



Board of Directors AGENDA

PLEASANT HILL RECREATION & PARK DISTRICT

MISSION STATEMENT

In order to serve the diverse recreational needs of individuals and families and to enrich the quality of life for all residents, the Pleasant Hill Recreation & Park District is committed to providing park facilities, open space, and programs and activities for all ages.

**ADMINISTRATION OFFICE
147 GREGORY LANE, PLEASANT HILL
CONFERENCE ROOM**

**Budget & Finance Committee Meeting
Thursday, September 26, 2019
SPECIAL MEETING – 5:00 P.M.**

Chair: Andrew Pierce
Member: Sandra Bonato

1. Call to Order
2. Roll Call
3. Public Comment
Five minutes may be allotted to each speaker and a maximum of twenty (20) minutes to each subject matter. The public may speak regarding agenda items at the time the matter is taken up. Non-agenda items can be addressed under Public Comment.
4. Discussion Regarding Potential Adoption of the Uniform Construction Cost Accounting Act to Increase Limit for Informal Bidding (Attachment A)
5. Review and Discussion Regarding 2019/2020 – 2023/24 Capital Improvement Projects Estimated Budgets and Prioritization (Attachment B)
6. Items for future discussion

Documents that are disclosable public records required to be made available under California Government Code Section 54957.5 (b) (1) and (2) are available to the public for inspection at no charge during business hours at our administrative office located at 147 Gregory Lane, Pleasant Hill, California.

The Pleasant Hill Recreation & Park District will provide reasonable disability-related modification or accommodations to a person who requires such in order to participate in the meeting of the Board of Directors. Please contact Susie Kubota (925) 682-0896 at least 48 hours before the meeting.

STAFF REPORT



Date: September 26, 2019
To: Budget & Finance Committee
From: Michelle Lacy, General Manager
Re: Discussion Regarding Potential Adoption of the Uniform Public Construction Cost Accounting Act to Increase Limit for Informal Bidding

BACKGROUND:

The District continues to encounter a bidding environment which continually solicit bids that are significantly higher than the engineer's estimate and our budget. State law generally requires formal bidding for public works projects that are more than \$5,000. In order to increase the limit for informal bidding the Legislature enacted legislation in 1983 to help promote "uniformity of the cost accounting standards and bidding procedures on construction work performed or contracted by public entities." The Act is voluntary and public agencies must opt-in to the provisions set forth in the Act.

Due to the continuing bidding issues with formal bids and the average costs of most of the District's upcoming Capital Improvement Projects General Counsel Osa Wolff suggested I review the parameters within the Act and evaluate if it would be appropriate for the District to opt-in.

DISCUSSION:

Upon reviewing the Act and the required accounting procedures I have determined that it would indeed be beneficial for the District to opt-in to the Act. With an opt-in the District will be able to increase the formal bid amount to \$200,000 which will allow the District to use its informal bidding procedures for projects up to \$200,000. This will simplify the bidding procedures and expedite contracting for small to mid-size projects. Attached as Exhibit 1 are the Frequently Asked Questions from the State Controller's website.

In addition, the Act would increase the public works project limit for in-house work, but this generally will not apply to the District as we don't have the labor to do many projects in-house.

In order to opt-in the District would need to adopt a resolution (Exhibit 2) and send it to the State Controller's Office. In addition, we would need to maintain a qualified bidder's list and update it annually.

EXHIBITS:

- Exhibit 1: California Uniform Public Construction Cost Accounting Act Frequently Asked Questions (FAQ)
- Exhibit 2: Sample Resolution

ATTACHMENT A

CALIFORNIA UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT FREQUENTLY ASKED QUESTIONS (FAQs)

These FAQs have been compiled to assist agencies that are participating in the California Uniform Public Construction Cost Accounting Act (the Act), as contained in Public Contract Code (PCC) Section 22000, et seq. All references are to PCC, unless otherwise stated.

1. What is the Uniform Public Construction Cost Accounting Act?

The Act is legislation that was enacted in 1983 to help promote “uniformity of the cost accounting standards and bidding procedures on construction work performed or contracted by public entities in the state” (Section 22001). The Act is a voluntary program available to all public entities in the State, but it applies only to those public agencies that have “opted in” to the provisions set forth by the Act using the processes outlined in the Act. The entirety of the Act is found at Sections 22000-22045.

2. What are some of the key provisions of the Act?

The Act allows for public project work in the amount of \$60,000 or less to be performed by a public agency’s force account using the public agency’s own resources, or by negotiated contract, or by purchase order (Section 22032(a)). Public projects in the amount of \$200,000 or less may use the informal or formal bidding procedures set forth in Section 22032(b) or (c) of the Act. Public projects at a cost of more than \$200,000 must use formal bidding procedures to let the contract pursuant PCC Section 22032(c).

3. What are the benefits of the program?

- Increased force account limit for public agencies;
- Simplified bidding for projects that are \$200,000 or less;
- Reduced number of formal bids based on project size; and
- Expedited contracting for projects under \$200,000.

Many participating agencies appreciate the program because it has given them more leeway in the execution of public works projects under a certain dollar amount; sped up the award process; expedited project delivery; reduced the time, effort, and expense associated with bidding projects under \$200,000; and simplified administration for those projects. Few agencies have experienced challenges with the accounting requirements and overhead provisions. Moreover, adjustments, when required, have been relatively simple; most required procedures were already in place, so there were few, if any, major changes to existing operations. The current Standard Accounting Codes Structure satisfies reporting requirements when used properly.

4. Is the Uniform Public Construction Cost Accounting Act mandatory for public agencies?

No. The Act is a voluntary program requiring a public agency to “opt in” using the process outlined in the Act.

5. How does a public agency become subject to the Act?

The governing body must elect by resolution to become subject to the Act and must file a copy of the approved resolution with the State Controller’s Office (Section 22030). Sample documents are available at: http://www.sco.ca.gov/ard_cuccac.html. Once an agency has opted into the Act, it will remain a part of the program.

6. May a public agency withdraw from the Act?

Yes. An agency may withdraw from the Act by filing with the State Controller’s Office an approved resolution of the agency’s election to withdraw that was made during a public meeting of the agency’s governing body.

7. Must a participating agency “opt in” to the Act annually?

No. Once a participating agency “opts in” to the Act, the agency remains subject to the Act until it “opts out” of the Act.

8. What is the California Uniform Construction Cost Accounting Commission?

The Commission was created to administer the Act, per Section 22010. It consists of 14 members: 13 members appointed by the State Controller and the License “A” member of the Contractors’ State License Board. Seven members represent the public sector (counties, cities, school districts, and special districts). Six members represent the private sector (public works contractors and unions). The Commission members receive no salary, but are eligible for reimbursement of their direct expenses related to the Commission.

9. What are the Uniform Public Construction Cost Accounting Procedures?

These procedures are to be used for tracking costs for work performed by an Agency’s own forces on a “project” as defined by the Act (Section 22002(c)). The procedures do not apply to operations or maintenance work, or any work that meets the criteria listed in Section 22002(d).

These procedures are intended to capture and record all direct and indirect labor, materials, equipment, subcontractors, and supervision costs, as well as the appropriate overhead costs for the public agency associated with each “project” it performs with its own forces. The procedures follow industry-standard accounting methods, and in many cases are not much different from those already in place at most agencies. Sample forms are available in the CUCCAC Cost Accounting Policies and Procedures Manual at http://www.sco.ca.gov/Files-ARD-Local/CUCCAC_Manual.pdf

School districts may use the Standard Accounting Code Structure to comply with tracking requirements.

10. Are the cost accounting procedures applicable for agencies whose work forces perform only maintenance tasks as defined in the Act and that contract all of their public projects to third parties?

No. The cost accounting procedures are applicable only for agencies that perform public project work such as construction and alteration by force account or otherwise. As maintenance does not constitute a “project” under the Act, the cost accounting procedures do not apply.

11. When are participating agencies required to advertise if they choose to maintain a list of qualified contractors?

At least once per calendar year, each Public Agency that has elected to become subject to the Act and intends to use the notice provisions outlined in Section 22034(a) must establish a new list or update its existing list of qualified contractors by mailing, faxing, or emailing written notice to all construction trade journals designated for that Agency under Section 22036. The notice must invite all licensed contractors to submit the name of their firms to the Agency for inclusion on the Agency's list of qualified bidders for the following twelve (12) months. Effective January 1, 2016, a participating agency can choose a specific date of their choice in which to renew its list of qualified contractors.

12. May an agency that chooses to maintain a list add a contractor to the list at any time during the year?

Yes.

13. What is meant by the term "qualified contractors" as used in section 22034(a)(1) of the Act?

Qualified contractors are contractors licensed by the State to perform the subject work. The Commission has determined that nothing in the Act prohibits a participating agency from using additional objective pre-qualification standards in the formation and maintenance of their Qualified Contractors Lists if they so desire.

14. Can a public agency disqualify or exclude certain contractors from the Qualified Contractors List required in Section 22034(a)(1)?

Agencies may disqualify contractors from Qualified Contractors Lists when the contractors fail to furnish information to meet the minimum criteria as established by the Commission.

15. For agencies that do not maintain an informal bidders list, are they allowed to choose who would get notifications of projects?

No. Section 22034(a)(2) provides for notifications to construction trade journals and exchanges in lieu of sending notifications to contractors on an informal bidders list. An agency may send notices to selected contractors provided it has also met the advertisement requirements of Section 22034(a).

16. What is the difference between "qualifying contractors" under the Act and "prequalification of contractors" by school districts under Section 20101?

Qualifying contractors is a process that allows contractors to register with a public agency for notification of public works opportunities. The prequalification process under Section 20101 is a more complex process that requires a standardized questionnaire and evaluation of contractors using standard scoring criteria. The prequalification process is applicable under the Local Agency Public Construction Act, and does not apply to the Uniform Public Construction Cost Accounting Act.

17. Must a public agency a) notify contractors about public projects if the contractors are believed to not have the skills, credentials, or experience to perform the work required for the public project; and b) consider bids submitted by contractors that the public agency believes do not have the skills, credentials, or experience to perform the work?

a) Yes. If a contractor is on the Qualified Contractors List, the contractor must be notified by the agency of public projects for which he or she is licensed to perform (Section 22034(a)(1)).

b) All bids received must be considered, unless an agency makes appropriate legal findings that a contractor is not legally responsible or his or her bid is not responsive.

18. Does the Act allow flexibility in cases of emergency and when repair or replacements are necessary to permit the continued conduct of a public agency's operations or services?

Yes. For the purposes of the Public Contract Code, an "emergency" is defined at Section 1102 as "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."

The Act sets forth in Section 22035(a) how a governing body should proceed in case of emergency repairs or replacements. This section states:

In cases of emergency when repair or replacements are necessary, the governing body may proceed at once to replace or repair 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 governing body, by contractor, or by a combination of the two.

Section 22050 et seq., provides the emergency contract procedures to be followed in these cases.

19. Do the alternative bidding procedures apply only to public projects as defined in Section 22002(c)?

The alternative bidding procedures apply only to work that constitutes a "public project" as defined in Section 22002(c) and has a construction cost within the limits described in Section 22032. The alternative bidding procedures are not required for the purchase of goods or materials that are not part of a "public project."

However, as outlined in Section 22003, a participating agency may also use the alternative bidding procedures when contracting for maintenance or other work that does not fall within the definition of a "public project" if it so chooses.

20. What will membership in the Act cost my agency?

Nothing. There are no membership fees or dues. However, the Commission does accept grants to assist it in carrying out its duties (Section 22015(c)).

21. What are the most common concerns addressed by the Act?

These are:

- Cost accounting policies and procedures;
- Informal bidding procedures; and
- Accounting procedures review.

Cost accounting requirements for the Act follow those common to the construction industry. The informal bidding on public projects up to \$200,000 is seen by agencies as an effective tool to expedite completion of small projects. While an accounting procedures review could potentially hold up a project for a minimum of 45 days pursuant to Section 22043(c)(1), these types of reviews have been rare in the Commission's history.

22. Must an agency calculate an overhead rate to apply the accounting procedures?

No. Cities with populations of less than 75,000 must assume an overhead rate equal to 20% of the total costs of the public project, including the costs of material, equipment, and labor (Section 22017(b)(1)). Cities with a population of more than 75,000 may either calculate an actual overhead rate or assume an overhead rate of 30% of the total costs of a public project including the costs of materials, equipment, and labor (Section 22017(b)(2)).

23. When a public entity opts into the Act, does the Act supersede other contracting legal requirements such as statutory requirements for performance bonds, prevailing wages, and certificates of insurance, etc.?

No. The Act supersedes only the bidding procedures used once a public agency has opted into the Act and has notified the Controller. All other contracting requirements of the PCC remain applicable.

24. Can a public agency claim to be to be exempt from following all of the requirements in Public Contract Code by claiming it only has to follow the language and procedures within the Act?

No. The Act is part of the Public Contract Code; therefore, if the Act is silent on a particular matter, then the Public Contract Code applies on that matter.

25. If public agencies are not following the advertising requirements in the Act, will the Commission address those agencies? Can a complaint be brought to the Commission?

Yes. Recent legislative changes have expanded the Commission's authority to enforce provisions of the Act. The Commission may review complaints filed by interested parties when evidence is provided that:

- The participating agency performed work after rejecting all bids, claiming it could do the work less expensively (Section 22042(a)).
- The work performed exceeded the force account limits (Section 22042(b)).
- The work was improperly classified as maintenance (Section 22042(c)).
- A public agency did not comply with the informal bidding procedures set forth at Section 22034 (Section 22042.5).

26. Section 20112 specifically requires school districts to advertise twice for a two-week period, while Section 22037 requires advertising once, 14 days in advance of the date of opening of bids. How do participating school districts reconcile this conflict?

When the Act is in conflict with any other section in the Public Contract Code, the Act shall supersede. The Act requires advertising once, 14 days in advance of the date of opening of bids. Districts participating in the Act may choose to maximize their outreach by advertising twice.

27. May a public agency contract separately for like work at the same site at the same time using the under \$60,000 Force Account method?

No. Section 22033 states:

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.

Separating “like work” would be permitted only if the total of all the “like work” is less than \$60,000. If the work is more than \$60,000, it must be advertised and bid according to the provisions of the Act (i.e. bid informally if the total amount is less than \$200,000; bid formally if the total amount exceeds \$200,000).

28. May a public agency bid out two separate projects that occur at the same time and site, but are different types of work?

Yes. There is no violation if the work is competitively bid. If an agency wishes to use the negotiated or informal bidding processes, it must apply the appropriate limits to each of the projects. Each project must be separate in scope. Projects may not be separated by trade to avoid bidding. If the total of all jobs is greater than \$60,000, then the informal or formal bid limits apply.

29. Must a value be assigned to the volunteer labor when the California Conservation Corps or another volunteer organization provides labor on a public project?

No. Volunteer labor from volunteer organizations does not need to be included as a cost of a public project for bid limit purposes as long as no costs are associated with the volunteer labor.

30. By opting into the Act, does a public agency automatically bring all of its component divisions or departments into the Act?

Yes. When a public agency elects to become subject to the uniform construction cost accounting procedures, the entire legal entity is considered subject to the Act and no divisions or departments are exempt.

31. When a public agency opts into the Act, does it automatically bring all districts under control of its governing Board into the Act?

No. Special Districts, which are governed by a board of supervisors or city council, are subject only if a separate election is made for each special district.

32. PCC 22034 requires that participating agencies adopt an Informal Bidding Ordinance. What do schools and special districts that cannot adopt Ordinances do to comply?

Agencies that do not have the ability to adopt Ordinances should discuss Section 22034 compliance with their legal counsel.

Additional inquiries and questions may be directed by email to LocalGovPolicy@sco.ca.gov, or by regular mail to:

State Controller's Office
Local Government Programs and Services Division
Local Government Policy Section
P.O. Box 942850
Sacramento, CA 94250

(This SAMPLE INFORMAL BIDDING ORDINANCE or POLICY indicates action by a county board of supervisors. However, the sample format shall be modified to conform to your governing agency's rules).

ORDINANCE NO. _____
AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF _____
ADDING SECTION _____ TO THE ORDINANCE CODE OF THE COUNTY OF _____
TO PROVIDE INFORMAL BIDDING PROCEDURES UNDER THE UNIFORM PUBLIC
CONSTRUCTION COST ACCOUNTING ACT (Section 22000, et seq. of the Public Contract Code)

The Board of Supervisors of the County of _____ do ordain as follows:

SECTION 1

Section _____ is hereby added to the County Code of the County of _____ to provide as follows:

Section _____. Informal Bid Procedures. Public projects, as defined by the Act and in accordance with the limits listed in Section 22032 of the Public Contract Code, may be let to contract by informal procedures as set forth in Section 22032, et seq., of the Public Contract Code.

Section _____. Contractors List. The agency shall comply with the requirements of Public Contract Code Section 22034.

Section _____. Notice Inviting Informal Bids. Where a public project is to be performed which is subject to the provisions of this Ordinance, a notice inviting informal bids shall be circulated using one or both of the following alternatives:

1. Notices inviting informal bids may be mailed, faxes, or emailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with Section _____,
2. Notices inviting informal bids may be mailed to all construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with section 22036 of the Public Contract Code. Additional contractors and/or construction trade journals may be notified at the discretion of the department/agency soliciting bids, provided however:

(1) If the product or service is 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.

Section _____. Award of Contracts

The County Purchasing Agent and the Director of Public Works are each authorized to award informal contracts pursuant to this Section.

SECTION 2

This Ordinance shall take effect and be in force thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days after its passage, it or a summary of it, shall be published once, with the names of the members of the Board of Supervisors voting for and against the same in the _____, a newspaper of general circulation published in the County of _____.

PASSED, APPROVED and ADOPTED by the Board of Supervisors of the County of _____, State of California, this ____ day of _____, _____, by the following vote:

AYES:
NOES:
ABSENT:

STAFF REPORT



Date: September 26, 2019
To: Budget & Finance Committee
From: Michelle Lacy, General Manager
Re: Review and Discussion Regarding 2019/20-2023/24 Capital Improvement
Projects Estimated Budgets and Prioritization

BACKGROUND:

The District continues to encounter a bidding environment which continually solicit bids that are significantly higher than the engineer's estimate and our budget. The Board has requested the Budget and Finance Committee review the adopted Capital Improvement Projects (CIP) and estimated budgets in order to make recommendations regarding prioritization and/or increasing funding.

Attached as Exhibit 1 is the adopted CIP Project Summary. Staff will be prepared to provide updated status report on the 2019/20 projects.

EXHIBITS:

Exhibit 1: Adopted Capital Improvement Project Summary 2019/20-2023/24

2019/20- 2023/24 Capital Improvement Program Proposed Projects

	SITE	Project Description	Project Estimate	FY19 YTD	FY 19 Amend	FY20	FY21	FY22	FY23	FY24
1	Administration	Master Plan Update	93,240	37,631	50,000	10,000				
2	Brookwood Park	Picnic Tables	5,250	0	5,250					
3	Community Center	3 NEC LCD Projectors	17,500			6,000		11,500		
4	Community Center	Ledgestone Wainscot in Lobby	10,000	10,000	10,000					
5	Community Center	Carpet Replacement	50,000						50,000	
6	Community Center	2 Metro Warmers	11,000						11,000	
7	Community Center	Painting Inside/Outside								
8	Community Center	Pavilion Room Shades								
9	Frank Salfinger Park	Replace Walking Paths	134,000	8,943	8,943	125,000				
10	Kidstop Building	Roof Repairs	6,500		6,500					
11	Operations	Vehicle Purchase and Replacements	90,000			60,000		30,000		
12	Pleasant Hill Park	Resurface Parking Lot	250,000					250,000		
13	Pleasant Oak Park	All Abilities Playground	333,571	13,571	13,571	320,000				
14	Pleasant Oaks Park	Group Picnic Shade Structure	50,000			50,000				
15	Pleasant Oaks Park	1700 Oak Park - Consultants	250,000	10,000	20,000	160,000	70,000			
16	Public Service Center	Roof Repairs	8,500		8,500					
17	Rodgers Smith Park	Refurbish Bocce Courts	25,000			25,000				
18	Rodgers Smith Park	Refurbish Restroom	250,000							
19	Senior Center	Carpet Replacement	35,000					35,000		
20	Senior Center	Extend Front Reception Area	50,000					50,000		
21	Senior Center	3 NEC LCD Projectors	17,500			6,000		11,500		
22	Senior Center	2 Metro Warmers	11,000				11,000			
23	Senior Center	Replacement/Upgrade of Equipment Computer Lab	20,000							
24	Senior Center	Installation of Shade in Bocce Courts	30,000					30,000		
25	Senior Center	Planning for Sound Issues (CR/DS)	15,000							
26	Senior Center	Kitchen Assessment & Design	76,000			76,000				
27	Senior Center	HVAC Conceptual Design Options	28,100			28,100				
28	Teen Center	Carpet Replacement	20,000			20,000				
29	Teen Center	2 Door Reach-in Refrigerator	3,500				3,500			
30	Valley High II	Hazard Mitigation Trees	80,000	79,500	79,500					
31	Various Park Sites	Park Monument Signs	45,000			38,000				
		Total		159,645	202,264	924,100	84,500	418,000	61,000	0