

ORDINANCE NO. ()

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, AMENDING SONOMA COUNTY CODE CHAPTER 2, ARTICLE XXIII – “INFORMAL BIDDING PROCEDURES; DECLARATIONS OF EMERGENCIES”, TO IMPLEMENT INCREASED PROCUREMENT AUTHORITY AND THRESHOLDS IN ACCORDANCE WITH THE CALIFORNIA UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT

WHEREAS, under the California Uniform Public Construction Cost Accounting Act (“CUPCCA”), public agencies may utilize alternative procedures and informal bidding processes for certain public projects, if the public agency elects to become subject to CUPCCA and duly notifies the Controller of the State of California;

WHEREAS, in 1995, the County of Sonoma Board of Supervisors elected to become subject to CUPCAA, pursuant to adopted Resolution and notice to the Controller;

WHEREAS, to implement CUPCAA, Article XXIII – Informal Bidding Procedures; Declarations of Emergencies was added to Chapter 2 (Sections 2-350 through -357) of the Sonoma County Code;

WHEREAS, the State of California has since amended CUPCAA and increased the applicable informal bidding and procurement thresholds. Under CUPCCA, the authorized statutory amounts are subject to periodic review and further increase by the State of California;

WHEREAS, to best ensure efficiency, reduce administrative costs, and more timely deliver on qualifying public projects, the Board of Supervisors desires to adopt the increased thresholds allowed under CUPCCA, and any other increased thresholds which may be enacted under CUPCCA in the future;

WHEREAS, the Board of Supervisors desires to delegate discretionary authority to the Director of Public Infrastructure to order and approve all plans, designs, specifications, working details, changes, and additions as to all work procured under the CUPCCA procedures, awarded by the Board, or procured under emergency circumstances, including for purposes of and as authorized by Government Code section 830.6, and under authority of the board of supervisors in accordance with Public Contract Code Section 20391;

WHEREAS, to further improve implementation of CUPCCA and clarify respective authorities with regard to other aspects of CUPCCA-procured public project contracts, including as to designs, plans, specifications, and other project detail determinations, county staff has proposed additional amendments to the County’s CUPCCA implementation ordinance;

NOW THEREFORE, the Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

Section I. Purpose. The purpose of this Ordinance is to amend several sections of Sonoma County Code, Chapter 2, Article XXIII – Informal Bidding Procedures; Declarations of

Emergencies. The amendments are to 1) increase the delegated authority of the County's Purchasing Agent with regard to certain public project contracts, to reflect the increased amounts allowed under the CUPCCA; 2) Clarify delegated authority with regard to plan, specification, and change order authority with regard to such public project contracts, emergency contracts, and certain other contracts approved by the Board of Supervisors; 3) Implement additional procedures and authorities consistent with CUPCCA, Public Contract Code, and ensuring project delivery efficiencies; and (4) retitle and make other non-substantive changes.

Section II. Amendment of Sonoma County Code. Article XXIII – Informal Bidding Procedures; Declarations of Emergencies of Chapter 2 of the Sonoma County Code is hereby amended to be re-titled and to read as set forth in Exhibit A, attached and incorporated by reference, which reflects an amended and restated version of that Article and title, including the repeal of Sonoma County Code section 2-356.

Section III. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section IV. Effective Date. This Ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage and shall be published once before the expiration of fifteen (15) days after said passage, with the names of the Supervisors voting for or against the same, in *The Press Democrat*, a newspaper of general circulation published in the County of Sonoma, State of California.

In regular session of the Board of Supervisors of the County of Sonoma, introduced on the X day of X, 20__, and finally passed and adopted this X day of X, 20__, on regular roll call of the members of said Board by the following vote:

SUPERVISORS:

Ayes:

Noes:

Absent:

Abstain:

WHEREUPON, the Chair declared the above and foregoing Ordinance duly adopted and

SO ORDERED.

Chair, Board of Supervisors
County of Sonoma

ATTEST:

Christina Rivera,
Clerk of the Board of Supervisors

Exhibit A

ARTICLE XXIII. INFORMAL BIDDING PROCEDURES; DELEGATIONS FOR EMERGENCIES.

Sec. 2-350. Authority and scope.

By resolution of its board of supervisors, the County of Sonoma elected to become subject to the procedures established pursuant to the Uniform Public Construction Cost Accounting Act (California Public Contract Code Section 22000 et seq.) hereinafter referred to as the "Act" and notified the State Controller of such election. In compliance with Section 22034 of the Act, this Article is adopted as the procedure for letting certain contracts for public projects, as defined in Section 22002 of the Act, using the informal procedures and within the limits set forth in Section 22032 of the Act, as adjusted from time to time pursuant to Section 22020 of the Act.

This Article shall not apply to contracts or project work orders issued under a job order or individual annual contract for repair, remodeling, or repetitive work, including those engaged pursuant to Public Contract Code Section 20128.5.

Sec. 2-351. Delegation of authorities.

- (a) Subject to the provisions of this Article and pursuant to Section 22034 of the Act, the board of supervisors delegates the following authorities to the purchasing agent on behalf of all county departments, on and for public project contracts up to the amount stated in Section 22032(b) of the Act, as may be adjusted from time to time:
 - (1) To solicit bids and award contracts;
 - (2) To maintain lists of contractors;
 - (3) To consent to the substitution of subcontractors pursuant to the Subletting and Subcontracting Fair Practices Act (Public Contract Code Section 4100 et seq.);
 - (4) To order and approve change orders and contract additions;
 - (5) To record notices of completion.
- (b) Pursuant to Section 22050(b) of the Act, the board of supervisors delegates to the county executive officer the authority to order any action pursuant to Section 22050(a)(1) in the event of an emergency.¹(c) The board of supervisors designates and delegates to the director of public infrastructure, and any designee, authority to approve plans, specifications, and working details for the following, on condition of compliance with Section 2-28 of this Code with regard to the civil engineering functions performed:
 - (1) All public project contracts up to the amount stated in Section 22032(b) of the Act, as may be adjusted from time to time, including as to any change orders or additions thereto;
 - (2) All change orders, additions, or modifications to any public project contract awarded and approved by the board of supervisors; and
 - (3) All public project contracts undertaken pursuant Public Contract Code Section 22050, and any other work performed or contracts awarded under exemption or procedure allowed by applicable law, including as to any change orders or additions thereto.

As to all such public projects, the director of public infrastructure is hereby delegated all other discretionary authority to approve any other plan, design, specifications, working detail, change, or addition as to any such

¹* See Chapter 10 of Sonoma County Code for further provisions on emergencies.

work which, in his official and professional judgment, is reasonable and in accordance with accepted engineering and industry practices and standards consistent with best ensuring safe, long-lasting, and quality County public facilities, for purposes of and as authorized by Government Code section 830.6.

Sec. 2-352. Contractors list.

Contractor listings, identified according to categories of work, shall be maintained and administered by the purchasing agent in accordance with the minimum criteria determined by the California Uniform Construction Cost Accounting Commission. The lists may be revised by the purchasing agent from time to time to remove inactive names.

Sec. 2-353. Notice inviting informal bids.

- (a) All contractors on the list for the category of work being bid and/or all construction trade journals specified in Section 22036 of the Act, or any successor statute, shall receive mailed, faxed, or emailed notice inviting informal bids unless the product or service is proprietary. All mailing of notices to contractors shall be completed not less than ten (10) calendar days before bids are due.
- (b) 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.

Sec. 2-354. Contract award.

- (a) Except as otherwise permitted under applicable law, the contract shall be awarded to the lowest responsible bidder in accordance Section 22038 of the Act (or any successor statute) if sufficient funds have been appropriated. If two or more bids are the same and the lowest, the purchasing agent may accept the bid it chooses after consultation with the county department undertaking the project.
- (b) If all bids received are in excess of the amount set forth in Section 22034(d) of the Act, as may be adjusted from time to time, the board of supervisors may, by adoption of a resolution by a four-fifths vote, award the contract to the lowest responsible bidder at any amount up to the limit set forth in Section 22034(d), if it determines the cost estimate was reasonable.

Sec. 2-355. Change orders.

The purchasing agent may order and approve changes or additions to contracts awarded under this Article, with the following limitations:

- (a) Appropriated funds are available to cover the cost of the change or addition; and
- (b) Each individual change or addition is within the maximum amount allowed under Public Contract Code Section 20142 (or any successor statute), as such amounts may be adjusted by the State Legislature from time to time

Sec. 2-356. Reserved

Sec. 2-357. Alternative procedures.

Nothing in this Article shall prohibit or restrict:

- (a) The board of supervisors or the director of public infrastructure from utilizing, as an alternative to the procedures set for in the Act and this Article, the procedures set forth in Article 25 of Chapter 1 of the Public Contract Code (commencing with Section 20390).

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- (b) The county executive officer from utilizing authority under Chapter 10 of the Sonoma County Code.
 - (c) Work performed or contracts awarded under exemption or procedure allowed by applicable law.