



**CITY OF LOS ALTOS
CITY COUNCIL MEETING
November 10, 2015**

CONSENT CALENDAR

Agenda Item # 4

SUBJECT: Introduce and waive further reading of Ordinance No. 2015-416, repealing Chapter 3.16 of the Los Altos Municipal Code pertaining to informal bid procedures for public projects

BACKGROUND

In 1987, the City Council adopted Ordinance No. 87-168, thereby electing that the City become subject to the Uniform Construction Cost Accounting Procedures set forth in the Uniform Public Construction Cost Accounting Act (“Act”). The Act allows local agencies to perform public works projects up to \$45,000 if the agency follows certain cost accounting procedures, which were established by the California Uniform Public Construction Cost Accounting Commission (“Commission”) and are detailed in the Commission’s Accounting Policies and Procedures Manual. The Act is codified in Public Contract Code § 22000 *et seq.* and describes the formal and informal bidding procedures, project dollar thresholds, bidding and noticing requirements, process for rejection of bids and other mandates. Participation in the program is voluntary and the City may withdraw at any time.

EXISTING POLICY

Los Altos Municipal Code Chapter 3.16; Ordinances No. 87-168 and No. 96-349; and Resolutions No. 84-59 and No. 87-12

PREVIOUS COUNCIL CONSIDERATION

None

DISCUSSION

It is recommended that the City withdraw its participation from the Act for several reasons. First, adherence to the cost accounting procedures in the Act has become increasingly burdensome because of more complex accounting procedures and additional oversight from the Commission. The City may face civil liability from contractors and from the Commission if the City does not strictly comply with each and every technical requirement of the Act. In addition, the Act contains liberal protest procedures that allow contractors who are not awarded projects to challenge the City’s adherence to the requirements of the Act. Regardless of their merit, such protests may be used to create additional procedural hurdles for the City and thereby delay projects as a result. Finally, the City has not participated in alternative bidding procedures for nearly 20 years.

With this action, procurement of all City public work projects will continue to be competitively bid.

PUBLIC CONTACT

Posting of the meeting agenda serves as notice to the general public.

FISCAL/RESOURCE IMPACT

None

ENVIRONMENTAL REVIEW

Action recommended above is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) in that it can be determined with certainty that there is no possibility that the activity in question will have a significant effect on the environment.

RECOMMENDATION

Introduce and waive further reading of Ordinance No. 2015-416, repealing Chapter 3.16 of the Los Altos Municipal Code pertaining to informal bid procedures for public projects

ALTERNATIVES

1. Do not introduce and waive further reading of Ordinance No. 2015-416; this will result in the City continuing to be subject to the Uniform Public Construction Cost Accounting Act

Prepared by: Jolie Houston, City Attorney

Approved by: Marcia Somers, City Manager

ATTACHMENT:

1. Ordinance No. 2015-416

Introduce and waive further reading of Ordinance No. 2015-416, repealing Chapter 3.16 of the Los Altos Municipal Code pertaining to informal bid procedures for public projects

ORDINANCE NO. 2015-416

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS
ALTOS REPEALING IN ITS ENTIRETY LOS ALTOS MUNICIPAL
CODE CHAPTER 3.16 PERTAINING TO INFORMAL BID
PROCEDURES FOR PUBLIC PROJECTS AND REPEALING IN THEIR
ENTIRETY ORDINANCES NOS. 87-168 AND 96-349 AND
RESOLUTIONS NOS. 84-59 AND 87-12 PERTAINING TO INFORMAL
BID PROCEDURES UNDER THE UNIFORM PUBLIC
CONSTRUCTION COST ACCOUNTING ACT**

WHEREAS, California Public Contract Code, section 22000 *et seq.*, known as the Uniform Public Construction Cost Accounting Act (“Act”), established a uniform cost accounting standard; and

WHEREAS, the Act established the California Uniform Public Construction Cost Accounting Commission, which developed 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; and

WHEREAS, the alternative bidding procedures provided for under the Act allow local public agencies to perform work by force account and let to contract by informal procedures public projects under certain circumstances and pursuant to the Commission’s review; and

WHEREAS, many years ago the City Council elected, under Public Contract Code section 22030, to become subject to the uniform public construction cost accounting procedures set forth in the Act and to the Commission’s policies and procedures manual and cost accounting review procedures; and

WHEREAS, there is no historical evidence that the City has participated in alternative bidding procedures for almost twenty (20) years; and

WHEREAS, repealing Los Altos Municipal Code Chapter 3.16 pertaining to informal bid procedures for public projects and repealing Ordinances Nos. 87-168 and 96-349 and Resolutions Nos. 84-59 and 87-12 pertaining to informal bid procedures under the Act is necessary to avoid any confusion regarding the review and/or reporting requirement required by the Act and the Commission; and

WHEREAS, the procurement of all City public work projects, as defined by the California Public Contract Code, are competitively bid; 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, entitled “Contracts for Public Projects” is hereby repealed in its entirety.

SECTION 2. REPEAL OF ORDINANCES: Ordinance No. 87-168, adopted March 24, 1987, and Ordinance No. 96-349, adopted July 9, 1996, are hereby repealed in their entirety.

SECTION 3. REPEAL OF RESOLUTIONS: Resolution No. 84-59, adopted September 11, 1984, and Resolution No. 87-12, adopted March 10, 1987, are hereby repealed in their entirety.

SECTION 4. ELECTION TO WITHDRAW: This Ordinance No. 2015-416 serves as the City’s election to withdraw from the Act.

SECTION 5. CONSTITUTIONALITY. If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 6. PUBLICATION. This ordinance shall be published as provided in Government Code section 36933.

SECTION 7. 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 _____, 2015 and was thereafter, at a regular meeting held on _____, 2015 passed and adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Janis C. Pepper, MAYOR

Attest:

Jon Maginot, CMC, CITY CLERK