

REGULAR

NUMBER: 23.14

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 2 OF TITLE I OF THE MILPITAS MUNICIPAL CODE (PURCHASING), RELATING TO ADOPTION OF THE UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of June 21, 2016, upon motion by Councilmember Grilli, and was adopted (second reading) by the City Council at its meeting of _____, upon motion by _____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

RECITALS AND FINDINGS:

WHEREAS, the City of Milpitas elected to become subject to the Uniform Public Construction Cost Accounting Act (“Act”); and

WHEREAS, the Act requires participating agencies to adopt a bidding ordinance consistent with the bidding requirements under the Act.

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

SECTION 1. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE I, CHAPTER 2 (PURCHASING)

Section I-2-1.03 entitled “Definitions” of the Milpitas Municipal Code is amended to revise the definition of “Contract” as follows:

5. **CONTRACT.** All types of City contracts or agreements, with the exception of public works contracts, for the procurement of supplies and services or the disposal of surplus supplies.

Section I-2-1.03 entitled “Definitions” of the Milpitas Municipal Code is amended to add the definition of “Public Works Contract” as follows and to renumber all remaining paragraphs:

23. **PUBLIC WORKS CONTRACT.** Any City contract for the performance of a “public project” as defined in Public Contract Code Section 22002, as it may be amended from time to time.

Section I-2-3.20 entitled “Public Works Contract Purchasing Procedures” is added to the Milpitas Municipal Code to read in full as follows:

I-2-3.20 – Public Works Contract Purchasing Procedures

3.20-1 Definitions

For the purposes of this Section I-2-3.20 the following words and phrases shall have the following meanings:

1. **Act** means the Uniform Public Construction Cost Accounting Act (California Public Contracts Code Section 22000 *et seq.*).
2. **Commission** means the California Uniform Construction Cost Accounting Commission.
3. **Facility** means any plant, building, structure, ground facility, utility system, subject to the limitation of subsection 4 of the definition for public project below, real property, streets and highways, or other public works improvement.
4. **Public project** has the meaning assigned to it under Public Contract Code Section 22002, as it may be amended from time to time.

3.20-2 Public Project Contracting Procedures

The City shall follow the contracting procedures set forth in Article 3 of Act (Public Contract Code Section 22030 *et seq.*). The City shall procure public projects by force account, negotiated contract, purchase order, informal bidding or formal bidding as required in accordance with the applicable dollar amount limitations under Section 22032 of the Act, as it may be amended from time to time.

3.20-3 Contractors List

The Directors of Engineering and Public Works, in coordination with the City's Purchasing Agent, shall compile and maintain a list of qualified contractors identified according to categories of work. This list shall comply with the requirements of Section 22034 of the Act and the criteria promulgated, from time to time, by the Commission.

3.20-4 Informal Bidding – Notice

(a) When a public project is to be performed which qualifies for informal bidding, notice of such project shall be given as follows unless an exception to competitive bidding applies:

(1) Mailed notice shall be sent to all contractors on the contractors list for the category of work being bid; and

(2) Mailed notice shall be given to all construction trade journals specified by the Commission for the receipt of such notice for Santa Clara County; and

(3) Additional notice to other contractors and/or trade journals may, in the discretion of the City, be given.

(b) If the product or service to be acquired is proprietary in nature such that it can only be obtained from a certain contractor or contractors, notice inviting bids may be sent only to such contractor or contractors.

(c) All mailing of notices to contractors and construction trade journals shall be completed not less than ten days before bids are due.

(d) The notice shall describe the project in general terms, how to obtain more detailed information about the project and shall state the time and place for submission of bids.

3.20-5 Formal Bidding – Notice

(a) When a public project is to be performed that requires formal bidding, notice of such project shall be given as follows unless an exception to competitive bidding applies:

(1) The notice shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project.

(2) The notice shall be published at least 14 calendar days before the date of opening the bids in a newspaper of general circulation, printed and published in the City; or, if there is no newspaper printed and published within the jurisdiction of the City, in a newspaper of general circulation which is circulated within the City.

(3) The notice inviting formal bids shall also be mailed to all construction trade journals specified by the Commission for the receipt of such notice for Santa Clara County. The notice shall be mailed at least 15 calendar days before the date of opening the bids.

3.20-5 Award of Contracts

The City Manager is authorized to award contracts for public projects of forty-five thousand dollars or less.

3.20-6 Rejection of Bids

The City Manager or the City Council, as the case may be, may, in the Manager's or Council's discretion, reject all bids and proceed as authorized by the Act.

3.20-7 Approval of Plans and Designs

The City Engineer, or designee, is authorized to approve plans and designs, and all amendments and addenda thereto, for performance of a public project of the City.

SECTION 2. SEVERABILITY

The provisions of this Ordinance are severable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

SECTION 3. EFFECTIVE DATE AND POSTING

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.