

CITY OF DANA POINT
AGENDA REPORT

Reviewed By:	
DH	X
CM	X
CA	X

DATE: MARCH 23, 2005

TO: CITY MANAGER/CITY COUNCIL

**FROM: CITY ATTORNEY
BRAD FOWLER, DIRECTOR OF PUBLIC WORKS**

**SUBJECT: ORDINANCE AMENDING THE MUNICIPAL CODE RELATING TO
FORMAL AND INFORMAL BID PROCEDURES FOR PUBLIC
CONTRACTS**

RECOMMENDED ACTION:

That the City Council:

1. Introduce and hold First Reading by title only, of an Ordinance of the City of Dana Point:

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT,
CALIFORNIA AMENDING THE DANA POINT MUNICIPAL CODE,
CHAPTER 3.13, FOR THE PURPOSE OF ALLOWING THE CITY TO
FURTHER UTILIZE INFORMAL BIDDING PROCEDURES AND CITY
WORK FORCES PURSUANT TO THE CALIFORNIA UNIFORM
CONSTRUCTION COST ACCOUNTING ACT**

BACKGROUND:

Typically, public works contracts that exceed a cost of \$5,000 must be formally, publicly bid. However, the California Uniform Construction Cost Accounting Act (the "Act") allows cities to adopt "informal" bidding procedures for certain projects. Specifically, the Act allows informal bidding for any "public project" that is estimated to cost less than \$100,000. The Act also permits the City to use its own work forces for any public project costing less than \$25,000. Finally, the Act allows informal bidding for "maintenance work" (as that term is defined in the Act) of any cost magnitude. Informal bidding procedures are administratively more efficient and less expensive than regular public bidding because the informal procedures allow the city to advertise projects to a smaller set of contractors. They also allow the City to request proposals only from proven top performers and typically allow quicker procurement of services.

The City of Dana Point has adopted the Act's informal bidding procedures in Dana Point Municipal Code Chapter 3.13. Municipal Code Section 3.13.010 currently reads as follows:

3.13.010 Construction on Public Projects.

The provisions of this Chapter shall apply to construction on public projects of not more than Fifty Thousand Dollars (\$50,000). Public Projects of Fifteen Thousand Dollars (\$15,000) or less may be performed by City employees by force account, by negotiated contract, or by purchase order. Public projects of Fifty Thousand Dollars (\$50,000) or less may be let to contract by informal procedures as set forth in this Chapter.

DISCUSSION:

Municipal Code Section 3.13.010, in its current form, permits informal bidding for "public projects" costing not more than \$50,000 as compared to the \$100,000 cost limit provided under the State Act. The current Municipal Code also permits the use of City work forces for public projects costing only up to \$15,000 as compared to the \$25,000 allowance provided under the Act. Moreover, Municipal Code Section 3.13.010 does not incorporate the Act's broad informal bidding allowance for maintenance work.

In order to maximize the advantages of informal bidding, Municipal Code Section 3.13.010 should be amended to incorporate the broader informal bidding allowances permitted by State law. Municipal Code Section 3.13.010 should thus be amended to:

- a) Articulate the distinction between "public projects" and "maintenance work" pursuant to the terms of the State Act;
- b) Expand informal bidding procedures to public projects costing up to \$100,000;
- c) Expressly permit City employees to perform public projects costing less than \$25,000, without performing any bid procedures; and
- d) Permit all maintenance work to be bid out by informal bidding.

NOTIFICATION/FOLLOW-UP:

None

FISCAL IMPACT:

The City will save staff time and expense towards purchasing efforts, including costs of advertising, bidding meetings, etc. for those public projects and maintenance works covered by the Act.

ALTERNATIVE ACTIONS:

1. Other direction to staff as directed by City Council.

ACTION DOCUMENTS:

PAGE NO.

- | | |
|---|---|
| A. Proposed Ordinance | 4 |
|---|---|

SUPPORTING DOCUMENTS:

None

ORDINANCE NO. _____

**ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF DANA POINT, CALIFORNIA AMENDING THE
DANA POINT MUNICIPAL CODE, CHAPTER 3.13,
FOR THE PURPOSE OF ALLOWING THE CITY TO
FURTHER UTILIZE INFORMAL BIDDING PROCEDURES
AND CITY WORK FORCES PURSUANT TO THE
CALIFORNIA UNIFORM CONSTRUCTION COST
ACCOUNTING ACT**

WHEREAS, the City of Dana Point ("City") has adopted the bidding procedures provided by the California Uniform Construction Cost Accounting Act (the "Act") in Chapter 3.13 of the Dana Point Municipal Code; and

WHEREAS, the State Legislature raised the public project expense limits for the informal bidding procedures set forth in the Act; and

WHEREAS, the City's bidding procedures, as adopted in the Municipal Code, do not currently take full advantage of the informal bidding allowances permitted under the Act; and

WHEREAS, it is advantageous to both the City and the public to revise Chapter 3.13 in order to

- a) Articulate the distinction between "public projects" and "maintenance work" pursuant to the terms of the State Act;
- b) Expand informal bidding procedures to public projects costing up to \$100,000;
- c) Expressly permit City employees to perform public projects costing less than \$25,000, without performing any bid procedures; and
- d) Permit all maintenance work to be bid out by informal bidding.

NOW, THEREFORE, the City Council hereby ordains as follows:

SECTION 1: Section 3.13.010 of the Dana Point Municipal Code is hereby amended to read in its entirety as follows:

3.13.010 Construction on Public Projects. Pursuant to Section 22034 of the California Public Contract Code, when using the alternative procedures authorized in this Chapter 3.13:

- (a) *Definitions:* For purposes of this section, the terms "maintenance work" and "public projects" shall have the meanings provided those terms in Section 22002 of the California Public Contract Code.

(b) Public projects of Twenty-Five Thousand Dollars (\$25,000.00) or less may be performed by employees of the City by force account, by negotiated contract, or by purchase order.

(c) Public projects of One Hundred Thousand Dollars (\$100,000) or less may be let to contract by informal bidding procedures set forth in this Chapter.

(d) Maintenance work and other work which does not fall within the definition of "public projects," as defined in Section 22002 of the California Public Contracts Code, may be let to contract by informal bidding procedures set forth in this Chapter.

(e) As to public projects only, if all bids received are in excess of One Hundred Thousand Dollars (\$100,000.00), but less than One Hundred Ten Thousand Dollars (\$110,000.00), the City Council may, by passage of a resolution by four-fifths (4/5) vote, award the contract, to the lowest responsible bidder, if the City Council determines the estimate for the work was reasonable. If the City Council does not award the contract, the specifications must be reviewed and formal bids solicited.

SECTION 2: The Interim City Clerk of the City of Dana Point shall certify to the passage and adoption of this ordinance and shall cause the same to be posted and published in a manner required by law.

APPROVE, ADOPTED AND SIGNED this ____ day of _____, 2005.

ATTEST:

WAYNE RAYFIELD, MAYOR

SHARIE APODACA, INTERIM CITY CLERK

STATE OF CALIFORNIA)
 COUNTY OF ORANGE) ss
 CITY OF DANA POINT)

I, Sharie Apodaca, Interim City Clerk of the City of Dana Point, California, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 0-_____ introduced at a regular meeting of the City Council held this _____ day of _____, 2005, and passed and adopted at a regular meeting held _____, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

 SHARIE APODACA, INTERIM CITY CLERK