of this code.
- B. In case of an emergency, if notice for bids to let contracts will not be given, the city shall comply with Chapter 2.5 of Part 3 of Division 2 of the Public Contract Code (commencing with section 22050).

SECTION 2. Severability. If any provision, section, paragraph, sentence or word of this Ordinance, or the application thereof to any person or circumstance, is rendered or declared invalid by any court of competent jurisdiction, the remaining provisions, sections, paragraphs, sentences or words of this ordinance, and their application to other persons or circumstances, shall not be affected thereby and shall remain in full force and effect and, to that end, the provisions of this ordinance are severable.

SECTION 3. Construction. The City Council intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law, including the Public Contract Code, and this Ordinance shall be construed in light of that intent.

SECTION 4. **CEQA.** This Ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to 14 Cal. Code Regs. § 15378(b)(4) and (5) as a creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment and as an agency organizational or administrative activity that produces no physical changes to the environment.

SECTION 5. **Effective Date.** This ordinance shall take effect thirty days after its passage and adoption under Government Code section 36937.

SECTION 6. **Certification.** The City Clerk shall certify to the passage and adoption of this Ordinance and shall give notice of its adoption as required by law. Pursuant to Government Code section 36933, a summary of this Ordinance may be published and posted in lieu of publication and posting the entire text.

INTRODUCED and first read at a regular meeting of the City Council on the 20th day of June, 2017, by the following vote:

AYES: Mayor Mattina and City Council Members Barnes, Parlet, Spurr and Mattina

NOES: None

ABSENT: None

ABSTAINING: None

FINAL PASSAGE AND ADOPTION by the City Council occurred at a meeting thereof held on the 27th day of June 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINING:

MIREYA TURNER, Mayor Pro Tem
City of Lakeport

ATTEST:

KELLY BUENDIA, City Clerk
City of Lakeport

RESOLUTION NO. 2625 (2017)

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKEPORT ELECTING TO
BECOME SUBJECT TO THE UNIFORM PUBLIC CONSTRUCTION COST
ACCOUNTING ACT**

WHEREAS, local agencies must competitively bid all public projects (as defined by section 20162 of the Public Contract Code) in excess of \$5,000 in accordance with the requirements of the Public Contract Code section 20160 et seq.;

WHEREAS, in 1983, the California Legislature adopted Assembly Bill 1666 which added Chapter 2, commencing with section 22000, to Part 3 of Division 2 of the Public Contract Code, which provides for a uniform cost accounting standard for construction work performed or contracted by local agencies and further provides for an alternative method for bidding public projects;

WHEREAS, Public Contract Code section 22030 provides that any city that wishes to avail itself of the alternative procedures for bidding and contracting for public projects must elect, by resolution, to become subject to the uniform construction cost accounting procedures set forth in the Public Contract Code and must notify the State Controller of its election;

WHEREAS, the City desires to become subject to the uniform construction cost accounting procedures in the Public Contract Code, commencing with section 22000;

WHEREAS, Public Contract Code section 22034 requires each public agency that elects to become subject to the uniform construction cost accounting procedures to enact an informal bidding ordinance that complies with the requirements in Public Contract Code section 22034; and

WHEREAS, concurrently herewith, the City Council has introduced Ordinance No. 913 (2017) that provides procedures governing public works contracts and establishes, among other things, informal bidding procedures in accordance with the requirements of Public Contract Code section 22034.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEPORT DOES HEREBY
RESOLVE AS FOLLOWS:**

SECTION 1. The City Council hereby elects under Public Contract Code Section 22030 to become subject to the uniform construction cost accounting procedures in the Uniform Public Construction Cost Accounting Act, commencing with Public Contract Code section 22000 or any successor statute, and to the policies and procedures manual and cost accounting review procedures promulgated by the California Uniform Construction Cost Accounting Commission, as each may be amended from time to time.

SECTION 2. The City Clerk is hereby directed to notify the State Controller forthwith of this election.

SECTION 3. This Resolution shall be effective on the date that Ordinance No. 913 (2017) amending Chapter 3.05 of the Lakeport Municipal Code becomes effective.

SECTION 4. The City Clerk shall certify to the adoption of this Resolution.

THIS RESOLUTION was passed by the City Council of the City of Lakeport at a regular meeting thereof on the 20th day of June, 2017, by the following vote:

AYES: Mayor Mattina and Council Members Barnes, Parlet, Spurr and Turner

NOES: None

ABSTAINING: None

ABSENT: None

STACEY MATTINA, Mayor

ATTEST:

KELLY BUENDIA, City Clerk

CERTIFICATE

STATE OF CALIFORNIA)
COUNTY OF LAKE) ss.
CITY OF LAKEPORT)

I, Kelly Buendia, City Clerk of the City of Lakeport, do hereby certify that the foregoing Resolution No. 2625 (2017) was duly passed, approved, and adopted by the City Council of the City of Lakeport at a regular City Council meeting held on June 20, 2017.

DATED: _____

KELLY BUENDIA, City Clerk
City of Lakeport