

ORDINANCE NO. 1293

**AN ORDINANCE OF THE COUNTY OF GLENN AMENDING THE GLENN COUNTY CODE BY REPEALING CHAPTERS 2.800, 4.040, AND 4.300 OF THE CODE AND ADDING TITLE 9, CHAPTERS 9.100 AND 9.200 RELATING TO PURCHASING AND PUBLIC PROJECT BIDDING PROCEDURES**

THE BOARD OF SUPERVISORS OF THE COUNTY OF GLENN ORDAINS AS FOLLOWS:

**SECTION 1:** Chapter 2.800 of the Glenn County Code is hereby repealed.

**SECTION 2:** Chapter 4.040 of the Glenn County Code is hereby repealed.

**SECTION 3:** Chapter 4.300 of the Glenn County Code is hereby repealed.

**SECTION 4:** The Glenn County Code is hereby amended by adding Title 9, Chapter 9.100 to read in its entirety as follows:

**Chapter 9.100**

**PURCHASING**

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|------------------|--------------------------------------------------------------------------------------------------------------|
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#### **9.100.010 Chapter Purpose.**

The purpose of this Chapter is to adopt policies and procedures governing purchases of supplies, equipment and Contractual Services by the county in accordance with Article 7 (sections 54201 et seq.) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, as amended from time to time. This chapter is not intended to conflict with applicable provisions of state law and shall be interpreted as supplementary thereto.

#### **9.100.020 Applicability.**

This Chapter addresses the procurement of supplies, materials, equipment, products and services by the County of Glenn except those public projects, as defined by California Public Contract Code section 22002, as amended from time to time, which are addressed in Chapter 9.200 of this code. This Chapter also addresses the disposal of surplus personal property by the County of Glenn.

#### **9.100.030 Definitions.**

As used in this chapter:

A. "Agency" and "Agencies" means any of the departments, officers or other organizational unit of the county government, and any special district whose affairs and funds are under the supervision and control of the Board of Supervisors and for which the Board of Supervisors is ex officio governing body.

B. "Contractual Services" means any and all services; the lease and lease-purchase of equipment, machinery and other personal property; insurance; the services of attorneys, physicians, electricians, engineers, consultants or other individuals or organizations possessing a high degree of technical skill; and all other types of agreements under which the contract provides services which are required by the county government but not furnished by its own employees. Purchase of space for legal advertising shall not be subject to the provisions of this chapter.

C. "Emergency" means any condition which would cause or be likely to cause injury to persons or loss of life, substantial damage to property, public or private, or which would substantially interfere with the normal operations of county government thereby causing increased expense to the county.

D. "Fixed Asset" shall mean any singular equipment purchase with a total acquisition cost equal to or greater than five thousand (\$5,000.00) dollars. The total acquisition cost shall include purchase price, taxes, shipping costs, set up costs and any other cost or fee necessary to bring the fixed asset into service.

E. "Price" or similar terms do not include tax, shipping or handling when determining the procedure to be followed.

F. "Supplies" means any and all articles, materials or things which shall be furnished to, or used by, any Agency but excluding services or materials furnished "in kind" in lieu of cash to indigents.

#### **9.100.040 Office Established.**

Under sections 25500 and following of the Government Code of the State of California and consistent with the provisions of section 2.060.060 of this code, the office of Purchasing Agent is established and, consistent with the provisions of subsection 2.060.060(C)(10) of this code, the County Administrative Officer shall be ex-officio Purchasing Agent of the County of Glenn.

#### **9.100.050 General Duties.**

The Purchasing Agent shall have the duties and powers prescribed by the laws of the State of California relating to county purchasing agents, by this ordinance, and by resolutions of the Board of Supervisors. The Purchasing Agent, with the assistance of the General Services Director, shall be the head of the purchasing department of the county and shall establish policies and procedures to be utilized by the purchasing department. The Purchasing Agent may appoint the deputies, assistants, or other employees as, from time to time, shall be authorized, including the appointment of Agency heads and county officers as such deputies and assistants. The Purchasing Agent shall supervise the work of such deputies and assistants as may be necessary to carry out the Purchasing Agent's duties. All delegations shall be in writing and on file with the Department of Finance and the Clerk of the Board of Supervisors and shall set forth the authorized dollar amount of the delegation. In no event shall a delegation exceed the monetary limit stated in California Government Code section 25502.3, as amended from time to time, per vendor, per year.

#### **9.100.060 Specific Duties.**

Unless provided otherwise by law, county code, or specific order of the Board of Supervisors, the Purchasing Agent is authorized to:

A. Purchase, lease, or lease/purchase for the county and its Agencies all personal property. Unless otherwise authorized by law, county code, or specific order of the Board of Supervisors, no acquisition of personal property by any person other than the Purchasing Agent shall be binding on the county or constitute a lawful charge against any county funds;

B. Rent for the county and Agencies furnishings, equipment, and livestock;

C. Negotiate and execute all equipment service contracts and lease-purchase agreements concerning personal property;

D. Engage independent contractors to perform services for the county and its Agencies, with or without furnishing of materials, subject to the monetary limit stated in California Government Code section 25502.3, as amended from time to time;

E. Pursuant to Government Code section 25502.7, as amended from time to time, when a local Emergency is declared under Government Code section 8630, as amended from time to time, the Purchasing Agent may engage independent contractors to perform services, with or without the furnishing of materials, related to the local Emergency at an amount not to exceed an annual aggregate cost of two hundred and fifty thousand (\$250,000.00) dollars unless the Board of Supervisors specifically authorizes a higher amount;

F. Negotiate and execute software license and maintenance agreements subject to the monetary limit stated in California Government Code section 25502.3, as amended from time to time;

G. Pursuant to Government Code section 31000, as amended from time to time, the Purchasing Agent is authorized to enter into special services agreements subject to the statutory limit in California Government Code section 25502.3, as amended from time to time;

H. Subject to the requirements stated in Public Contract Code section 20131, subdivision (a), as amended from time to time, the Purchasing Agent is authorized to employ state-licensed independent contractors and purchase

materials, furnishings, and Supplies used in the construction or repair of public works without obtaining bids, letting contracts, and preparing specifications;

I. Subject to the limits and requirements stated in Government Code section 25350.51, as amended from time to time, the Purchasing Agent is authorized to lease real property for use by the county;

J. Subject to the requirements stated in Government Code section 25355, as amended from time to time, the Purchasing Agent may accept or reject any gift, bequest, or devise made to or in favor of the county;

K. In addition to all other authority granted in this section, and subject to the monetary limits stated in Government Code section 25502.3, as amended from time to time, the Purchasing Agent shall have the authority to sign contracts and other agreements that directly implement programs and policy established by the Board of Supervisors and use funds previously appropriated to the specific program or policy. The authority delegated in this subsection shall be exercised only after County Counsel and the Director of Finance have reviewed proposed agreements for consistency with this subsection and countersigned. An established board of supervisor program or policy shall be evidenced by an order, resolution, or ordinance passed by the Board of Supervisors;

L. Perform such other services as the Board of Supervisors may require from time to time by resolution;

M. It shall be within the Purchasing Agent's discretion to require that any action within the Purchasing Agent's authority go to the Board of Supervisors for approval. It shall be also be within the Purchasing Agent's discretion to require competitive bidding when, although not mandatory, the Purchasing Agent believes that it would be in the county's best interests to do so.

#### **9.100.070 Purchasing Procedure.**

A. All purchases, rentals, and contracts shall be written or confirmed in writing. The deputies and assistants appointed by the Purchasing Agent may make purchases, order materials and Supplies, and contract for services for the County of Glenn. The deputies and assistants shall follow the policies and procedures established by the Purchasing Agent including the use of forms developed as part of those policies and procedures.

B. Invoices or billing statements received for purchases made shall be authorized by the Agency head as claims for payment. The head of any county Agency is authorized to submit claim forms for completed purchases for their Agency in accordance with current budget accounts for purchases made in accordance with this Chapter.

#### **9.100.080 Equipment, Products and Supplies.**

A. Where the annual aggregate cost does not exceed the monetary limit stated in California Government Code section 25502.3, as amended from time to time, the Purchasing Agent, or any designee of the Purchasing Agent, may purchase, lease, or rent for the County of Glenn, equipment of whatever kind and nature, products, including computer software, insurance and other intangible items, and Supplies without notice, advertisement, or the securing of competitive bids or quotations unless: (1) competitive bidding is required by Federal award, statute, ordinance or local rule; or, (2) it is determined that competitive bidding, although not mandatory, is nevertheless desired. If the Purchasing Agent elects to make the purchase without notice, advertisement, or the securing of competitive bids or quotations, the Purchasing Agent shall procure the best price that can be reasonably obtained, taking into account quality and efficient operation of the county, and shall take advantage of modern communications to obtain fair and reasonable prices, consistent with the needs of County of Glenn, including, but not limited to, the use of the telephone, the internet and email, and, when feasible, to use reasonable means to solicit quotes or proposals from local vendors.

Whenever price and quality are equal, the Purchasing Agent shall purchase Supplies and Fixed Assets from vendors located in the county.

B. Purchases, leases, or the rental of equipment and products where the annual aggregate cost exceeds the monetary limit stated in California Government Code section 25502.3, as amended from time to time, shall be subject to the requirement of a request for proposal (RFP), request for information (RFI), or notice, advertisement, and competitive bidding unless the Board of Supervisors, in the exercise of its discretion, determines in each case that such a purchase may be made without such requirements. For the purposes of this section, approval of the contract for the purchase, lease or rental by the Board of Supervisors shall be deemed sufficient evidence of the Board of Supervisors having made such a finding. In lieu of a request for proposal (RFP), request for information (RFI), or notice, advertisement, and competitive bidding, the Purchasing Agent may purchase any materials, equipment or Supplies available under a General Services Administration contract, a State of California contract, or any other cooperative contract available to the county. Purchases made under such contracts shall be deemed to have met the requirements of this section.

1. If the RFP or RFI process is utilized, the specific procedural details of each RFP or RFI shall be provided in the text of the request but shall include the following:

a. A statement that the county reserves the right to negotiate directly with any party responding thereto and may enter into a contract with any responding party regardless of price if it is advantageous for the county to do so.

b. No public opening of proposals shall be required.

2. Prior to distribution or publication, the RFP or RFI shall be submitted to the County Administrative Officer for approval and the County Counsel for approval as to legal form and sufficiency.

#### **9.100.090 Independent Contractors/Consultants.**

Where the annual aggregate cost does not exceed the monetary limit stated in California Government Code section 25502.3, as amended from time to time, the Purchasing Agent, or any designee of the Purchasing Agent, may engage independent contractors/consultants to perform services for the county and the offices thereof, with or without the furnishing of material without notice, advertisement, or the securing of competitive bids or quotations unless: (1) competitive bidding is required by Federal award, statute, ordinance or local rule; or, (2) it is determined that competitive bidding, although not mandatory, is nevertheless desired. Services in excess of the annual monetary limit stated in California Government Code section 25502.3, as amended from time to time, shall be subject to the requirements of either a request for proposal (RFP), request for information (RFI) or notice, advertisement, and competitive bidding unless the Board of Supervisors, in the exercise of its discretion, determines in each case that such a service may be obtained without such requirements. For the purposes of this section, approval of a contract for the services by the Board of Supervisors shall be deemed sufficient evidence of the Board of Supervisors having made such a finding.

A. If the RFP or RFI process is utilized, the specific procedural details of each RFP or RFI shall be provided in the text of the request but shall include the following:

1. A statement that the county reserves the right to negotiate directly with any party responding thereto and may enter into a contract with any responding party regardless of price if it is advantageous for the county to do so.

2. No public opening of proposals shall be required.

3. If the request seeks architectural design services requiring an expenditure in excess of ten thousand dollars (\$10,000.00), the request shall also include, in bold type, a disclosure that the contracting architect may be required to indemnify and hold harmless the County of Glenn against any and all liability, whether or not caused by the activity of the contracting architect.

B. Prior to distribution or publication, the RFP or RFI shall be submitted to the County Administrative Officer for approval and the County Counsel for approval as to legal form and sufficiency.

#### **9.100.100 Architectural, Engineering, Environmental, Land Surveying & Construction Management Firms.**

If the professional services described in section 9.100.090 above, are to be provided by private architectural, landscape architectural, engineering, environmental, land surveying and/or construction project management firms, or any other professional as set forth in California Government Code section 4526, as amended from time to time, the contract shall be awarded on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. They shall also assure maximum participation of small business firms, as defined by the State Director of General Services pursuant to California Government Code section 14837, as amended from time to time. The following procedures have been adopted in accordance with the provisions of California Government Code section 4526, as amended from time to time, and shall apply only to those services provided by private architectural, landscape architectural, engineering, environmental, land surveying, construction project management firms, and those other professionals identified in California Government Code section 4526, as amended from time to time.

A. Procedures Implementing Selection of Consultants: The procedures herein implement the selection of consultants on the basis of demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required, by assuring engagement of services on the basis of demonstrated competence and professional qualification for the type of services to be performed and at a fair and reasonable price to the county. The general framework for each such procedure is:

1. The Purchasing Agent shall encourage consultants to submit annual statements of qualifications, performance data and fee schedules. This information shall be used to identify those consultants who have the demonstrated competence and professional qualifications necessary for satisfactory performance of the types of services to be performed.

2. For each proposed project, the Purchasing Agent shall evaluate current statements of qualifications and performance data on file with the county, together with those that may be submitted by other consultants regarding the proposed project, and shall select therefrom, in order of preference, based upon criteria established by the Purchasing Agent, at least two consultants (if available) deemed to be the most highly qualified to provide the services required. Should fewer than two consultants be available, the Purchasing Agent may select the available consultant.

3. Upon selection of the list of consultants, the Purchasing Agent shall negotiate a contract with the best qualified consultant at compensation which the Purchasing Agent determines to be fair and reasonable to the county. Should the Purchasing Agent be unable to negotiate a satisfactory contract with the consultant considered to be the most qualified at a price the Purchasing Agent determines to be fair and reasonable to the county, negotiations with that consultant shall be formally terminated and the Purchasing Agent shall then undertake negotiations with the second-most qualified consultant, and so on until an agreement is reached. If the aggregate cost does not exceed the amount stated in section 25502.3 of the California Government Code, as amended from

time to time, the Purchasing Agent may engage independent contractors to perform services for the county and the offices thereof without the approval of the Board of Supervisors. If the aggregate cost is in excess of such amount, the agreement shall be submitted to the Board of Supervisors for approval.

B. County Employee Conduct and Participation: Pursuant to the provisions of California Government Code section 4526, as amended from time to time, county employees shall not engage in practices which might result in unlawful activity including, but not limited to, rebates, kickbacks or unlawful consideration. In addition, employees of the County of Glenn shall not participate in the selection process when those employees have a relationship with a person or business entity seeking a contract under this Chapter which would subject those employees to the prohibitions of sections 1090 and 87100 of the Government Code, as amended from time to time.

#### **9.100.110 Application of General Bidding Requirements.**

A. In those cases where: (1) competitive bidding is required by Federal award, statute, ordinance or local rule; or, (2) it is determined that competitive bidding, although not mandatory, is nevertheless desired; the provisions hereinafter set forth shall apply unless an exception is made by the Board of Supervisors as the result of a specific application to the Board for that purpose. For the purposes of this section, approval of the contract for the purchase, lease or rental by the Board of Supervisors shall be deemed sufficient evidence of the Board of Supervisors having made such a finding.

B. The rules hereinafter set forth, which are minimum requirements, are in addition to and not in lieu of all applicable state, federal, and Glenn County rules, regulations, policies and ordinances. This ordinance applies to both purchases and sales by the County of Glenn.

#### **9.100.120 Bidding Procedure.**

For purchases requiring competitive bidding, the following procedures shall be followed:

A. Notice Inviting Bids: The officer or employee conducting the bidding process shall prepare or direct the preparation of a notice inviting bids which shall include a general description of the items to be purchased or the services to be provided and shall state where specifications may be secured as well as the date, time and place for opening bids. The notice shall also contain each of the following statements:

1. Bids shall set forth unit prices as well as a total price for each item bid upon, the total taxes that will be due and a total figure for the price plus tax. Any difference between the taxes shown on the bid as the total figure and those actually due shall be the responsibility of the bidder.

2. No charge for delivery, shipping, parcel post, packing, insurance, license fees, permits or for any other purpose will be paid by the County of Glenn unless expressly included and itemized in the bid.

3. In connection with any discount offered, time will be computed from the date of delivery of Supplies, equipment or product acceptable to the County of Glenn, or from the date correct invoices are received in the office of the officer or employee conducting the bidding process if the latter date is later than the date of delivery. Payment will be deemed to be made, for the purpose of earning the discount, on the date of the mailing of Glenn County's check. Any discount offered in accordance with this section shall not be used for the purpose of determining the lowest responsible bidder.

4. Bids shall be opened by the officer or employee conducting the bidding process, or his/her designee, in public in the office of the Clerk of the Board of Supervisors at the time stated in the public notice. The officer or employee conducting the bidding process shall tabulate the bids received and shall keep the tabulation open for public inspection during regular business hours for a period not less than fifteen (15) calendar days after the bid opening.

5. Bids and modifications or corrections thereof received after the closing time specified will not be considered.

6. The Board of Supervisors or its designee reserves the right to waive informalities and minor irregularities in any bids received and that, in its discretion, the Glenn County Board of Supervisors or its designee may reject any and all bids presented, may accept an item or group of items of any bid, may modify or cancel in whole or in part the notice inviting bids, and may re-advertise for bids.

7. If two or more bids received are for the same total amount or unit price, quality and service being equal, the Board of Supervisors or its designee may accept the one it chooses or accept the lowest bid made after negotiation with tie bidders.

B. Published Notice: The notice inviting bids shall be published at least ten (10) days before the date of opening of the bids once in a newspaper of general circulation distributed in Glenn County. The officer or employee conducting the bidding process shall also solicit or direct the solicitation of sealed bids from responsible prospective suppliers. Prior to publishing the notice inviting bids or soliciting sealed bids, the officer or employee conducting the bidding process shall submit to the County Counsel's office for review and shall obtain approval of the notice inviting bids.

C. Bid Opening: Bids shall be opened by the officer or employee conducting the bidding process, or his/her designee, in public in the office of the Clerk of the Board of Supervisors at the time stated in the public notice. The officer or employee conducting the bidding process shall tabulate the bids received and shall keep the tabulation open for public inspection during regular business hours for a period not less than fifteen (15) calendar days after the bid opening. Bids and modifications or corrections thereof received after the closing time specified will not be considered.

D. Rejection of Bids: In its discretion, the Glenn County Board of Supervisors or its designee may reject any and all bids presented, may accept an item or group of items of any bid, may modify or cancel in whole or in part the notice inviting bids, and may determine to re-advertise for bids.

E. Award of Bids: The officer or employee conducting the bidding procedure shall present the bid tabulation to the Board of Supervisors or its designee, for consideration and award, if deemed appropriate. The contract shall be awarded to the lowest responsive, responsible bidder. The Board of Supervisors or its designee reserves the right to waive informalities and minor irregularities in any bids received.

F. Tie Bids: If two or more bids received are for the same total amount or unit price, quality and service being equal, the Board of Supervisors or its designee may accept the one it chooses or accept the lowest bid made after negotiation with tie bidders.

G. Written Contract Required: Purchases made pursuant to these competitive bidding requirements shall be by written contract with the bidder chosen as a consequence of following these bidding procedures.

#### **9.100.130 Exemptions.**

Agreements for the printing of legal briefs or notices; reporters' services or transcripts; election supplies; expert services to be rendered to the offices of the district attorney, county counsel or sheriff; appraisers' services; or, for other services which by law some officer or body is specifically charged with obtaining; may be entered into by the officer without complying with the provisions of this Chapter provided that unexpended funds necessary for payment of such contract are available in the Agency budget.

#### **9.100.140 Preference for Local Vendors.**

A. Except as otherwise provided by state and federal law, including Federal awards, a five (5) percent preference shall be granted to local business whenever the Purchasing Agent purchases services, Supplies, materials and/or equipment for county use through the competitive bid process, which shall be defined herein to include quotes, bids, and proposals. The Purchasing Agent in evaluating competitive bids shall determine the lowest responsible bidder, and if the lowest responsive bidder is a non-local bidder then a five (5) percent preference shall be granted to local bidders. Local preference only applies to the procurement of services, Supplies, materials and/or equipment, and will not apply to bids conducted with other public agencies nor when prohibited by state or federal statutes or regulations to be awarded to the "lowest responsible bidder" or otherwise exempted from local preferences. The total amount of such a preference granted in a single competitive bid shall not exceed ten thousand dollars (\$10,000.00) over a non-local bidder. The five (5) percent local preference shall be deducted from the total dollar amount bid by local bidders on competitive quotes, bids, and proposals.

B. For the purposes of this section, "local business" means any business which meets all of the following criteria:

1. A principal place of business located within the county with a valid and verifiable business license, if applicable, issued by a city within the county or a business located in the unincorporated areas of the county. Post office boxes do not qualify as verifiable local business addresses;
2. Employs at least one full-time employee within the county, or if the business has no employees, shall be at least fifty (50) percent owned by one or more persons whose primary residence(s) is located within the county; and
3. Has had a fixed office or place of business having a street address within the county for at least six months immediately prior to the issuance of the request for competitive bids by the county.

#### **9.100.150 Cooperative Purchases.**

A. Any public procurement unit may either participate in, sponsor, conduct, or administer a cooperative agreement for the procurement of any materials, Supplies, furnishings, equipment, services, environmentally preferable products, recycled products, livestock, or other personal property with one or more public procurement units in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint or multi-party contracts between public procurement units and open-ended public procurement unit contracts that are made available to other public procurement units.

B. Cooperative purchasing is authorized to the extent permitted under California law and within the Purchasing Agent's authority so long as the public procurement unit administering the cooperative agreement extends the same

pricing, terms, and conditions to the county. Prior to use of cooperative purchasing the Purchasing Agent shall conduct due diligence in accordance with county purchasing guidelines.

C. Under a cooperative agreement, controversies arising between an administering public procurement unit and its bidders, offerors, or contractors shall be resolved between the ordering public procurement unit and the supplying bidders, offerors, or contractors in accordance with the public procurement unit's existing regulations, policies, or guidance.

#### **9.100.160 Multi-Year Purchases.**

No purchase shall be made if the purchase agreement, by its terms, requires the expenditure of funds not appropriated when the agreement is made, unless the approval of the Board of Supervisors is first obtained. This section does not apply to any multi-year purchase agreement when: (A) the county may terminate its obligations under the agreement if the Board of Supervisors, in its sole discretion, determines not to appropriate funds for the purchase for any fiscal year during the term of the agreement; or (B) the county does not guarantee in the agreement to purchase any minimum quantity of the matter subject to the contract

#### **9.100.170 Emergency Purchases.**

A. Emergency purchases for personal property or Contractual Services, excluding public works projects, may be made by an Agency head without the prior approval of the Purchasing Agent when made in accordance with this section and the policies and procedures established for such purchases by the Purchasing Agent. Emergency purchases shall be limited to purchases immediately necessary for the preservation of life or property, and the need is unforeseeable and immediate for continued operation of a county function.

B. Every Emergency purchase shall be promptly reported to the Purchasing Agent in writing documenting the facts that constituted the Emergency.

C. All Emergency purchases or Contractual Services secured under this section shall be approved or confirmed by the Purchasing Agent, or, if he or she rejects the purchase or contract, the Board of Supervisors may subsequently ratify and confirm by four-fifths vote.

D. No purchase or contractual service shall be approved or confirmed by the Purchasing Agent or the Board of Supervisors except upon a finding by the Purchasing Agent or Board of Supervisors that an Emergency did exist at the time of the purchase or contractual acquisition.

#### **9.100.180 Gratuities.**

The acceptance of any gratuity in the form of cash, or any other thing of significant value by official or employee of the county from a vendor or contractor, or prospective vendor or contractor, shall be cause for disciplinary action up to and including termination.

#### **9.100.190 Unlawful Purchases.**

Except as otherwise provided by law, no purchase of Supplies, equipment or Contractual Services shall be made in excess of the amount of the appropriations allowed by the budget.

### **9.100.200 Voidable Transactions.**

Any transaction failing to comply with this Chapter in any respect shall be voidable in the discretion of the Board of Supervisors.

### **9.100.210 Disposal of Surplus Property.**

Whenever any item of county-owned personal property is, in the opinion of the Purchasing Agent, surplus and no longer needed by the county, the Purchasing Agent may sell, by sealed bid or public auction, or otherwise dispose of such property and pay the proceeds to the county treasury. However, if the estimated value of an item of surplus property exceeds, in the opinion of the Purchasing Agent, the sum of ten-thousand (\$10,000.00) dollars, the Purchasing Agent shall first report such fact to the Board of Supervisors and obtain the Board of Supervisors' approval prior to any disposition of such property. Pursuant to California Government Code section 25504, as amended from time to time, this procedure is intended to be an alternative to the procedure set forth in California Government Code section 25363, as amended from time to time.

**SECTION 5:** The Glenn County Code is hereby amended by adding Title 9, Chapter 9.200 to read in its entirety as follows:

#### **Chapter 9.200**

#### **PUBLIC PROJECT BIDDING PROCEDURES**

##### **Sections:**

- 9.200.010**     *Public Project Bidding Procedure Established.*
- 9.200.020**     *Definitions.*
- 9.200.030**     *Notification to Contractors.*
- 9.200.040**     *Uniform Public Construction Cost Accounting.*
- 9.200.050**     *Application of Formal Bidding Requirement.*
- 9.200.060**     *Formal Bidding Procedure.*
- 9.200.070**     *Emergency Contracting Procedures.*

#### **9.200.010 Public Project Bidding Procedure Established.**

Pursuant to Public Contract Code section 20150.5, as amended from time to time, the provisions of Article 3.6 of Chapter 1, Part 3, Division 2 of the Public Contract Code, commencing with section 20150, as amended from time to time, providing for formal and informal bidding procedures for public projects, are by this reference incorporated herein.

#### **9.200.020 Definitions.**

A. "Public Project" means any of the following:

1. Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility.
2. Painting or repainting of any publicly owned, leased, or operated facility.

3. In the case of a publicly owned utility system, "Public Project" shall include only the construction, erection, improvement, or repair of dams, reservoirs, power plants, and electrical transmission lines of 230,000 volts and higher.

B. "Public Project" does not include maintenance work. For purposes of this Chapter, "Maintenance Work" includes all of the following:

1. Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.
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 publicly owned water, power, or waste disposal systems, including, but not limited to, dams, reservoirs, power plants, and electrical transmission lines of 230,000 volts and higher.

C. For purposes of this Chapter, "Facility" means any plant, building, structure, ground facility, utility system, subject to the limitation found in paragraph (3) of subdivision (c) of section 22002 of the Public Contract Code, as amended from time to time, real property, streets and highways, or other public work improvement.

#### **9.200.030 Notification to Contractors.**

A. Pursuant to Public Contract Code section 20150.6, as amended from time to time, the Director of Public Works and the Purchasing Agent, or designee shall, as soon as is practicable after the time for the renewal of contractors' licenses, notify each contractor of the county, and those surrounding counties, of the opportunity to register with the county to be subsequently notified of informal bidding proceedings. The list of such contractors shall be a public record.

B. A list of contractors shall likewise be developed and maintained by the Director of Public Works, the Clerk of the Board, and/or the Purchasing Agent in accordance with the provisions of section 22034 of the Public Contract Code, as amended from time to time, and criteria which are promulgated from time to time by the California Uniform Construction Cost Accounting Commission ("the Commission").

#### **9.200.040 Uniform Public Construction Cost Accounting.**

A. By Board of Supervisors resolution, this county has elected to become subject to the procedures established pursuant to the Uniform Public Construction Cost Accounting Act (California Public Contract Code section 22000 et seq. as amended from time to time) hereinafter referred to as the "Act", and has notified the state controller of such election. In compliance with section 22034 of said Act, this section is adopted as the procedure to letting work by informal bidding only for public projects within the limits set forth in section 22032 of said Act, as adjusted from time to time pursuant to section 22020 of said Act. All other work not exempted from public bidding requirements shall be advertised and awarded in accordance with applicable provisions of state law and county ordinances, resolutions and policies. The provisions of Chapter 2, Part 3, Division 2 of the Public Contract Code, commencing with section 22000,

as amended from time to time, providing for alternative bidding procedures for public projects, are by this reference incorporated herein.

B. Notwithstanding the provisions of section 9.200.010 to the contrary, Public Projects equal to or less than the amount set forth in section 22032(a) of the Public Contract Code, as amended from time to time, may be performed by the employees of Glenn County by force account, by negotiated contract, or by purchase order. Public Projects equal to or less than the amount set forth in section 22032(b) of the Public Contract Code, as amended from time to time, may be let to contract by the following informal bidding procedures:

1. Where a Public Project is to be performed which is subject to the provisions of this subsection, a notice inviting informal bids shall be mailed to all contractors for the category of work to be bid, as shown on the list developed and referred to in 9.200.030(B) and/or to all construction trade journals as specified by the Commission in accordance with section 22036 of the Public Contract Code, as amended from time to time. Additional contractors and/or construction trade journals may be notified at the discretion of the county officer conducting the bid solicitation. 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.

2. All mailing of notices to contractors and construction trade journals pursuant to subdivision (1) shall be completed not less than 10 calendar days before bids are due.

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

4. The Purchasing Agent and the Public Works Director are both authorized to award informal contracts pursuant to this subsection. If the aggregate cost does not exceed the amount stated in section 25502.3 of the California Government Code, as amended from time to time, the Purchasing Agent or Public Works Director may enter into the agreement without the approval of the Board of Supervisors. If the aggregate cost is in excess of such amount, the agreement shall be submitted to the Board of Supervisors for approval.

5. If all bids received are in excess of the amount set forth in section 22032(b) of the Public Contract Code, as amended from time to time, the Board of Supervisors may, by adoption of a resolution by a four-fifths vote, award the contract, at the amount set forth in section 22034(d) of the Public Contract Code, as amended from time to time, or less, to the lowest responsible bidder, if it determines the cost estimate of the county was reasonable.

#### **9.200.050 Application of Formal Bidding Requirement.**

Public Projects greater than such sum as is set forth in section 22032(c) of the Public Contract Code, as amended from time to time, shall be let to contract by formal bidding procedures except as otherwise provided by applicable state, federal, and Glenn County rules, regulations, policies and ordinances.

#### **9.200.060 Formal Bidding Procedure.**

For Public Projects requiring a formal bidding process, the following procedures shall be followed:

A. Preparation and Adoption of Plans: The officer or employee conducting the bidding process shall prepare or direct the preparation of plans, specifications, and working details for all Public Projects greater than such sum as is set forth in section 22032(c) of the Public Contract Code, as amended from time to time. The plans, specifications and working details shall be adopted by the Board of Supervisors prior to initiation of the bidding process and shall

not be altered or changed in any manner which increases its cost, except by a vote of two-thirds of the members of the Board of Supervisors. The provisions of this section shall not apply to those public projects identified in sections 22035 (Emergencies) and 22041 (Exemptions) of the Public Contract Code, as amended from time to time.

B. Minimum Bid Package Contents: All bid packages shall contain, but shall not be limited to, the following documents:

1. Notice to Inviting Bids;
2. Instructions to Bidders;
3. Project Proposal;
4. Proposed Contract;
5. Any Additional Terms and Conditions which may be applicable; and
6. Non-collusion Affidavit in the form set forth in California Public Contract Code section 7106, as amended from time to time.

C. Notice Inviting Bids: The officer or employee conducting the bidding process shall prepare or direct the preparation of a notice inviting bids which shall include a general description of the items to be purchased or the services to be provided and shall state where specifications may be secured as well as the date, time and place for opening bids. The notice shall also contain each of the following statements:

1. Bids shall set forth unit prices as well as a total price for each item bid upon, the total taxes that will be due and a total figure for the price plus tax. Any difference between the taxes shown on the bid as the total figure and those actually due shall be the responsibility of the bidder.

2. Bids shall be opened by the officer or employee conducting the bidding process, or his/her designee, in public in the office of the Clerk of the Board of Supervisors at the time stated in the public notice. The officer or employee conducting the bidding process shall tabulate the bids received and shall keep the tabulation open for public inspection during regular business hours for a period not less than fifteen (15) calendar days after the bid opening.

3. Bids and modifications or corrections thereof received after the closing time specified will not be considered.

4. The Board of Supervisors or its designee reserves the right to waive informalities and minor irregularities in any bids received and that, in its discretion, the Glenn County Board of Supervisors or its designee may reject any and all bids presented and may re-advertise for bids.

5. If two or more bids received are for the same total amount or unit price, quality and service being equal, the Board of Supervisors or its designee may accept the one it chooses or accept the lowest bid made after negotiation with tie bidders.

D. Published Notice: The notice inviting bids shall be published at least fourteen (14) calendar days before the date of opening of the bids in a newspaper of general circulation distributed in Glenn County. The notice shall also be mailed to all construction trade journals specified in Public Contract Code section 22036, as amended from time to time, at least 30 calendar days before the date of opening the bids. Prior to publishing the notice inviting bids or soliciting sealed bids, the officer or employee conducting the bidding process shall submit to the County Counsel's office for review and shall obtain approval of the notice inviting bids.

E. Bid Opening: Bids shall be opened by the officer or employee conducting the bidding process, or his/her designee, in public in the office of the Clerk of the Board of Supervisors at the time stated in the public notice. The officer or employee conducting the bidding process shall tabulate the bids received and shall keep the tabulation open for public inspection during regular business hours for a period not less than fifteen (15) calendar days after the bid opening. Bids and modifications or corrections thereof received after the closing time specified will not be considered.

F. Rejection of Bids: In its discretion, the Glenn County Board of Supervisors may reject any and all bids presented, if it, prior to rejecting all bids and declaring that the project can be more economically performed by employees of the county, furnishes a written notice to an apparent low bidder pursuant to California Public Contract Code section 22038, as amended from time to time. The notice shall inform the bidder of the county's intention to reject the bid and shall be mailed at least two business days prior to the hearing at which the county intends to reject the bid. If after the first invitation of bids all bids are rejected, after reevaluating its cost estimates of the project, the county shall have the option of either of the following:

1. Abandoning the project or re-advertising for bids in the manner described by this Chapter.
2. By passage of a resolution by a four-fifths vote of the Board of Supervisors declaring that the project can be performed more economically by the employees of the county, may have the project done by force account without further complying with this chapter.

G. Award of Bids: The officer or employee conducting the bidding procedure shall present the bid tabulation to the Board of Supervisors or its designee, for consideration and award, if deemed appropriate. The contract shall be awarded to the lowest responsive, responsible bidder. The Board of Supervisors or its designee reserves the right to waive informalities and minor irregularities in any bids received. If no bids are received through the formal or informal procedure, the project may be performed by the employees of the county by force account or negotiated contract without further complying with this Chapter.

H. Tie Bids: If two or more bids received are for the same total amount or unit price, quality and service being equal, the Board of Supervisors or its designee may accept the one it chooses or accept the lowest bid made after negotiation with tie bidders.

I. Performance Bond: The person to whom the contract is awarded shall execute a bond, approved by the Board of Supervisors, for the faithful performance of the contract. The person shall perform the work in accordance with the plans, specifications, and working details, unless all or any of them are modified by a four-fifths vote of the members of the board. In that case, if the cost of the work is reduced by reason of the modification, the person to whom the contract is awarded shall make an allowance on the contract price to the extent of the reduction. As an alternative to execution of a bond, the person to whom the contract is awarded may substitute securities for any moneys withheld by a public agency to ensure performance under a contract in accordance with the provisions of California Public Contract Code section 22300, as amended from time to time.

#### **9.200.070 Emergency Contracting Procedures.**

The provisions of Public Contract Code section 22050, as amended from time to time, providing for emergency contracting procedures for public projects, are by this reference incorporated herein. Pursuant to Public Contract Code section 22050, subdivision (b), as amended from time to time, the Board of Supervisors delegates to the Purchasing Agent, and designees, the authority to order any action authorized by Public Contract Code section 22050, as amended from time to time, in the event of an emergency.

**SECTION 6:** If any section, subsection, sentence, clause, phrase, or portion of this ordinance is held by a court of competent jurisdiction to be invalid or unconstitutional, that portion shall be deemed a separate, distinct, and independent provision, and the holding shall not affect the validity of the remaining portions of this ordinance.

**SECTION 7:** This ordinance shall take effect thirty (30) days after the date of its adoption and before the expiration of fifteen (15) days from the date of passage thereof shall be published at least once in a newspaper of general circulation, printed and published in the County of Glenn, State of California, together with the names of the members of the Board of Supervisors voting for and against the same.

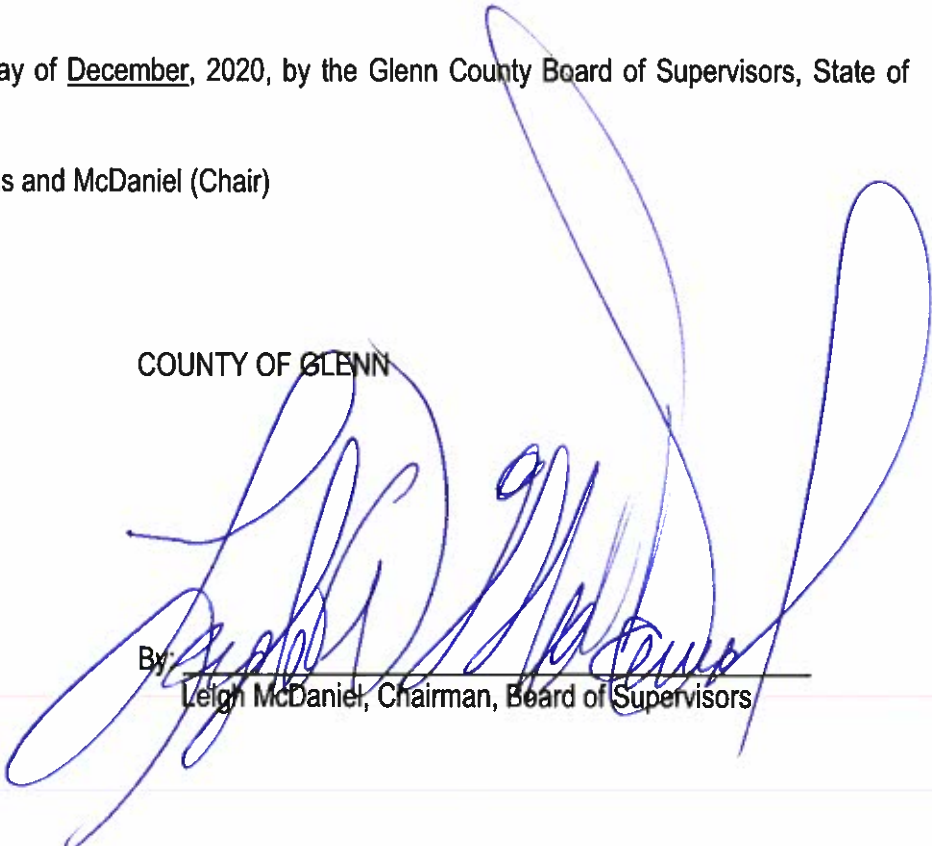
PASSED AND ADOPTED this 1<sup>st</sup> day of December, 2020, by the Glenn County Board of Supervisors, State of California, by the following vote:

AYES: Supervisors Barr, Minto, Viegas and McDaniel (Chair)

NOES: None

ABSENT: Supervisor Corum

COUNTY OF GLENN

By: 

Leigh McDaniel, Chairman, Board of Supervisors

ATTEST:  
DI AULABAUGH

By: 

CLERK OF THE BOARD

APPROVED AS TO FORM:

By: 

WILLIAM J. VANASEK  
GLENN COUNTY COUNSEL