

ORDINANCE NO. 2023-___

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LOS ALTOS ADDING CHAPTER 3.16 TO THE
LOS ALTOS MUNICIPAL CODE TO PROVIDE FOR
BIDDING PROCEDURES UNDER THE UNIFORM PUBLIC
CONSTRUCTION COST ACCOUNTING ACT**

WHEREAS, the City Council of the City of Los Altos has elected for the City to become subject to the Uniform Public Construction Cost Accounting Act, Public Contract Code Section 22000, et seq. (the “Act”) and its implementing procedures; and

WHEREAS, the Act provides for the use of informal bidding procedures in connection with certain smaller public projects, but requires formal bidding procedures for larger projects; and

WHEREAS, the City Council desires to adopt the bidding procedures set forth in the Act; and

WHEREAS, this Ordinance is exempt from environmental review pursuant to Section 15061(b)(3) of the State Guidelines implementing the California Environmental Quality Act of 1970, as amended.

NOW THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CODE. Chapter 3.16 is hereby added to the Los Altos Municipal Code, as follows:

Section 3.16.010. Preliminary Matters.

- A. This chapter is adopted pursuant to the Uniform Public Construction Cost Accounting Act, Public Contract Code Section 22000, et seq.
- B. As used in this chapter, the term “public project” has the meaning given in Public Contract Code Section 22002 or successor statute, as the same may be amended from time to time.
- C. Monetary thresholds set forth in this chapter are for ease of reference. If the monetary thresholds set forth in Public Contract Code Section 22032 or successor statute are amended or adjusted from time to time, then such amended or adjusted thresholds shall prevail over those specified herein.
- D. Any reference in this chapter to the city manager includes a designee of the city manager.
- E. If a contract for a public project is awarded by the city manager pursuant to this chapter, then, (i) the city manager shall make any and all findings for the project required under the California Environmental Quality Act, Public Resources Code Section 21000, et seq., (ii) the city manager shall be deemed to have approved the plans for the project, and (iii) the city manager shall consider and finally decide any protests. If the contract is awarded by the city council, then the city council shall be responsible for environmental review and

for deciding any protests, and it shall be deemed to have approved the plans for the project.

- F. A public project shall not be split into multiple contracts for the purpose of evading compliance with this chapter.

Section 3.16.020. Minor Project Procedure. Public projects of sixty thousand dollars (\$60,000) or less may be performed by force account, by negotiated contract, or by purchase order. Procedures for contracting by negotiated contract or purchase order shall be adopted by the city manager for inclusion in the city’s purchasing policy. Such procedures shall, except where sole source procurement is justified, require the solicitation of quotations from at least three qualified contractors prior to entering a contract or issuing a purchase order for the work.

Section 3.16.030. Informal Bidding Procedure.

- A. This section is intended to implement Public Contract Code Section 22034 or successor statute, as the same may be amended from time to time.
- B. Public projects of two hundred thousand dollars (\$200,000) or less may be let out to bid as set forth in this section.

C. Contractors List.

1. At least once a calendar year, the city manager shall establish a list of qualified contractors by mailing, faxing, or emailing written notice to all construction trade journals designated under Public Contract Code Section 22036 or successor statute, as the same may be amended from time to time. The notice shall invite all licensed contractors to submit the name of their firm to the city for inclusion in the city’s list of qualified bidders pursuant to this section.
2. The notice shall require that the contractor provide:
 - a. The name and address to which a notice to contractors or proposal should be mailed, faxed, or emailed;
 - b. A phone number at which the contractor may be reached;
 - c. The type of work in which the contractor is interested;
 - d. The class of contractor’s license(s) held; and
 - e. The contractor license number(s).
3. If a contractor provides the information required above and is licensed to do the type of work in which the contractor is interested, then the contractor shall be added to the city’s list of qualified contractors. Other qualified contractors may also be added to the list in the city manager’s discretion.

4. A contractor may have his or her firm added to the list at any time by providing the information required.

D. Notice Inviting Informal Bids.

1. Where a public project is subject to this section, a notice inviting informal bids shall be circulated using one or both of the following alternatives:
 - a. Notices inviting informal bids may be mailed, faxed, or emailed, at a minimum, to all contractors for the category of work to be bid, as shown on the contractors list developed in accordance with this section.
 - b. Notices inviting informal bids may be mailed, at a minimum, to all construction trade journals as specified by the Uniform Construction Cost Accounting Commission in accordance with Public Contract Code Section 22036 or successor statute, as the same may be amended from time to time.
2. The notice inviting informal bids shall describe the project in general terms and shall indicate how to obtain more detailed information about the project. The notice shall also state the time and place for submission of bids and the manner in which bids shall be submitted to be considered.
3. 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.

- E. Following the deadline to receive bids, and unless all bids received are more than two hundred thousand dollars (\$200,000), the city manager shall award the contract for the public project to the lowest responsive, responsible bidder. If all bids received are more than two hundred thousand dollars (\$200,000), the city council may, by adoption of a resolution by a four-fifths vote, award the contract, at two hundred twelve thousand five hundred dollars (\$212,500) or less, to the lowest responsive, responsible bidder, if it determines that the city's cost estimate was reasonable.

Section 3.16.040. Formal Bidding Procedure. Except as otherwise set forth in this chapter, the formal bidding procedures set forth in Public Contract Code Section 22037, et seq. (or successor statutes, as the same may be amended from time to time) shall be used to award any contract for a public project in an amount more than two hundred thousand dollars (\$200,000). These formal bidding procedures may be supplemented by procedures set forth in the city's purchasing policy. In the city manager's discretion, smaller public projects may be let out to bid using formal bidding procedures in lieu of the informal procedures set forth in this chapter. When formal bidding procedures are used, the city council shall be the awarding body for the contract.

Section 3.16.050. Emergency Procedure. Notwithstanding anything to the contrary in this chapter, in an emergency, a public contract may be let out as set forth in Public Contract Code Section 22035 or successor statute, as the same may be amended from time to time.

Section 3.16.060. Savings. Any provision of this chapter that is inconsistent with state law shall be construed and applied in a manner that is consistent with state law while still best effectuating the objects and intent hereof.

SECTION 2. CONSTITUTIONALITY. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions hereof.

SECTION 3. PUBLICATION. This ordinance shall be published as provided in Government Code section 36933.

SECTION 4. EFFECTIVE DATE. This ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on _____, 2023 and was thereafter, at a regular meeting held on _____, 2023 passed and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sally Meadows, MAYOR

Attest:

Melissa Thurman, CITY CLERK