

DRAFT

ORDINANCE NO. XX-2019

AN ORDINANCE OF THE CITY OF FREMONT AMENDING SECTION 3.20.130 OF THE FREMONT MUNICIPAL CODE, PUBLIC PROJECT CONSTRUCTION, BY ADJUSTING THE MONETARY LIMITS PRESCRIBED FOR PUBLIC CONSTRUCTION CONTRACT FORMAL AND INFORMAL BIDDING PROCEDURES, CONSISTENT WITH CHAPTER 169 OF THE STATUTES OF 2018 (A.B. 2249), WHICH TOOK EFFECT JANUARY 1, 2019

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FREMONT DOES ORDAIN AS FOLLOWS:

SECTION 1. FMC § 3.20.130 AMENDED

Fremont Municipal Code Section 3.20.130 is amended to read as follows:

Sec. 3.20.130 Public project construction.

Each contract for public project construction shall be subject to the procedures of the Uniform Public Construction Cost Accounting Act (“UPCCAA”) commencing at Cal. Pub. Cont. Code § 22000, as it may be amended from time to time. Each contract for public project construction shall also be subject to all applicable requirements of state and federal law including all provisions of the California Public Contract Code applicable to local agency public works contracts not in conflict with the UPCCAA.

- (a) Changes in Dollar Limits. In the event that the monetary limits specified in Sections 22032 and 22034 of the UPCCAA are amended by the State Legislature or adjusted by the State Controller pursuant to Section 22020 of the UPCCAA, such amendment or adjustment in the monetary limits shall prevail and apply in place of the monetary limits specified in subsections (b), (c), (d) and (e) of this section.
- (b) Formal Bidding. Each contract for public project construction in an amount of more than ~~\$125200~~,000 shall be subject to the formal bidding process as set forth in Section 22037 of the UPCCAA. This includes a notice inviting formal bids published by the city in a newspaper at least 14 calendar days before the bid deadline. This also includes a notice mailed to the construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Section 22036 of the UPCCAA at least 30 calendar days before the bid deadline.
- (c) Informal Bidding. Each contract for public project construction in an amount of more than ~~\$3060~~,000, and less than or equal to ~~\$125200~~,000, shall be subject to the informal bidding process as set forth in Section 22034 of the UPCCAA as follows:

- (1) Bidder's List. A list of qualified contractors identified according to categories of work shall be developed and maintained in accordance with the provisions of Section 22034 of the UPCCAA and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission.
- (2) Notice Inviting Informal Bids. A notice inviting informal bids (describing the project in general terms, how to obtain more detailed information about the project, and the time and place for the submission of bids) shall be mailed at least 10 calendar days before the bid deadline to the qualified contractors on the relevant bidders list. The city shall also endeavor, but shall not be required, to provide prior notice of informally bid projects to the construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Section 22036 of the UPCCAA. If, after following the sole source exception procedures set forth in Section 3.20.300, the product or service is determined to be 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.
- (d) If all bids received pursuant to the informal bidding process are in excess of ~~\$125200~~,000, the city council may, by passage of a resolution by a four-fifths vote, award the contract, at ~~\$137,000~~212,500 or less, to the lowest responsible bidder, if it determines that the original cost estimate of the city was reasonable.
- (e) Minor Project Process. Each contract for public project construction in an amount of ~~\$3060~~,000 or less shall be subject to the minor project process as set forth in Section 3.20.260.

SECTION 3. CEQA COMPLIANCE

The City Council finds that the adoption of this ordinance is exempt from the California Environmental Quality Act (CEQA) because it is not a project within the meaning of CEQA Guidelines Section 15378. The ordinance does not have the potential for causing a significant effect on the environment in that it merely affects administrative procedures and is declarative of existing law.

SECTION 4. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Fremont hereby declares that it would have passed this ordinance and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 5. EFFECTIVE DATE

This ordinance shall take effect and will be enforced thirty (30) days after its adoption. Notwithstanding the foregoing, this ordinance is declarative of existing law.

SECTION 6. PUBLICATION AND POSTING

The City Clerk has prepared and published at least five days before the date of adoption a summary of this ordinance once in a newspaper of general circulation printed and published in Alameda County and circulated in the City of Fremont. A certified copy of the full text of the ordinance was posted in the office of the City Clerk since at least five days before this date of adoption. Within 15 days after adoption of this ordinance, the City Clerk shall cause the summary to be published again with the names of those City Council members voting for and against the ordinance and shall post in the office of the City Clerk a certified copy of the full text of this adopted ordinance with the names of those City Council members voting for and against the ordinance.

* * *

The foregoing ordinance was introduced before the City Council of the City of Fremont at the regular meeting of the City Council, held on the ___ day of _____, 2019, and finally adopted at a regular meeting of the City Council held on the __ day of _____ 19, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk

Deputy City Attorney