

ORDINANCE NO. 19-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN
REPEALING THE CITY'S PUBLIC CONTRACTS ORDINANCE CONTAINED
IN CHAPTER 36, AND ADDING A NEW CHAPTER 36 TO THE AUBURN
MUNICIPAL CODE ADOPTING A STREAMLINED PROCEDURE FOR
PUBLIC PROJECT CONTRACTING

**THE CITY COUNCIL OF THE CITY OF AUBURN DOES ORDAIN AS
FOLLOWS:**

Section One: Code Adoption. Chapter 36 of the Auburn Municipal Code entitled "Public Contracts" is hereby repealed and replaced in its entirety, to be numbered, entitled, and to read as set forth in the attached Exhibit "A".

Section Two: California Environmental Quality Act. The City Council has considered all of the evidence in the record, including the staff reports, the testimony received during the meeting on the matter held by the City Council, and hereby determines that that the adoption of this Ordinance will not have a significant effect on the environment. This Ordinance is therefore exempt from California Environmental Quality Act (CEQA) review pursuant to Title 14, Section 15061(b)(3) of the California Code of Regulations. If this Ordinance is found subject to CEQA, it is categorically exempt therefrom pursuant to Title 14, Section 15305 of the California Code of Regulations (Minor Alterations in Land Use Limitations).

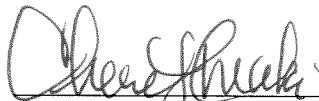
Section Three: Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the


remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance or the rules adopted hereby. The City Council of the City of Auburn hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section Four: Inconsistent Provisions. Any provision of the Auburn Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to implement the provisions of this Ordinance.

Section Five: Publication and Effective Date. This ordinance shall take effect 30 days after final adoption. The City Clerk shall certify to the passage and adoption of this Ordinance and shall give notice of its adoption as required by law. Pursuant to Government Code section 36933, a summary of this Ordinance may be published and posted in lieu of publication and posting of the entire text.

DATED: January 14, 2019



Bridget Powers, Mayor


ATTEST:



Amy Lind, City Clerk

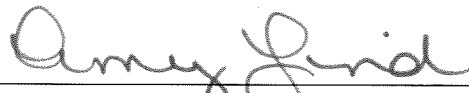
I, Amy Lind, City Clerk of the City of Auburn, hereby certify that the foregoing ordinance was duly passed at a regular meeting of the City Council of the City of Auburn held on the 14th day of January 2019 by the following vote on roll call:

Ayes: Amara, Berlant, Kirby, Spokely, Maki

Noes:

Absent:

Abstain:



Amy Lind, City Clerk

EXHIBIT "A"

CHAPTER 36: PUBLIC CONTRACTS

Section:

- 36.01 – Public Projects; Uniform Construction Cost Accounting Act.
- 36.02 – Requirements for Contracting Public Projects.
- 36.03 – Informal Bids in Excess of Maximum
- 36.04 – Informal Bidding Regulations.
- 36.05 – Approval of Contracts Pursuant to Informal Bid Procedures.
- 36.06 – Formal Bidding Regulations.
- 36.07 – Rejecting All Bids.
- 36.08 – Emergencies.
- 36.09 – Change Orders.
- 36.10 – Prohibition Against Splitting Projects.

§ 36.01 PUBLIC PROJECTS; UNIFORM CONSTRUCTION COST ACCOUNTING ACT.

The City Council has adopted a resolution electing to make the city subject to the Uniform Public Construction Cost Accounting Act of the California Public Contract Code (commencing with § 22000) and has notified the State Controller of the election. Therefore, the City Council may utilize the alternative procedures for the award of public project bids authorized by the Public Contract Code (commencing with § 22030).

§ 36.02 REQUIREMENTS FOR CONTRACTING PUBLIC PROJECTS.

- (A) Public projects of \$60,000 or less, appropriations for which have been approved by the City Council, may be performed by the employees of the city or its agencies by force account, or by negotiated contract or purchase order approved by the City Manager.
- (B) Public projects of more than \$60,000 but less than or equal to \$200,000 may be let to contract by the informal bidding procedures set forth in this chapter.
- (C) Public projects of more than \$200,000 shall be let to contract by the formal bidding procedures set forth in this chapter.

The dollar thresholds in this section refer to the City's written estimate of the cost of any public project.

Contract	Force account/ negotiated contract/ purchase order	Contract	Bidding Procedure	Authorization required
\$60,000 or less	Required	N/A	None	City Manager/ Purchasing Agent
\$60,001 to \$200,000	N/A	Required	Informal bidding procedures	City Manager/ Purchasing Agent
\$200,001 or more	N/A	Required	Formal bidding procedure	City Council
Up to \$200,000 in Emergency	N/A	N/A	None	City Manager
Any Amount in emergency	N/A	N/A	None	City Council

Note: The above matrix is intended to summarize the requirements of this chapter and not to change them. If the matrix contradicts the text of this chapter in any respect, the language of the chapter shall prevail.

§ 36.03 INFORMAL BIDS IN EXCESS OF MAXIMUM

Pursuant to Public Contract Code § 22034, if informal bidding procedures are used, but all bids received are in excess of \$200,000, the City Council may, by adoption of a resolution by a four-fifths vote, award the contract, at \$212,500 or less, to the lowest responsible bidder, if it determines the cost estimate of the City was reasonable.

§ 36.04 INFORMAL BIDDING REGULATIONS

Pursuant to Public Contract Code § 22034, when utilizing the alternative procedures authorized by § 36.02, the following provisions shall apply to public projects for which formal bidding procedures are not required:

- (A) The Department of Public Works shall maintain a list of qualified contractors, identified according to categories of work. This list shall be developed and maintained in accordance with criteria established for such lists by the California Uniform Construction Cost Accounting Commission and in accordance with the provisions of Public Contract Code § 22034;
- (B) Each contractor on the list for the category of work being bid, and/or the current California construction trade journals for this area specified by the California Uniform Construction Cost Accounting Commission to receive mailed notices of all informal construction contracts being bid for work in Placer County, as determined by the Department of Public Works, shall be mailed, faxed, or emailed a notice inviting informal bids unless the product or service is proprietary;
- (C) All mailing, faxing, or emailing of notices to contractors and construction trade journals, as determined above, shall be completed not less than 10 calendar days before bids would be due pursuant to the notice;
- (D) Each notice inviting informal bids shall describe the project in general terms, state how to obtain more information about the project, and specify the time and place for submission of bids; and
- (E) Each informal bid shall be reviewed and approved by the Director of Public Works.

§ 36.05 APPROVAL OF CONTRACTS PURSUANT TO INFORMAL BID PROCEDURES

Unless otherwise determined by the City Council for any individual contract to be awarded, the City Manager may approve the award of a contract by informal bidding procedures, upon the recommendation of the Director of Public Works, and subject to approval as to the form of the contract by the City Attorney. The determination of the City Manager to award a contract by informal bidding procedures shall be final.

In awarding the contracts, the City Manager shall exercise prudent judgement in determining the lowest responsible bidder, taking into account the public's interest in efficiency and economy in the award of the contracts and giving due consideration to fairness and equity to

competing bidders. If the City Council determines that the City Manager should not have authority to award any given contract by informal bidding procedures, the City Council shall award the contract at its discretion upon recommendation of the City Manager, and by applying the criteria for determining the lowest responsible bidder.

§ 36.06 FORMAL BIDDING REGULATIONS AND AWARD OF CONTRACT

Pursuant to Public Contract Code § 22037, the following provisions shall apply to public projects for which formal bidding procedures are required:

- (A) The City shall publish a notice inviting formal bids for public projects at least 14 calendar days before the bid opening date in a newspaper of general circulation in the City. The notice shall distinctly describe the project to be done, how to obtain more detailed information about the project, and state the time and place for receiving and opening of bids;
- (B) The Director of Public Works shall send notice inviting formal bids electronically, if available, by either fax or email and by mail to all construction trade journals specified by the California Uniform Construction Cost Accounting Commission to receive mailed notices of all formal construction contracts being bid for work in Placer County. The notice shall be sent at least 14 calendar days before the date of opening bids;
- (C) The City may also give any other notice as it deems proper.
- (D) The City Council shall approve the award of a contract subject to formal bidding procedures

§ 36.07 REJECTING ALL BIDS

Pursuant to Public Contract Code § 22038, the City Council or Director of Public Works may, in their discretion, reject any bids presented if, prior to rejecting all bids and declaring that the project can be more economically performed by the employees of the City, the Director furnishes a written notice to the apparent low bidder at least two business days prior to the hearing at which the City intends to reject the bid. After reevaluating cost estimates of the project, the City Council or the Director of Public Works may then:

- (A) Abandon the project;
- (B) Re-advertise for bids; or
- (C) By passage of a resolution by a four-fifths vote of the City Council declaring that the project can be performed more

economically by employees of the public agency, have the project done by force account without further compliance with this article.

§ 36.08 EMERGENCIES

- (A) Notwithstanding any provision in § 36.09 of this chapter to the contrary, in cases of emergency when repair or replacements are necessary, the City Council by a four-fifths vote may proceed at once to repair or replace 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 City Council, by contractor, or by a combination of the two. The City Council may take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.
- (B) To act under § 36.08(A), the City Council must proceed pursuant to a four-fifths vote based on a finding of substantial evidence that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency.
- (C) In the event the City Council is unavailable pursuant to § 36.08(A) or a meeting is impracticable under the circumstances, in cases of emergency when repair or replacements are necessary, the City Manager may proceed at once to repair or replace 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 City Manager, by contractor, or by a combination of the two. The City Manager may take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts. The City Manager may contract under this subsection in an amount not to exceed \$200,000.
- (D) If the City Manager acts under § 36.08(C), he or she shall report the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency to the City Council at the next Council meeting.
- (E) If the City Council or the City Manager act pursuant to this section, the City Council shall review the emergency action at every regularly scheduled meeting thereafter until the action is

terminated to determine, by a four-fifths vote, that there is a need to continue the action.

- (F) For purposes of this section, "emergency" means "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."

§ 36.09 CHANGE ORDERS

- (A) No change in agreement or contract shall be made without the issuance of a written change order or amendment and no payment for any change shall be made unless a written change order or amendment has first been approved and executed in accordance with this section designating in advance the work to be done and the amount of additional compensation to be paid.
- (B) Provided the funding for a public project contract has been previously approved and the expenditure of funds authorized by the City Council, the City Manager shall have the authority to execute change orders or amendments for any contract in an amount not to exceed 15% of the original price, subject to approval as to the form of the amendment by the City Attorney.

§ 36.10 PROHIBITION AGAINST SPLITTING PROJECTS

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.