



**RESOURCE  
MANAGEMENT AGENCY  
COUNTY OF TULARE  
AGENDA ITEM**

**BOARD OF SUPERVISORS**

ALLEN ISHIDA  
District One  
PETE VANDER POEL  
District Two  
PHILLIP A. COX  
District Three  
J. STEVEN WORTHLEY  
District Four  
MIKE ENNIS  
District Five

**AGENDA DATE:** April 2, 2013

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>

CONTACT PERSON: Celeste Perez PHONE: (559)624-7010

**SUBJECT:** Declaration of Use of Force Account Pursuant to Public Contract Code Section 22031

**REQUEST(S):**  
That the Board of Supervisors:

1. Declare its intent to utilize its authority under Public Contract Code Section 22031 to perform force account work; and
2. Approve use of County forces to perform a maximum of 30% of the total value of all work performed by force account, other than maintenance, in road construction and reconstruction as allowed under Public Contract Code Section 22031.

**SUMMARY:**  
The Resource Management Agency, Public Works Branch, is responsible for the maintenance of roads and bridges within the county of Tulare. Historically, and for the most part, the maintenance of the County roads has been performed by County employees. These maintenance activities include pot hole patching, overlays, shoulder backing, chip sealing, etc. Since this work is not contracted out, it is considered force account.

On January 1, 2013 Assembly Bill 720 (Hall) amended Public Contract Code Section 22031 to limit the amount of road construction and reconstruction work that may be performed by County forces under force account. Public Contract Code Section 22031(b)(2) limits road reconstruction by County forces to 30 percent of the total value of all work performed by force account, other than maintenance, as

**SUBJECT:** Declaration of Use of Force Account Pursuant to Public Contract Code Section 22031

**DATE:** April 2, 2013

reported in the State Controllers' Streets and Roads Annual report. The remaining balance of reconstruction work is required to be contracted out to private industry. Roadwork considered as maintenance activities including chip seals, blade patching, reclaimer seals and pothole patching, is not included in this provision, and can continue to be performed by County forces. The guidance document for the preparation of the Streets and Roads Annual Report, and the Uniform Construction Cost Accounting Act, define work consisting of an overlay of one inch or more as reconstruction. Our overlay work typically consists of 0.2 feet (over two inches) and therefore is considered reconstruction

Assembly Bill 720 is only applicable to counties that have elected to participate in the Uniform Construction Cost Accounting Act (Public Contract Code Sections 22000 – 22045). Tulare County elected to become subject to the Uniform Construction Cost Accounting Act in February 1995.

Assembly Bill 720 was advocated by the Construction Industry Force Account Council. Assembly Bill 720 finds its roots in AB 1409 (Perez) (2009/10 legislative year) which, as originally introduced, would have stripped all force account authority from all counties that had a road commissioner. As it stands now, Assembly Bill 720 limits force account work to no more than 30% of all force account work (except maintenance) and only applies to those counties with a population greater than 50,000 that participate in the Uniform Construction Cost Accounting Act.

Public Contract Code Section 22031(e), as provided in Assembly Bill 720, requires that any county acting pursuant Public Contract Code Section 22031(b)(2) shall declare its intention to use this provision prior to commencing work. Staff is requesting that the Board declare its intent to utilize its (limited) force account authority.

Shifting from force account to private contract will require that additional steps be followed to successfully deliver reconstruction (overlay) projects. These steps include:

- Preparation of plans, specifications and estimate;
- Placing the project out to bid (requires Board action);
- Awarding the contract to the lowest responsive, responsible bidder (requires Board action);
- Requiring the contractor to pay prevailing wages;
- Providing construction oversight;
- Accepting the project as complete and filing a notice of completion (requires Board action).

These additional steps, and the requirement for the payment of prevailing wages is expected to add to the cost of the project. While we don't expect this added cost to

**SUBJECT:** Declaration of Use of Force Account Pursuant to Public Contract Code Section 22031

**DATE:** April 2, 2013

be near the cost to administer a similarly federally funded project, we do expect additional cost which we have not quantified at this time. Given that the amount of funding available is not expected to increase as a result of this legislation, less roadwork will be performed. Staff intends to track these costs as we cycle through our first year of implementation of the new law and can report back to the Board at the end of fiscal year 2014.

This law affects all sources of funding: Local Transportation Fund, Highway Users Tax Account and Measure R. A project, regardless of funding source, that is considered reconstruction will fall under this law.

**FISCAL IMPACT/FINANCING:**

There is no net County cost to the General Fund.

**LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:**

The County's Five-Year Strategic Plan includes the Safety and Security Initiative which addresses improving and maintaining an adequate transportation infrastructure.

**ADMINISTRATIVE SIGN-OFF:**

\_\_\_\_\_  
Britt L. Fussel, P.E. Date  
Assistant Director—Public Works  
County Surveyor

BLF:mlb

Cc: Auditor-Controller  
County Counsel  
County Administrative Office (2)

Attachment(s) Attachment A – Assembly Bill 720 (Hall)

**BEFORE THE BOARD OF SUPERVISORS  
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF DECLARATION OF USE )  
OF FORCE ACCOUNT PURSUANT TO ) Resolution No. \_\_\_\_\_  
PUBLIC CONTRACT CODE SECTION )  
22031

UPON MOTION OF SUPERVISOR \_\_\_\_\_, SECONDED BY  
SUPERVISOR \_\_\_\_\_, THE FOLLOWING WAS ADOPTED BY THE BOARD  
OF SUPERVISORS, AT AN OFFICIAL MEETING HELD APRIL 2, 2013, BY THE  
FOLLOWING VOTE:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST: JEAN M. ROUSSEAU  
COUNTY ADMINISTRATIVE OFFICER/  
CLERK, BOARD OF SUPERVISORS

BY: \_\_\_\_\_  
Deputy Clerk

\*\*\*\*\*

1. Declared its intent to utilize its authority under Public Contract Code Section 22031 to perform force account work; and
2. Approved use of County forces to perform a maximum of 30% of the total value of all work performed by force account, other than maintenance, in road construction and reconstruction as allowed under Public Contract Code Section 22031.

# Attachment A

## Assembly Bill No. 720

### CHAPTER 683

An act to amend Sections 22031, 22032, and 22034 of the Public Contract Code, relating to public contracts.

[Approved by Governor October 9, 2011. Filed with  
Secretary of State October 9, 2011.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 720, Hall. Public contracts: uniform construction cost accounting provisions: alternative procedures.

Existing law establishes procedures for local public agencies to follow when engaged in public works projects, and authorizes agencies to elect to become subject to uniform construction cost accounting provisions. Existing law specifies that a board of supervisors or a county road commissioner is not prohibited by those provisions from utilizing, as an alternative, other procedures governing county highway contracts.

This bill would revise the above provision that specifies that a board of supervisors or a county road commissioner is not prohibited from using alternative procedures governing county highway contracts to limit the use of those alternative procedures on or after January 1, 2013, to maintenance and emergency work and new road construction and road reconstruction, as provided. The bill would permit counties with a population of less than 50,000, on or after January 1, 2013, to continue to utilize alternative procedures for county highway contracts.

Existing law authorizes public projects of \$30,000 or less to be performed by the employees of the public agency by force account, negotiated contract, or purchase order.

This bill would increase the amount for which public projects are authorized to be performed by the employees of the public agency, as specified above, to \$45,000.

Existing law also authorizes public projects of \$125,000 or less to be let to contract by informal procedures, as specified, and requires public projects of more than \$125,000 to be let to contract by formal bidding procedure, except as provided.

This bill would increase the above limits from \$125,000 to \$175,000.

Existing law governing public contracts establishes procedures that public agencies, as defined, are required to follow when performing public works projects, and authorizes the governing board of the public agency to adopt a resolution, by a 4/5 vote, to award the contract at \$137,500 or less to the lowest responsible bidder when all informal bids on the public works project are in excess of \$125,000.

This bill would increase the above limits from \$125,000 to \$175,000, and from \$137,500 to \$187,500, respectively.

*The people of the State of California do enact as follows:*

SECTION 1. Section 22031 of the Public Contract Code is amended to read:

22031. (a) Prior to January 1, 2013, this article shall not prohibit a board of supervisors or a county road commissioner from utilizing, as an alternative to the procedures set forth in this article, the procedures set forth in Article 25 (commencing with Section 20390) of Chapter 1.

(b) On or after January 1, 2013, this article shall not prohibit a board of supervisors or a county road commissioner from utilizing, as an alternative to the procedures set forth in this article, the procedures set forth in Article 25 (commencing with Section 20390) of Chapter 1 for both of the following:

(1) Maintenance and emergency work.

(2) New road construction and road reconstruction as long as the total annual value of the new road construction and the road reconstruction performed under the procedures set forth in subdivision (c) of Section 20395 does not exceed 30 percent of the total value of all work performed by force account other than maintenance as reported in the Controller's Streets and Roads Annual Report as of January 1 of each year.

(c) On or after January 1, 2013, for a county with a population of less than 50,000, this article shall not prohibit a board of supervisors or a county road commissioner from utilizing, as an alternative to the procedures set forth in this article, the procedures set forth in Article 25 (commencing with Section 20390) of Chapter 1.

(d) The requirements set forth in Section 22038 shall apply to any county subject to this section.

(e) Any county board of supervisors or county road commissioner acting pursuant to the authority granted in paragraph (2) of subdivision (b) shall declare its intention to use this authority prior to commencing work.

SEC. 2. Section 22032 of the Public Contract Code is amended to read:

22032. (a) Public projects of forty-five thousand dollars (\$45,000) or less may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order.

(b) Public projects of one hundred seventy-five thousand dollars (\$175,000) or less may be let to contract by informal procedures as set forth in this article.

(c) Public projects of more than one hundred seventy-five thousand dollars (\$175,000) shall, except as otherwise provided in this article, be let to contract by formal bidding procedure.

SEC. 3. Section 22034 of the Public Contract Code is amended to read:

22034. Each public agency that elects to become subject to the uniform construction accounting procedures set forth in Article 2 (commencing with Section 22010) shall enact an informal bidding ordinance to govern the

selection of contractors to perform public projects pursuant to subdivision (b) of Section 22032. The ordinance shall include all of the following:

(a) The public agency shall maintain a list of qualified contractors, identified according to categories of work. Minimum criteria for development and maintenance of the contractors list shall be determined by the commission.

(b) All contractors on the list for the category of work being bid or all construction trade journals specified in Section 22036, or both all contractors on the list for the category of work being bid and all construction trade journals specified in Section 22036, shall be mailed a notice inviting informal bids unless the product or service is proprietary.

(c) All mailing of notices to contractors and construction trade journals pursuant to subdivision (b) shall be completed not less than 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 state the time and place for the submission of bids.

(e) The governing body of the public agency may delegate the authority to award informal contracts to the public works director, general manager, purchasing agent, or other appropriate person.

(f) If all bids received are in excess of one hundred seventy-five thousand dollars (\$175,000), the governing body of the public agency may, by adoption of a resolution by a four-fifths vote, award the contract, at one hundred eighty-seven thousand five hundred dollars (\$187,500) or less, to the lowest responsible bidder, if it determines the cost estimate of the public agency was reasonable.