



PAJARO REGIONAL

FLOOD MANAGEMENT AGENCY

ORDINANCE NO. 2023-01

AN ORDINANCE OF THE PAJARO REGIONAL FLOOD MANAGEMENT AGENCY ADOPTING BIDDING PROCEDURES UNDER THE UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT

THE BOARD OF DIRECTORS OF THE PAJARO REGIONAL FLOOD MANAGEMENT AGENCY DOES ORDAIN AS FOLLOWS:

SECTION 1. Uniform Public Construction Cost Accounting Act. The Board of Directors of the Pajaro Regional Flood Management Agency (the “Agency”) has adopted Resolution No. 2023-01 on March 8, 2023, electing to make the Agency subject to the Uniform Public Construction Cost Accounting Act of the California Public Contract Code (commencing with section 22000) and has notified the State Controller of the election.

SECTION 2. Requirements for Contracting Public Projects.

- A. Public projects of \$60,000 or less, appropriations for which have been approved by the Board of Directors, may be performed by employees of the Agency by force account, or by negotiated contract, or purchase order approved by the Executive Director.
- B. Public projects of more than \$60,000 but less than or equal to \$200,000 may be let to contract by the informal procedures set forth in this Ordinance.
- C. Public projects of more than \$200,000 shall be let to contract by the formal bidding procedures set forth in this Ordinance.

The dollar thresholds in this section refer to the Agency’s written estimate of the cost of any public project.

Contract	Force Account/ Negotiated Contract/ Purchase Order	Contract	Bidding Procedure	Authorization Required
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\$60,000 or less	Required	N/A	None	Executive Director
\$60,001 to \$200,000	N/A	Required	Informal bidding procedures	Executive Director
\$200,001 or more	N/A	Required	Formal bidding procedures	Board of Directors
Up to \$200,000 in emergency	N/A	N/A	None	Executive Director
Any amount in an emergency	N/A	N/A	None	Board of Directors

Note: The above matrix is intended to summarize the requirements of this Ordinance and not to change them. If the matrix contradicts the text of this Ordinance in any respect, the language of the Ordinance shall prevail.

SECTION 3. Informal Bids in Excess of Maximum. Pursuant to Public Contract Code section 22034(d), if informal bidding procedures are used, but all bids are in excess of \$200,000, the Board of Directors may, by adoption of a resolution four-fifths vote, award the contract, at \$212,500 or less, to the lowest responsible bidder, if it determines the cost estimate of the Agency was reasonable.

SECTION 4. Informal Bidding Regulations. Pursuant to Public Contract Code section 22034, the following provisions shall apply to public projects for which formal bidding procedures are not required:

- A. The Agency shall maintain a list of qualified contractors, identified according to categories of work. This list shall be developed and maintained in accordance with criteria established for such lists by the California Uniform Construction Cost Accounting Commission and in accordance with the provisions of Public Contract Code section 22034;
- B. All contractors on the list for the category of work being bid shall be mailed, faxed, or emailed a notice inviting informal bids unless the product or service is proprietary. All mailing of notices to contractors pursuant to this subdivision shall be completed not less than 10 calendar days before bids are due. All mailing, faxing, or emailing of notices to contractors and construction trade journals, as determined above, shall be completed not less than 10 calendar days before bids would be due pursuant to

the notice;

- C. Each notice inviting informal bids shall describe the project in general terms, state how to obtain more detailed information about the project, and specify the time and place for the submission of bids; and
- D. Each informal bid shall be reviewed and approved by the Executive Director or his or her designee.

SECTION 5. Approval of Contracts Pursuant to Informal Bid Procedures. Unless otherwise determined by the Board of Directors for any individual contract to be awarded, the Executive Director, or his or her designee, may approve the award of a contract by informal bidding procedures, and subject to approval as to the form of the contract by Agency Counsel. The determination of the Executive Director to award a contract by informal bidding procedures shall be final.

In awarding the contracts, the Executive Director shall exercise prudent judgement in determining the lowest responsible bidder, taking into account the public's interest in efficiency and economy in the award of the contracts and giving due consideration to fairness and equity to competing bidders. If the Board of Directors determines that the Executive Director should not have authority to award any given contract by informal bidding procedures, the Board of Directors shall award the contract at its discretion upon recommendation of the Executive Director, and by applying the criteria for determining the lowest responsible bidder.

SECTION 6. Formal Bidding Regulations and Award of Contract. Pursuant to Public Contract Code section 22037, the following provisions shall apply to public projects for which formal bidding procedures are required:

- A. The Agency shall publish a notice inviting formal bids for public projects at least 14 calendar days before the bid opening date in a newspaper of general circulation, printed and published in the jurisdiction of the Agency. The notice shall distinctly describe the project to be done, how to obtain more detailed information about the project, and state the time and place for receiving and opening of bids;
- B. The Agency shall send notice inviting formal bids electronically, if available, by either fax or email or by mail to all construction trade journals specified by the California Uniform Construction Cost Accounting Commission pursuant to Public Contract Code section 22036 to receive mailed notices of all formal construction contracts being bid for work in the Counties of Santa Cruz or Monterey. The notice shall be sent at least 15 calendar days before the date of opening bids;
- C. The Agency may also give any other notice as it deems proper;
- D. The Board of Directors shall approve the award of a contract subject to formal bidding procedures.

SECTION 7. Rejecting All Bids. Pursuant to Public Contract Code section 22038, the Board of Directors or Executive Director may, in their discretion, reject any bids presented if,

prior to rejecting all bids and declaring that the project can be more economically performed by the employees of the Agency, the Board or Director furnishes a written notice to an apparent low bidder at least two business days prior to the hearing at which the Agency intends to reject the bid. If after the first invitation of bids all bids are rejected, after reevaluating cost estimates of the project, the Board of Directors or Executive Director may then:

- A. Abandon the project;
- B. Re-advertise for bids; or
- C. By passage of a resolution by a four-fifths vote of the Board of Directors, declare that the project can be performed more economically by employees of the Agency, and have the project done by force account without further compliance with this Ordinance.

SECTION 8. Emergencies.

- A. Notwithstanding any provision of this Ordinance to the contrary, in cases of emergency when repair or replacements are necessary, the Board of Directors by a four-fifths vote may proceed at once to repair or replace any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the Board of Directors, by contractor, or by a combination of the two. The Board of Directors may take any directly related and immediate action required by that emergency and procure the necessary equipment, services, and supplies for these purposes without giving notice for bids to let contracts.
- B. To act under subsection (A), the Board of Directors must proceed pursuant to a four-fifths vote based on a finding of substantial evidence that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency.
- C. In the event the Board of Directors is unavailable or a meeting is impracticable under the circumstances, in cases of emergency when repair or replacements are necessary, the Executive Director may proceed at once to repair or replace any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the Executive Director, by contractor, or by a combination of the two. The Executive Director may take any directly related and immediate action required by that emergency and procure the necessary equipment, services, and supplies for these purposes without giving notice for bids to let contracts. The Executive Director may contract under this subsection in an amount not to exceed \$200,000.
- D. If the Executive Director acts under subsection (C), he or she shall report the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency to the Board of Directors at the next Board meeting.

- E. If the Board of Directors or the Executive Director act pursuant to this section, the Board of Directors shall review the emergency action at every regularly scheduled meeting thereafter until the action is terminated to determine, by a four-fifths vote, that there is a need to continue the action.
- F. For purposes of this section, “emergency” means “a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.”

SECTION 9. Change Orders.

- A. No change in agreement or contract shall be made without the issuance of a written change order or amendment and no payment for any charge shall be made unless a written change order or amendment has first been approved and executed in accordance with this Ordinance designating in advance the work to be done and the amount of additional compensation to be paid.
- B. Provided the funding for a public project contract has been previously approved and the expenditure of funds authorized by the Board of Directors, the Executive Director shall have the authority to execute change orders or amendments for any contract in an amount not to exceed 15% of the original price, subject to approval as to the form of the amendment by Agency Counsel.

SECTION 10. Prohibition Against Splitting Projects. Pursuant to Public Contract Code section 2233, it shall be unlawful to split or separate into smaller work orders or projects any project for the purpose of evading the provisions of this article requiring work to be done by contract after competitive bidding.

SECTION 11. California Environmental Quality Act. The Agency has considered all of the evidence in the record, including the staff reports, the testimony received during the meeting on the matter held by the Agency, and hereby determines that the adoption of this Ordinance will not have a significant effect on the environment. This Ordinance is therefore exempt from California Environmental Quality Act (CEQA) review pursuant to Title 14, section 15061(b)(3) of the California Code of Regulations.

SECTION 12. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance or the rules adopted hereby. The Board of Directors of the Pajaro Regional Flood Management Agency hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION 13: Publication and Effective Date. This ordinance shall take effect 30 days after final adoption. The Clerk of the Board shall certify to the passage and adoption of this Ordinance and shall give notice of its adoption as required by law.

PASSED AND ADOPTED by the Board of Directors of the Pajaro Regional Flood Management Agency this 8th day of March 2023, by the following roll call vote:


AYE: DIRECTORS ALEJO, CHURCH, FRIEND, HERNANDEZ, AND PARKER

NAY: NONE

ABSENT: NONE


ABSTAIN: NONE

ATTEST:


Zach Friend (Mar 9, 2023 18:36 PST)

CHAIR

Maura F.
Twomey

 Digitally signed by Maura
F. Twomey
Date: 2023.03.09 16:11:24
-08'00'

SECRETARY
BOARD OF DIRECTORS







PRFMA Ordinance No. 2023-1 Adopting UPCCAA

Final Audit Report

2023-03-10

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