

## ORDINANCE NO.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE AMENDING CHAPTER 28A OF THE OCEANSIDE CITY CODE TO PROVIDE INFORMAL BIDDING PROCEDURES UNDER THE UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT**

WHEREAS, the City of Oceanside's existing procurement rules require that "public projects" (as defined in section 20161 of the California Public Contract Code) expected to cost more than \$5,000 be advertised, bid and awarded in accordance with formal bidding procedures;

WHEREAS, the City Council desires to enable the City of Oceanside to use more efficient and less cumbersome bidding procedures for public works construction allowed by the Uniform Public Construction Cost Accounting Act (hereinafter referred to as "Act"); and

WHEREAS, the City Council desires to keep the existing administrative policy for purchasing procedures in effect except where more efficient procedures are desirable and allowed by the Act.

NOW, THEREFORE, the City Council of the City of Oceanside does ordain as follows:

SECTION 1. Chapter 28A of the Oceanside City Code is hereby amended as follows:

1. Section 28A.1 "Definitions" is amended by adding the following:

(f) *Bidder's List*. A list of qualified contractors, identified according to categories of work.

The minimum criteria for the development and maintenance of the list shall be determined by the California Uniform Construction Cost Accounting Commission.

(g) *Change Order*. A written authorization from the City directing an addition, deletion or revision to an awarded purchase order or contract.

(h) *Public Project*. As defined in section 22002 of the Public Contract Code, "public project" means any of the following, but does not include "maintenance work":

(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.

1 (i) *Maintenance Work* includes all of the following:

- 2 (1) Routine, recurring, and usual work for the preservation or protection of any  
3 publicly owned or publicly operated facility for its intended purpose.  
4 (2) Minor repainting.  
5 (3) Resurfacing of streets and highways at less than one inch.  
6 (4) Landscape maintenance, including mowing, watering, trimming, pruning,  
7 planting, replacement of plants, and servicing of irrigation and sprinkler systems.  
8 (5) Work performed to keep, operate, and maintain publicly owned water, power, or  
9 waste disposal systems.

10 2. The first sentence of Section 28A.4 “Centralized purchasing department” is amended to  
11 read as follows:

12 “There is a created a centralized purchasing department in which is vested authority for  
13 the purchase of equipment, supplies and services, except for public projects.

14 Public projects shall be administered by the City Engineer or as otherwise directed by the  
15 City Manager.”

16 3. Section 28A.8 “Procedures” is amended to read as follows:

17 “All purchases of equipment, supplies, services, and public projects and the sale of  
18 surplus personal property shall be carried out in accordance with the procedures provided  
19 for in this chapter.”

20 4. Section 28A.19 “Informal bidding procedures” is amended to add the following phrase  
21 to the beginning of the first sentence:

22 “Except for public projects,…”

23 5. Subsection 28A.24(a), “*Emergency purchases and procurements*” is amended to read as  
24 follows:

25 “(a) *Emergency purchases and procurements*. ‘Emergency,’ as used in this Chapter, means a  
26 sudden, unexpected occurrence that poses a clear and imminent danger, requiring  
27 immediate action to prevent or mitigate the loss or impairment of life, health, property,  
28 or essential public services.

1 “(1) In case of emergency which requires the immediate procurement of equipment,  
2 supplies or service, the city manager may authorize the purchasing officer to  
3 secure by open market purchase, at the lowest obtainable price, any equipment,  
4 supplies or service regardless of the amount of the expenditure. A full report of  
5 the circumstances justifying all emergency purchases shall be submitted to the city  
6 manager by the department head requesting said purchase. For any such  
7 emergency purchase of a value greater than twenty-five thousand dollars  
8 (\$25,000), such report shall be forwarded to the city council for its information.

9 “(2) In case of emergency when repair or replacements are necessary, the City may  
10 proceed at once to replace or repair any public facility without adopting plans or  
11 specifications, or giving notice for bids to let contracts. The work may be done by  
12 force account, by one or more contractors, or a combination of the two.

13 “(3) In case of emergency, if notice for bids to let contracts for a public project will  
14 not be given, the City shall comply with Public Contract Code Section 22050.”

15 6. A new Section 28A.28 is hereby added as follows:

16 “**Sec. 28A.28. Procurement Procedures for Public Projects.**

17 “(a) Public projects of forty-five thousand dollars (\$45,000) or less may be performed by City  
18 employees by force account, by negotiated contract, or by purchase order.

19 “(b) Public projects of one hundred seventy-five thousand dollars (\$175,000) or less may be  
20 let to contract by informal bidding procedures as follows:

21 “(1) *Informal Bid Procedures.* Public projects, in accordance with the limits listed in  
22 Section 22032 of the Public Contract Code, may be let to contract by informal  
23 procedures as set forth in Section 22032, et seq., of the Public Contract Code.

24 “(2) *Contractors List.* A list of contractors shall be developed and maintained in  
25 accordance with the provisions of Section 22034 of the Public Contract Code and  
26 criteria promulgated from time to time by the California Uniform Construction  
27 Cost Accounting Commission.  
28

1 “(3) *Notice Inviting Informal Bids.* A notice inviting informal bids shall be prepared,  
2 which notice shall describe the project in general terms, describe how to obtain more  
3 detailed information about the project, and state the time and place for the submission  
4 of bids. The notice shall be mailed, not less than ten (10) calendar days before bids  
5 are due, to all contractors for the category of work to be bid, as shown on the list  
6 developed in accordance with Subsection 28A.28(b)(2), and to all construction trade  
7 journals as specified by the California Uniform Construction Cost Accounting  
8 Commission in accordance with Section 22036 of the Public Contract Code.  
9 Additional contractors and/or construction trade journals may be notified at the  
10 discretion of the department/agency soliciting bids, provided, however:

- 11 (i) If there is no list of qualified contractors maintained by the City for the  
12 particular category of work to be performed, the notice inviting bids shall be  
13 sent only to the construction trade journals specified by the Commission.
- 14 (ii) If the product or service is proprietary in nature such that it can be obtained  
15 only from a certain contractor or contractors, the notice inviting informal  
16 bids may be sent exclusively to such contractor or contractors.

17 “(4) *Award of Contracts.*

- 18 (i) The City Engineer is authorized to award informal contracts of one hundred  
19 seventy five thousand dollars (\$175,000) or less pursuant to this Section.
- 20 (ii) If all bids received are in excess of one hundred seventy-five thousand  
21 dollars (\$175,000), the City Council may, by adoption of a resolution by a  
22 four-fifths vote, award the contract, at one hundred eighty-seven thousand  
23 five hundred dollars (\$187,500) or less, to the lowest responsible bidder, if  
24 it determines the project cost estimate was reasonable.

25 “(c) Public projects of more than one hundred seventy-five thousand dollars (\$175,000) shall,  
26 except as otherwise provided in this Section, be let to contract by formal bidding  
27 procedure.

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1 SECTION 2. Severability

2 If any section, sentence, clause or phrase of this Ordinance or these amendments to  
3 Chapter 28A is for any reason held to be invalid or unconstitutional by a decision of any court  
4 of competent jurisdiction, such decision shall not affect the validity of the remaining portions of  
5 this Chapter or the amendments thereto. The City Council hereby declares that it would have  
6 passed this Ordinance and adopted these amendments to Chapter 28A and each section,  
7 sentence, clause or phrase thereof, irrespective of the fact that any one or more sections,  
8 subsections, sentences, clauses or phrases are declared invalid or unconstitutional.

9 SECTION 3. The City Clerk of the City of Oceanside is hereby directed to publish this  
10 Ordinance, or the title hereof as a summary, pursuant to state statute, once within fifteen (15)  
11 days after its passage in the North County Times, a newspaper of general circulation, which is  
12 circulated in the City of Oceanside.

13 SECTION 4. This ordinance shall take effect and be in force on the thirtieth (30<sup>th</sup>) day  
14 from and after its final passage.

15 INTRODUCED at a regular meeting of the City Council of the City of Oceanside,  
16 California, held on the \_\_\_ day of \_\_\_\_\_, 2012 and, thereafter,

17 PASSED AND ADOPTED at a regular meeting of the City Council of the City of  
18 Oceanside, California, held on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by the following vote:

19 AYES:

20 NAYS:

21 ABSENT:

22 ABSTAIN:

23  
24 ATTEST:

25  
26 \_\_\_\_\_  
CITY CLERK

MAYOR OF THE CITY OF OCEANSIDE

APPROVED AS TO FORM:

27   
CITY ATTORNEY

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