

Chapter 2.40

PUBLIC PROJECTS

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2.40.010 Purpose. The purpose of this chapter is to provide standardized procedures for awarding contracts for public projects in conformance with the Uniform Public Construction Cost Accounting Act. (Ord. 694 (part), 2018).

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

(a) “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.

(b) “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 statute thereto. (Ord. 694 (part), 2018).

2.40.030 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 statute thereto, and the provisions set forth in this chapter. (Ord. 694 (part), 2018).

2.40.040 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. 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 town 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 town may develop and maintain a list of qualified contractors, identified according to categories of work, in accordance with the provisions of Section 22034 of the California Public Contract Code, 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 (10) calendar days prior to the date informal bids are due, the town 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 a 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 Section 22036 of the California Public Contract Code, 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 public works director. 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 town 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(c), 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 (c).

(1) Notice Inviting Formal Bids. The town shall publish and mail a notice inviting sealed formal bids in accordance with the provisions of California 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 town council shall award the bid to the lowest responsible and responsive bidder, or reject all bids pursuant to Public Contract Code Section 22038, or its successor statute. The town council may waive any irregularities or informalities in any bid or bidding. (Ord. 694 (part), 2018).

2.40.050 Delegation of authority to award contracts for Level 1 projects. The town manager or his or her designee is authorized to award bids and enter into contracts for Level 1 public projects pursuant to Section 2.38.040(a) of this chapter, provided there exists an unencumbered appropriation in the fund account against which the expense is to be charged. (Ord. 694 (part), 2018).

2.40.060 Delegation of design approval authority. The public works director is 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 town manager. Nothing in this section is intended to, nor will it, preclude the town council from separately or additionally approving plans or designs for purposes of design immunity pursuant to Government Code Section 830.6. (Ord. 694 (part), 2018).

2.40.070 Bid security. Bid security shall be required as a condition of submitting a written bid unless deemed unnecessary by the town 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 and irrevocable letter of credit, or other form approved by the town attorney. Bid security must equal at least ten percent (10%) of the bid amount. (Ord. 694 (part), 2018).

2.40.080 Emergencies. In cases of emergency when repair or replacements are necessary, the town may proceed in compliance with Public Contract Code Section 22035, or any successor statute or any other statute authorizing such work. (Ord. 694 (part), 2018).

2.40.090 Compliance with state and federal laws. Contracts for all public projects made pursuant to this chapter shall comply with any applicable state or federal laws. In addition, all procurements which utilize federal funds must be conducted in compliance with this chapter and the requirements contained within the Federal Code of Regulations Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. (Ord. 694 (part), 2018).

2.40.100 Administrative Policies. The town manger shall establish administrative policies and procedures for the efficient and effective implementation of this chapter. (Ord. 694 (part), 2018).