

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: October 5, 2021	TYPE OF AGENDA ITEM: <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Timed <input type="checkbox"/> Consent
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DEPARTMENT: County Counsel
APPROVING PARTY: David Prentice
PHONE NUMBER: 559-500-1600

AGENDA ITEM: Introduce and waive first reading of an ordinance adding Subsection F to Section 5.04.140 of Chapter 5.04 of the Sierra County Code pertaining to Formal Bid Procedures, adding Formal Bid Protest Procedures.

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other
Proposed Ordinance

BACKGROUND INFORMATION:

FUNDING SOURCE:
GENERAL FUND IMPACT: No General Fund Impact
OTHER FUND:
AMOUNT: \$ N/A

ARE ADDITIONAL PERSONNEL REQUIRED?

 Yes, -- --
 No

IS THIS ITEM ALLOCATED IN THE BUDGET? Yes No

IS A BUDGET TRANSFER REQUIRED? Yes No

SPACE BELOW FOR CLERK'S USE

<p>BOARD ACTION:</p> <input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken	<input type="checkbox"/> Set public hearing For: _____ <input type="checkbox"/> Direction to: _____ <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Continued to: _____ <input type="checkbox"/> Authorization given to: _____	Resolution 2021- _____ Agreement 2021- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus
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COMMENTS:

CLERK TO THE BOARD

DATE

BOARD OF SUPERVISORS, COUNTY OF SIERRA, STATE OF CALIFORNIA

ORDINANCE No. _____

**Adding Subsection F to Section 5.04.140 of Chapter 5.04 of the Sierra County Code
Pertaining to Formal Bid Procedures, Adding Formal Bid Protest Procedures**

THE BOARD OF SUPERVISORS OF THE COUNTY OF SIERRA DO ORDAIN as follows:

Ordinance Section One: Chapter 5.04 of the Sierra County Code is amended to add Subsection F to Section 5.04.140.

F. Formal Bid Protest Procedures.

1. *Bid Protest.* A bid protest may be filed to protest any bid submitted pursuant to Sierra County Code section 5.04.140 (formal bid procedures). Such protests must be timely filed with the County Clerk. All bid protests must be in writing and received by County Clerk before 5:00 p.m. no later than five working days following bid opening (the “Bid Protest Deadline”). For purposes of this Section a “working day” means a day that County is open for normal business, and excludes weekends and holidays observed by County. The County Clerk shall transmit a copy of the timely filed bid protest to the issuing department.
2. *General.* Only a bidder who has actually submitted a timely Bid Proposal is eligible to submit a bid protest against another bidder. Subcontractors are not eligible to submit bid protests. A bidder may not rely on the bid protest submitted by another bidder, but must timely pursue its own protest. If required, the protesting bidder must submit a non-refundable fee in the amount of five hundred dollars (\$500.00) based upon reasonable costs to administer the bid protest. Any such fee must be submitted to the County Clerk no later than the Bid Protest Deadline, unless otherwise specified.
3. *Protest Contents.* The bid protest must contain a complete statement of the basis for the protest, all supporting documentation and a statement of compliance with Section 4-Copy to Protested Bidder. Material submitted after the Bid Protest Deadline will not be considered. The protest must refer to the specific portion or portions of the Contract Documents upon which the protest is based. The protest must include the name, address, email address, and telephone number of the person representing the protesting bidder if different from the protesting bidder. Incomplete bid protests will be rejected unless corrected before the Bid Protest Deadline.
4. *Copy to Protested Bidder.* A copy of the protest and all supporting documents must be concurrently transmitted by fax or by email, by or before the Bid Protest Deadline, to all submitting bidders in addition to the protested bidder.
5. *Response to Protest.* The protested bidder may submit a written response to the protest provided the response is received by County before 5:00 p.m., within five working days after the Bid Protest Deadline or after actual receipt of the bid protest, whichever is sooner (the “Response Deadline”). The response must include all supporting documentation. Material submitted after the Response Deadline will not be considered. The response must include the name, address, email address, and telephone number of the person representing the protested bidder if different from the protested bidder.

6. *Protesting Bidder.* A copy of the response and all supporting documents must be concurrently transmitted by fax or by email, by or before the Bid Response Deadline, to all bidders in addition to the protesting bidder.
7. *Exclusive Remedy.* The procedure and time limits set forth in this section are mandatory and constitute the sole and exclusive remedy for alleged bidding irregularities and alleged failure of qualification of a bidding party. A bidding party's failure to comply with these procedures will constitute a waiver of any right to further pursue a bid protest, including filing a Government Code Claim or initiation of legal proceedings to challenge the award of a bid.
8. *Hearing.* The Board of Supervisors shall conduct a hearing at a regular or special meeting of the Board within 20 days of receipt of the bid protest by the County Clerk and shall issue a ruling within 5 days of the hearing regarding said bid protest.
9. *Right to Award.* The Board of Supervisors reserves the right to award the Contract to the bidder it has determined to be the responsible bidder submitting the lowest responsive bid, and to issue a "notice to award" following the hearing conducted pursuant to Section 8, notwithstanding any pending or continuing challenge to its determination. The Board shall refer to the relevant department following the hearing for further procedures.
10. *Bid Package.* The procedure established in this section shall be a prominent part of the bid package issued by the County of Sierra on all formal bidding projects.

Ordinance Section Two:

This ordinance shall take effect thirty (30) days after its passage. Before the expiration of fifteen (15) days after passage of this ordinance, it shall be published once with the names of the members of the Board of Supervisors, voting for and against the ordinance in the Mountain Messenger, a newspaper of general circulation published in the County of Sierra, State of California.

Introduced at a regular meeting of the Board of Supervisors held on the 5th day of October 2021, and passed and adopted by the Board of Supervisors of the County of Sierra, State of California, on the ___ day of _____ 2021, by the following roll call vote, to wit:

AYES:
 NOES:
 ABSTAIN:
 ABSENT:

 Lee Adams
 Chair, Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

 Heather Foster
 Clerk of the Board

 David Prentice
 County Counsel