

ORDINANCE NO. 722

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA AMENDING CHAPTERS 3.32 (PUBLIC WORKS BID REQUIREMENTS) OF THE CALISTOGA MUNICIPAL CODE REGARDING PURCHASING PROCEDURES

The City Council of the City of Calistoga does hereby ordain as follows:

SECTION ONE:

WHEREAS, currently, there are various processes established by the City of Calistoga for the Public Works Bid Requirements a; and

WHEREAS, the City Council finds that the proposed amendment to the Calistoga Municipal Code will help manage the procurement process in accordance with the State law; and

WHEREAS, the City Council finds that the proposed amendment to the Calistoga Municipal Code will help meet the needs of the City of Calistoga through continuous improvement of purchasing systems and procedures; and

WHEREAS, the City Council finds that the proposed amendment to the Calistoga Municipal Code will maximize the purchasing value of public funds in procurement, to the fullest extent practicable, while giving consideration to the lifetime cost as well as other factors needed to determine the best over all value to the City; and

SECTION TWO

Chapter 3.32 of the Calistoga Municipal Code is amended and restated in its entirety to read as follows:

Chapter 3.32 PUBLIC WORKS BID REQUIREMENTS

Sections:

- 3.32.010 Purpose.
- 3.32.020 Bid limitations.
- 3.32.030 Maintenance of contractor's lists.
- 3.32.040 Eligible construction contracts.
- 3.32.050 Informal bidding.
- 3.32.060 Adoption of plans, specifications and working details for certain public projects.
- 3.32.070 Formal bidding.
- 3.32.080 Tie bids.
- 3.32.090 Rejection of bids.
- 3.32.100 Performance bonds.
- 3.32.110 Procedure for emergencies.

3.32.010 Purpose

This chapter is enacted for the purpose of implementing the Uniform Public Construction Cost Accounting Act (Public Contract Code Sections 22000 et seq.) (hereafter

“CUCCAC”) and to provide bidding procedures in undertaking public works projects. (Ord. 459, 1991).

3.32.20 Bid limitations.

The following bid limitations shall be in effect:

- A. Public projects of \$45,000 or less may be performed by City employees by force account, by negotiated contract, or by purchase order;
- B. Public projects of \$175,000 or less may be let to contract by informal procedures as set forth in this chapter and promulgated by the State Controller; and
- C. Public projects over \$175,000 shall, except as otherwise provided by State law, be let to contract by formal bidding procedures. (Ord. 459, 1991).
- D. The above limits shall be adjusted from time to time as provided by State Law. When in conflict, the latest CUCCAC bid limitations shall govern.

3.32.30 Maintenance of contractor’s lists.

Each year, the City Manager shall mail a written notice to all construction trade journals designated by the CUCCAC, inviting all licensed contractors to submit the names of their firms to the City Manager for inclusion on the list of qualified bidders for the following calendar year according to category. The notice shall require that the contractor provide the name and address to which a notice to contractors or proposal should be mailed, a telephone number at which the contractor may be reached, the type or category of work in which the contractor is interested and currently licensed, together with the class of the contractor’s license or licenses held and the contractor’s license number or numbers. The City Manager shall create a new contractor’s list on January 1st of each year which shall include at a minimum all contractors who submitted one or more valid bids to the City during the preceding calendar year and all contractors who have properly provided the City Manager with the information required to be added to the list. A contractor may be added to the list at any time by providing the required information. (Ord. 459, 1991).

3.32.040 Eligible construction contracts

- A. The following “public projects” shall be contracted for pursuant to the CUCCAC:
 - 1. Construction, reconstruction, erection, alteration, and renovation, improvement, demolition, and repair work involving any publicly owned, leased or operated facility;
 - 2. Painting or repainting any publicly owned, leased, or operated facility; and
 - 3. In the case of a publicly owned utility system, the construction erection, improvement, or repair of dams, reservoirs, power plants, and electrical transmission lines of 230,000 volts and higher.
- B. The following “construction maintenance projects” may be contracted for under the CUCCAC:
 - 1. Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purpose;
 - 2. Minor repainting;
 - 3. Resurfacing of streets and highways at less than one inch;
 - 4. Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and serving or irrigation and sprinkler systems;

5. Work to be performed to keep, operate, and maintain publicly owned water, power, or waste disposal systems, including, but not limited to, dams, reservoirs, power plants, and electrical transmission lines of 230,000 volts or higher; and
6. Any other work which does not fall within the definition of a "public project" as defined in subsection (A) of this section.

3.32.050 Informal bidding.

Public projects of an estimated value between \$45,000 and \$175,000 may be made by informal bidding procedures. The Council delegates to the City Manager the authority to award informal contracts as follows:

- A. Minimum Number of Bids. The award of bids, whenever possible, shall be based on at least three bids and shall be awarded to the lowest responsible bidder.
- B. Notices Inviting Bids – Contractors. The City Manager shall solicit bids by written requests to contractors licensed and experienced for the type of public work to be performed. The City Manager shall maintain a list of qualified contractors, identified according to categories of work. The minimum criteria for the development and maintenance of the contractor's list shall be determined by the (CUCCAC). All qualified contractors on the list for the category of the work to be performed and/or all construction trade journals specified by the CUCCAC shall be mailed a notice inviting informal bids, unless the product of service is proprietary. All mailing of notices to such qualified contractors and construction trade journals shall be completed not less than 10 calendar days before the bids are due to be opened and awarded.
- C. Notices Inviting Bids – Form. The notice inviting informal bids shall be uniform and shall describe the project in general terms, describe how to obtain more detailed information concerning the project, and state the time and place for the submission of bids. The notice shall also specify the classification of the contractor's license which a contractor shall possess at the time a contract is awarded.
- D. Written Bids. Sealed written bids to be opened at the time specified shall be submitted to the City Manager who shall keep a record of all informal bids for a period of one year after the submission of the bids or the awarding of the contract. Such record, while so kept, shall be open to public inspection.
- E. Award of Contract. If a contract is awarded, it shall be awarded to the lowest responsible bidder. The City Manager is authorized to execute the construction contract provided the bid does not exceed the budgeted amount for the project and the contractor has posted the required bonds and insurance as established by resolution of the Council for all informal bids. In the event the lowest responsible bid exceeds the budgeted amount for the project, the City Manager shall obtain authority by resolution of the Council to award the bid, together with the additional budget allocation. The City Manager shall report to the Council the results of the bidding procedure.
- F. Excess Bids. If all bids received are in excess of \$175,000, the Council may by passage of a resolution by a four-fifths vote, award the contract, at \$192,500 or less, to the lowest responsible bidder, if the Council determines the City's original cost estimate was reasonable. (Ord. 459, 1991).

3.32.060 Adoption of plans, specifications and working details for certain public projects.

The Council shall adopt plans, specifications, and working details for all public projects of more than \$175,000. Any plans prepared for a public project shall specify the classification of the contractor's license which a contractor shall possess at the time a contract is awarded. (Ord. 459, 1991).

3.32.070 Formal bidding.

Formal bidding for public projects of an estimated value over \$175,000 shall be made as follows:

- A. Authorization to Call for Bids. The Council shall authorize the call for bids by adopting a resolution in accordance with CMC 3.32.060.
- B. Notices Inviting Bids. The City Manager shall solicit bids by written requests to prospective contractors. The notice inviting formal bids shall state the time and place for receiving and opening sealed bids and distinctly describe the project. The notice shall be published in a newspaper of general circulation printed and published in the City at least 14 days before the date of opening the bids. The notice inviting bids shall also be mailed to all construction trade journals specified by the CUCCAC. The notice shall also be sent electronically, by either facsimile or electronic mail and be mailed at least 30 15 calendar days before the date of opening bids. The notice shall also specify the classification of the contractor's license which a contractor shall possess at the time a contract is awarded.
- C. Written Bids. All bids shall be accompanied by either a certified or cashier's check or a bidder's bond, executed by a corporate surety authorized to engage in such business in the State, made payable to the City. Such security shall be in an amount not less than specified in the notice inviting bids or in the specifications referred to therein, or if no amount is so specified, then in an amount not less than 10 percent of the aggregate amount of the bid. If the successful bidder neglects or refuses to enter into the contract within the time specified in the notice inviting bids or specifications referred to therein, the amount of the bidder's security may be declared to be forfeited to the City and may be collected and paid into its general fund, and all bonds so forfeited shall be prosecuted in the amount thereof collected and paid into such fund. The bid shall also be accompanied by a certificate of insurance, together with any and all bonds required by resolution of the Council.
- D. Award of Contract. All bids shall be sealed and be filed with the City Manager no later than the opening time specified in the notice inviting bids. The City Manager shall receive and be the custodian of such bids and keep the bids confidential until they are opened and declared. All bids shall be publicly opened and declared at the time and at the place fixed in the notice inviting bids. The bids shall be tabulated and analyzed by the City Manager. The City Manager shall review the bids and submit them to the Council with appropriate recommendations at the next regular Council meeting. The Council shall have the right to waive any informality or minor irregularity in a bid. If a contract is awarded, the Council shall award to the lowest responsible bidder by the adoption of a resolution. (Ord. 459, 1991).

3.32.080 Tie bids.

If two or more bids received are the same and the lowest, the Council may accept the bid it chooses. (Ord. 459, 1991).

3.32.090 Rejection of bids.

- A. In its discretion the Council may reject any and all (informal and formal) bids presented. If all bids are rejected, then after the first invitation of bids, after reevaluating its cost estimates of the project, the Council shall have the option of either of the following:
1. Abandoning the project or readvertising for bids in the manner described by this chapter; or
 2. By passage of a resolution by a four-fifths vote of the Council declaring that the project can be performed more economically by the employees of the City, having the project done by force account without further complying with this chapter.
- B. If no bids are received, the project may be performed by the employees of the City by force account, or by negotiated contract. (Ord. 459, 1991).

3.32.100 Performance bonds.

The Council shall have the authority to require a performance bond or labor and material bond in such amount as the Council shall establish to protect the best interest of the City before entering into a contract. If the Council requires a performance bond, the form and amount of the bond shall be described in the notice inviting bids or in the specifications referred to therein. (Ord. 459, 1991).

3.32.110 Procedure for emergencies.

Pursuant to Public Contract Code Section 22035, the Council hereby delegates to the City Manager the power to declare a public emergency, subject to confirmation by the Council, by a four-fifths vote, at its next meeting. In cases of such great emergency, when repair or replacements are necessary to permit the continued conduct of City operations or services, or to avoid danger to life or property, any public facility may be replaced or repaired without giving notice for bids to let contracts. At the next Council meeting, the City Manager shall provide a full report on the declared emergency and necessary work performed.

SECTION THREE

This Ordinance shall take effect thirty (30) days after its passage. Before expiration of fifteen (15) days after its passage by the City Council, the City Clerk shall cause to be published a summary of this ordinance in a newspaper of general circulation within the City of Calistoga.

SECTION FOUR - Severability

If any section or portion of this ordinance is for any reason held to be invalid and/or unconstitutional by a court or competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION FIVE - Judicial Review

Any judicial review of this ordinance shall be by writ of mandate under Code of Civil Procedure Section 1085. Any action or proceeding seeking to attack, review, set aside, void or annul this ordinance shall be commenced within 90 days after the adoption of this ordinance.

SECTION SIX

This ordinance shall be published in accordance with Government Code Section 36933 by either posting or publishing the ordinance in accordance with that law. Further, the City Clerk is directed to cause Chapters 3.32 of this ordinance to be entered in the Calistoga Municipal Code.

This ordinance was introduced with first reading waived at the City of Calistoga City Council meeting of July 19, 2016, and was passed and adopted at a regular meeting of the Calistoga City Council on **August 2, 2016**, by the following vote:

AYES: Councilmembers Kraus, Lopez-Ortega and Barnes and Mayor Canning
NOES: None
ABSTAIN: None
ABSENT: Vice Mayor Dunsford



CHRIS CANNING, Mayor

ATTEST:



Kathy Flanson, City Clerk