



October 6, 2022

TO: LOCSO Board of Directors

FROM: Ron Munds, General Manager

SUBJECT: Agenda Item 2A – 10/06/2022 Board Meeting
Second Reading by Title Only of an Ordinance Amending and Adding Chapter 1.04 to Title 1 of the District Code.

DESCRIPTION

At the September 1, 2022 Board meeting, staff presented an update Procurement Policy which incorporated provisions in the California Uniform Public Construction Cost Accounting Act (Act). To implement the Act and the new Procurement Policy, the District needs to adopt an ordinance incorporating the Act requirements into District Code.

STAFF RECOMMENDATION

Motion:

I move that the Board adopt, on second reading by title only, Ordinance 2022-02 amending and adding Chapter 1.04 to Title 1 of the District Code.

DISCUSSION

Background

The passage of Assembly Bill No. 1666 Chapter 1054, Statutes of 1983, added Chapter 2, commencing with Section 22000, to Part 3 of Division 2 of the Public Contract Code, which codified the provisions of the Act, provides jurisdictions with a uniform cost accounting standard for construction work performed or contracted by local public agencies. A Commission to oversee and enforce provisions of the Act was established to develop the uniform public construction cost accounting procedures for implementation by local public agencies in the performance of or in the contracting for construction of public projects. In general, the Act is intended to promote uniformity of the cost accounting standards and bidding procedures on construction work performed or contracted by public entities in California.

As a participating agency, the District benefits by raising the threshold for its informal and formal bidding processes. Small projects and projects completed by District employees benefit by reducing the cost incurred for developing and managing a formal bidding process while streamlining the process to complete larger projects. Opting to operate under the Act allows the District to negotiate contracts for construction work under \$60,000, procuring a contractor using a purchase order, or undertake the work by the District's work force account. The informal bid process for projects with a value between \$60,000 and \$200,000 can be awarded at staff level when the required District developed bidder's list along with trade journals and exchanges are included in soliciting bids, and thereby meet the competitive bidding process without further solicitation.

The overall benefits to participating agencies who choose to implement the Act can be measured in time and cost savings to the District. The Act provides more leeway in execution of public works projects, speeds up the awards process, and improves timeliness of project completion. Additionally, the Act reduces red tape

President

Matthew D. Fourcroy

Vice President

Charles L. Cesena

Directors

Troy C. Gatchell
Marshall E. Ochylski
Christine M. Womack

General Manager

Ron Munds

District Accountant

Robert Stilts, CPA

Unit Chief

Eddy Moore

Battalion Chief

Paul Provence

Mailing Address:

P.O. Box 6064
Los Osos, CA 93412

Offices:

2122 9th Street, Suite 110
Los Osos, CA 93402

Phone: 805/528-9370

FAX: 805/528-9377

www.losososcsd.org

and paperwork relative to advertising and filing of reports, thereby simplifying general administration.

FINANCIAL IMPACT

There is no direct financial impact associated with the recommended action. As noted in this report, there will be financial saving associated with project/professional services bidding, procurement and project/services management.

Attachments

Ordinance Number 2022-02 & Exhibit A to the Ordinance

**LOS OSOS COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 2022-02**

**AN INTRODUCTION OF AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE LOS OSOS COMMUNITY SERVICES DISTRICT (DISTRICT) ADDING CHAPTER 1.04 TO THE
DISTRICT CODE REGARDING THE CALIFORNIA UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTY
ACT (ACT)**

WHEREAS, The District is organized under Government code section 61000 as a Community Service District and has the authority to provide its residents with water for beneficial purposes under Government code Section 61100 (a).; and

WHEREAS, The Board acknowledges that updating District Code from time to time to reflect changes in policies and procedures is warranted; and

WHEREAS, The Board of Directors recognizes that providing clear guidance when procuring materials and services is essential; and

WHEREAS, Assembly Bill No. 1666, Chapter 1054, Statutes of 1983, added Chapter 2, commencing with Section 22000, to Part 3 of Division 2 of the Public Contract Code, provides for a uniform cost accounting standard for construction work performed or contracted by local public agencies; and

WHEREAS, The Act is intended to promote uniformity of the cost accounting standards and bidding procedures on construction work performed or contracted by public entities in California; and

WHEREAS, As a participating agency, the District benefits by raising the threshold for its informal and formal bidding processes which will reduce the cost incurred for developing and managing a formal bidding process and streamline project implementation.

WHEREAS, The Board of Directors has noticed this public meeting pursuant all legal requirements and has considered the Staff Report and public testimony regarding the adoption of this Ordinance.

NOW, THEREFORE BE IT RESOLVED, THE BOARD OF DIRECTORS OF THE LOS OSOS COMMUNITY SERVICES DISTRICT HEREBY ORDAINS AS FOLLOWS:

Section 1. Authority

This Ordinance is enacted pursuant to the California Government Code § 6100.

Section 2. Amendment and Restatement of Title 1 of the District Code

Title 1 of the District Code are hereby added as provided in Exhibit A, attached hereto and incorporated herein by reference.

Section 3. Environmental Review

The Board of Directors of the District finds that the adoption of the Amendment and Restatement of Title 1 of the District Code does not constitute a "project" under the California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000 *et. seq.*) or its implementing Guidelines (14 California Code of Regulations Section 15000 *et seq.*) ("CEQA Guidelines"). The Board of Directors finds that the adoption of the Amendment and Restatement of Title 1 of the District Code constitutes "general policy and procedure making" described in Section 15378(b)(2) of the CEQA Guidelines which are deemed not to be "projects". Even if the adoption of the Amendment and Restatement of Title 1 of the District Code is a "project" for purposes of CEQA, the District Board finds that it is exempt from review pursuant to Section 15061(b)(3) which provides that an activity is not subject to CEQA review

where it can be seen with certainty that there is no possibility that it may have a "significant effect on the environment." The District Board finds that it can be seen with certainty that there is no possibility that the adoption of the Amendment and Restatement of Title 1 of the District Code may have a significant effect on the environment.

The District General Manager is authorized to prepare, execute and file a notice of exemption, but is not required to do so.

Section 4. Findings

The Board of Directors hereby finds and determines as follows:

- a. The proposed changes in the District Code are necessary to update the District's policies and procedures.

Section 5. Repeal of Prior Ordinances and Resolutions

All Ordinances, sections of Ordinances and Resolutions that are inconsistent with Section 2 of this Ordinance are **hereby repealed**.

Section 6. Incorporations of Recitals

The Recitals are true and correct and incorporated here by this reference.

Section 7. Severance Clause

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Ordinance. The Governing Board of the District hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsection, sentence, clause or phrase be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

Section 8. Effect of Headings in Ordinance

Title, division, part, chapter, article, and section headings contained herein do not in any manner affect the scope, meaning, or intent of the provisions of this Ordinance.

Section 9. Effective Date

This Ordinance shall take effect thirty (30) days from date of its passage hereof. Before the expiration of fifteen (15) days after the adoption of this Ordinance, Exhibit A shall be published once with the names of the members of the Board of Directors voting for and against the Ordinance in a newspaper of general circulation within the District.

Introduced at its regular meeting of the Board of Directors held on September 1, 2022, and passed and adopted by the Board of Directors of the Los Osos Community Services District on the 6th day of October 2022, by the following roll call vote, to wit:

Upon motion of Director _____, seconded by Director _____
and on the following roll call vote, to wit:

AYES: _____
NOES: _____
ABSENT: _____
ABSTAIN: _____

Matthew Fourcroy
President of the Board of Directors
Los Osos Community Services District

ATTEST:

APPROVED AS TO FORM:

Ron Munds
General Manager and Secretary to the Board

Jeff Minnery
District Legal Counsel

Title 1 (Adding Chapter 1.04)

1.04.01 Informal Bid Procedures.

Public projects, as defined by the Act and in accordance with the limits listed in Section 22032 of the Public Contract Code, may be let to contract by informal procedures as set forth in Section 22032, et seq., of the Public Contract Code.

1.04.02 Contractors List.

A list of contractors shall be developed and maintained in accordance with the provisions of Section 22034 of the Public Contract Code and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission.

1.04.03 Notice Inviting Informal Bids.

A. Where a public project is to be performed which is subject to the provisions of this Ordinance, a notice inviting informal bids may be mailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with Section 22034 of the Public Contract Code, and shall be mailed to all construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Section 22036 of the Public Contract Code.

B. Additional contractors and/or construction trade journals may be notified at the discretion of the General Manager, provided however:

- (1) If there is no list of qualified contractors maintained by the District for the particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the Commission.
- (2) 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.

1.04.04 Award of Contracts

The General Manager may be authorized to award informal contracts pursuant to this Section if approved by the Board of Directors for the specific project being awarded.