

# *City of Brisbane*

## *Agenda Report*

TO: Mayor and City Council

FROM: Hal Toppel, City Attorney

SUBJECT: Informal Bidding Ordinance

DATE: For Council Meeting on October 4, 2010

### **City Council Goals:**

To provide for effective and efficient delivery of City services. (1)

To develop management and fiscal systems to maximize effectiveness of city services and accountability to Brisbane taxpayers and citizens. (11)

### **Purpose:**

To update the City's existing informal bidding ordinance to conform with the changes in State law that will facilitate use of this alternative bidding procedure.

### **Recommendation:**

Adopt Ordinance No. 546

### **Background and Discussion:**

Ordinance No. 546 was introduced at the regular Council meeting on September 13, 2010. No modifications to the original version are being suggested and staff recommends adoption of Ordinance No. 546 in the form as originally presented to the City Council.

### **Fiscal Impact:**

The informal bidding procedures now allowed by state law should reduce the staff time required for the bidding and award of contracts for public projects that are within the monetary limits of the ordinance.

**Measure of Success:**

Success can be measured by the extent to which the informal bidding procedures in the proposed ordinance are actually used by City staff and found to be easier, less expensive and faster than formal public bidding.

**Attachments:**

Ordinance 546



City Attorney



City Manager

**ORDINANCE NO. 546**

**AN ORDINANCE OF THE CITY OF BRISBANE AMENDING  
CHAPTER 15.22 OF THE MUNICIPAL CODE CONCERNING  
INFORMAL BIDDING PROCEDURES**

**The City Council of the City of Brisbane hereby ordains as follows:**

**SECTION 1:** Chapter 15.22 of the Brisbane Municipal Code is amended in its entirety to read as follows:

**Chapter 15.22  
INFORMAL BIDDING PROCEDURES**

**Sections:**

15.22.010	Authority and purpose of Chapter
15.22.020	Definitions
15.22.030	List of qualified contractors
15.22.040	Size of project; method of bidding
15.22.050	Notice inviting informal bids
15.22.060	Award of contracts
15.22.070	Emergency contracts

**§15.22.010 Authority and purpose of Chapter**

This Chapter is adopted pursuant to the authority of Article 3 of Chapter 2, Part 3, Division 2 (commencing with Section 22000) of the California Public Contract Code and constitutes an "informal bidding ordinance" as described in Section 22034 of said Code. The purpose of this Chapter is to establish an informal bidding procedure applicable to certain contracts for public projects as a result of the City having elected, by resolution of the City Council, to become subject to the uniform construction cost accounting procedures promulgated by the State Controller.

**§15.22.020 Definitions**

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section, unless the context or the provision clearly requires otherwise:

A. "Commission" means the California Uniform Construction Cost Accounting Commission, as established under Section 22020 et seq. of the Public Contract Code.

B. "Director" means the Director of Public Works/City Engineer of the City of Brisbane.

C. "Public Contract Code" means the Public Contract Code of the State of California

D. "Public project" means any of the following, excluding maintenance work:

- (1) Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any facility owned, leased, or operated by the City.
- (2) Painting or repainting of any facility owned, leased, or operated by the City.

E. "Maintenance work" includes all of the following:

- (1) Routine, recurring, and usual work for the preservation or protection of any facility owned or operated by the City for its intended purpose.
- (2) Minor repainting.
- (3) Resurfacing of streets and highways at less than one inch.
- (4) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.
- (5) Work performed to keep, operate, and maintain water, power, waste and stormwater disposal systems owned by the City.

F. "Facility" means any plant, building, structure, ground facility, utility system, real property, streets and highways, or other public work improvement.

**§15.22.030 List of qualified contractors**

The Director shall maintain a list of qualified contractors, identified according to categories of work. The list shall be developed and maintained in compliance with such minimum requirements as may be specified from time to time by the Commission.

**§15.22.040 Size of project; method of bidding**

A. Public projects of thirty thousand dollars (\$30,000.00) or less may be performed by the employees of the City by force account, by negotiated contract, or

by purchase order, or the Director may elect to follow the informal bidding procedure specified in Paragraph B of this Section.

B. Public projects of one hundred twenty-five thousand dollars (\$125,000.00) or less may be let to contract by informal bidding procedures set forth in this Chapter.

C. Public projects of more than one hundred twenty-five thousand dollars (\$125,000.00) shall, except as otherwise provided in this Chapter, be let to contract by formal bidding procedure.

**§15.22.050 Notice inviting informal bids**

A. Where the City proposes to award a contract for a public project pursuant to the informal bidding process, a notice inviting informal bids shall either be:

- (1) mailed to all contractors for the category of work to be bid, as shown on the list of qualified contractors maintained by the City in accordance with Section 15.22.030 of this Chapter; or
- (2) mailed to the required construction trade journals for San Mateo County designated by the Commission pursuant to Section 22036 of the Public Contract Code.

B. At the discretion of the Director, additional notices inviting informal bids may be given by any or all of the following means:

- (1) The notice may be mailed to both the qualified contractors and the construction trade journals;
- (2) The mailed notice may be sent to additional contractors who are not on the City's list but are deemed by the Director to be qualified to perform the particular work out for bid;
- (3) The notice may be mailed to any additional construction trade journals or other publications selected by the Director, including trade journals designated by the Commission as optional for San Mateo County.

C. All mailing of the notices to contractors and construction trade journals shall be completed not less than ten (10) calendar days before bids are due.

D. The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project, and shall state the time and place for submittal of bids.

E. Notwithstanding the foregoing provisions of this Section, no mailing of a notice to contractors or construction trade journals shall be required where the Director determines that the product or service to be acquired by the City is proprietary.

**§ 15.22.060 Award of contracts**

A. Contracts for public projects of thirty thousand dollars (\$30,000.00) or less may be awarded by the Director.

B. Contracts for public projects in excess of thirty thousand dollars (\$30,000.00) and not exceeding one hundred twenty-five thousand dollars (\$125,000.00), which are bid pursuant to the informal bidding procedure established by this Chapter, may be awarded by majority vote of the City Council.

C. If all bids received are in excess of one hundred twenty-five thousand dollars (\$125,000.00), the City Council may, by adoption of a resolution by a four-fifths vote, award a contract for an amount not exceeding one hundred thirty-seven thousand five hundred dollars (\$137,500.00), to the lowest responsible bidder, if the City Council determines that the City's original cost estimate for the project was reasonable.

**§ 15.22.070 Emergency contracts**

The provisions of this Chapter shall in no way limit or restrict the ability of the City to perform emergency repair or replacement work without adopting plans, specifications, or working details, or giving notice for bids to let contracts, as authorized by Section 22035 of the Public Contract Code, and in accordance with the emergency contracting procedures set forth in Chapter 2.5 (commencing with Section 22050) of the Public Contract Code.

**SECTION 2:** 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 or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

**SECTION 3:** This Ordinance shall be in full force and effect thirty days after its passage and adoption.

\* \* \*

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the \_\_\_\_\_ day of \_\_\_\_\_, 2010, by the following vote:

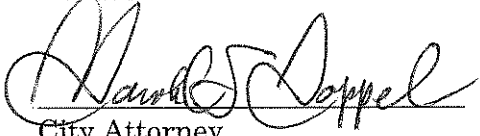
AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney