

ORDINANCE NO. 2020-17

AN ORDINANCE OF THE CITY COUNCIL OF  
THE CITY OF ESCONDIDO, CALIFORNIA,  
AMENDING ARTICLES 1,5 AND 6 OF CHAPTER  
10 OF THE ESCONDIDO MUNICIPAL CODE  
RELATED TO THE PROCUREMENT OF  
GOODS, SERVICES, AND PUBLIC PROJECTS

The City Council of the City of Escondido, California, DOES HEREBY ORDAIN as follows:

SECTION 1. That Articles 1, 5 and 6 of Chapter 10 of the Escondido Municipal Code are amended as set forth in Exhibit "A" to this Ordinance and incorporated herein by this reference as though fully set forth herein.

SECTION 2. SEPARABILITY. If any section, subsection sentence, clause, phrase or portion of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 3. That as of the effective date of this Ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. That the City Clerk is hereby directed to certify to the passage of this Ordinance and to cause the same or a summary to be prepared in accordance with Government Code section 36933, to be published one time within 15 days of its passage in a newspaper of general circulation, printed and published in the County and circulated in the City of Escondido.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Escondido at a regular meeting thereof this 12<sup>th</sup> day of August, 2020 by the following vote to wit:

AYES : Councilmembers: DIAZ, MARTINEZ, MORASCO, MCNAMARA

NOES : Councilmembers: NONE

VACANT : Councilmembers: DISTRICT 2

APPROVED:

DocuSigned by:  
*Paul McNamara*  
CAACE20782954D3...  
PAUL MCNAMARA, Mayor of the  
City of Escondido, California

ATTEST:

DocuSigned by:  
*Zack Beck*  
A58535D0BDC1430...  
ZACK BECK, City Clerk of the  
City of Escondido, California

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STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO : ss.  
CITY OF ESCONDIDO )

I, Zack Beck, City Clerk of the City of Escondido, hereby certify that the foregoing ORDINANCE NO. 2020-17 passed at a regular meeting of the City Council of the City of Escondido held on the 12<sup>th</sup> day of August, 2020, after having been read at the regular meeting of said City Council held on the 15<sup>th</sup> day of July, 2020.

DocuSigned by:  
*Zack Beck*  
A58535D0BDC1430...  
ZACK BECK, City Clerk of the  
City of Escondido, California

ORDINANCE NO. 2020-17

**ARTICLE 1 In general****Sec. 10-8 Purchases funded by grants.**

Any contract partially or fully funded through state, federal or private grants shall strictly comply with the procurement procedures established by the procurement articles set forth in this chapter, those purchasing rules and regulations set forth in the applicable grant agreements, and any other applicable state and federal regulations if not addressed by this chapter. If a conflict exists between a federal, state, or local procurement standards, the more restrictive procurement standard shall prevail.

**Sec. 10-9 Code of conduct.**

No employee or official shall participate in the selection, award, or administration of a contract if this person has a real or apparent conflict of interest as established in the Code of Federal Regulations section 200.318(c)(1).

**Sec. 10-10 Debarment and suspension.**

No contract shall be made with parties listed on the government-wide Excluded Parties List System (EPLS) in the System for Award Management (SAM). The EPLS in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority.

**Sec. 10-11– 10-13 Reserved****ARTICLE 5 Purchasing of Goods and Services****Division 1. Generally****Sec. 10-78 Purchasing system.**

The centralized purchasing system set forth in this chapter is adopted to further California Government Code section 54202. Its purpose is to establish efficient procedures outlining the purchase of goods and services; to secure these goods and services at the lowest possible cost commensurate with the quality needed; to exercise both financial and quality control; and to clearly define authority for the various purchasing functions.

**Sec. 10-79 Centralized purchasing division.**

The city manager shall establish a centralized purchasing division that shall have authority to purchase goods and services.

**Sec. 10-80 Emergencies and exigency.**

In the case of public exigency or an emergency as defined in section 8558 of the California Government Code, the city may dispense with competitive procurement for the purchase of goods

and services for the duration of the exigency or emergency. The purchase may be made under the direction of the city council or city manager. The city manager is empowered to declare an emergency or public exigency pursuant to chapter 7 of this Code.

**Sec. 10-81 City attorney to approve expenditure contracts and forms.**

All contracts executed pursuant to this chapter shall be subject as to approval to form by the city attorney.

**Sec. 10-82 Purchasing officer defined.**

As used in this chapter, "purchasing officer" shall mean the person appointed by the city manager. In the absence of such an appointment, the functions of the purchasing officer shall be performed by the city manager or his or her designee. The purchasing officer shall have general supervision of the purchasing division set forth in this chapter. The duties of the purchasing officer may be combined with those of any other office or position.

**Sec. 10-83 Duties of the purchasing officer.**

The purchasing officer shall have authority to perform the following duties:

- (a) Purchase or contract for goods and services required by any department in accordance with purchasing procedures prescribed by this chapter, administrative regulations as adopted by the purchasing officer, and all other rules and regulations as prescribed by the city manager;
- (b) Negotiate and recommend execution of contracts for the purchase of goods and services;
- (c) Procure goods and services as needed by the city at the least expense to the city while meeting required standards of quality;
- (d) Obtain fair and open competition on all purchases;
- (e) Prepare and recommend rules governing the purchase of goods and services to the city manager for city council action;
- (f) Prepare revisions and amendments to the purchasing rules, and recommend the same to the city manager for city council action;
- (g) Keep informed of current developments in the realm of purchasing, prices, market conditions, and new products;
- (h) Utilize and maintain such forms as are reasonably necessary to the operation of this chapter and other rules and regulations;
- (i) Supervise and inspect goods and services purchased to ensure conformance with specifications;
- (j) Recommend to the city manager the transfer of surplus or unused supplies and equipment between departments, and the sale of surplus city property;
- (k) Maintain a bidders' list, vendors' list, catalog file, and records needed for the

efficient operation of the purchasing system;

- (l) Prepare specifications for goods and services for the city in consultation with affected departments; and
- (m) Such other responsibilities deemed appropriate by the city council or city manager.

**Sec. 10-84 Purchasing officer's authority to make inspections and conduct tests.**

The purchasing officer, or his or her designee, shall be responsible for the inspection of delivered goods to conform with purchase order specifications. The purchasing officer shall have authority to require chemical and physical tests of samples submitted with the bids, and samples of deliveries, whenever necessary to determine quality and conformance with specifications.

**Sec. 10-85 Performance bonds.**

Before entering into a contract, the city shall have authority to require a performance bond in such amount as it shall find reasonably necessary to protect the best interests of the city. If the city requires a performance bond, the form and amount of the bond shall be described in the notice inviting bids.

**Sec. 10-86 Local purchases.**

The city receives from the state one percent (1%) sales tax revenue of all sales within the city. Therefore, a one percent (1%) credit on quotes or bids shall be allowed to vendors in the City of Escondido supplying goods that have submitted proof of sales tax remittance within the city limits, except when prohibited by state or federal rules and laws.

**Sec. 10-87 Appropriations of funds.**

Except in cases of emergency, exigency, or in cases where specific authority has been first obtained from the city council, the purchasing officer shall not issue a purchase order for goods or services unless there exists a budget appropriation in the affected department's budget.

**Sec. 10-88 Requisitions.**

Departments shall submit requests for goods or services to the purchasing officer by standard requisitions or by other means established by the purchasing rules and regulations.

**Sec. 10-89 Purchase orders.**

Purchases of goods or services may be processed by purchase orders. Except as otherwise provided in this chapter, no purchase order may be issued unless prior approval by the purchasing officer has been obtained. Except in the case of a declared emergency or exigency, no purchase shall be valid and binding against the city without an accompanying contract or purchase order.

**Sec. 10-90 Splitting of purchase orders.**

The splitting or separating of any purchase or contract into smaller orders or projects to avoid compliance with this chapter is strictly prohibited.

**Sec. 10-91 Cooperative purchasing.**

The purchasing officer may authorize purchases of goods or services with cooperative purchasing programs conducted by the state, county, or any other public or cooperative agency when such agency has processed these cooperative purchases competitively. Cooperative purchases must be authorized in advance by the purchasing officer.

**Sec. 10-92 Compliance required; effect of noncompliance.**

No obligation for the payment of goods or services shall be incurred by the city except as prescribed by this chapter. Any agreement for the purchase or lease of goods or services made contrary to the provisions of this chapter, and any demand against the same shall be invalid.

**Sec. 10-93 Petty cash.**

Petty cash may be used to purchase supplies without a purchase order for amounts of less than fifty dollars (\$50.00). With the authorization by the purchasing officer, petty cash may be used to reimburse employees when their own funds are used to purchase miscellaneous supplies.

**Sec. 10-94 Leasing of equipment.**

The purchasing officer may negotiate leasing contracts when leasing of equipment is considered to be the best contracting option for the city. If feasible, the award shall be based upon at least three written proposals and shall be awarded to the most responsible vendor whose proposal is responsive and is determined to be most advantageous to the city, taking into consideration price and the evaluation criteria set forth in the request for proposal. The city may negotiate with one or more of the vendors for final contract award based on best value to the city. Best value means the same as used in Sec.10-98 of this article.

**Sec. 10-95 Disabled veteran business enterprise.**

The purchasing officer shall purchase goods from a state-certified disabled veteran business enterprise whenever possible, except when prohibited by state or federal rules and laws. A two percent (2%) credit on the bid price shall be allowed to vendors that have submitted proof of state certification of a disabled veteran business enterprise.

**Sec. 10-96 Authorizations to purchase goods and services.**

- (a) Authorization and responsibility for the purchase of goods or services shall be by the following parties, once all insurance requirements are met and agreements have been approved to form by the city attorney:
  - (1) The city council shall approve contracts for amounts over two hundred thousand dollars (\$200,000.00).

- (2) The city manager may approve and execute contracts up to a maximum amount of two hundred thousand dollars (\$200,000.00).
  - (3) Department heads may approve and execute contracts up to a maximum amount of seventy-five thousand dollars (\$75,000.00).
  - (4) Department head designee(s) by written authorization may approve and execute contracts up to a maximum amount of twenty-five thousand dollars (\$25,000.00).
- (b) Authorization for the purchase of goods or services shall be made on standard forms approved in advance for such purpose, or on other forms with the approval of the city attorney.
  - (c) The city attorney shall be the awarding authority for the procurement of legal services, regardless of the dollar amount, up to the amount of appropriations available.

**Sec. 10-97 Amendments.**

- (a) No change to an agreement or a contract shall be made without the issuance of a written amendment. Also, no payment for any such change shall be made unless a written 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) The authorized purchaser shall have the authority to execute amendments within the authority granted by section 10-96, provided the total amount as revised is no greater than ten percent (10%) of the upper limit of that authority.
- (c) If the funding for an agreement or a contract has been previously approved and the expenditure of such funds has been authorized by the city council, the city manager shall have the authority to execute amendments for any such contract or agreement as follows:
  - (1) Amendments to all contracts or agreements in an amount not to exceed twenty-five percent (25%) of the original price, which may exceed the city manager's authorization set forth in section 10-96.
  - (2) The city council may by resolution authorize the city manager to approve amendments in excess of twenty-five percent (25%) to an amount determined appropriate for such agreement or contract by the city council.
- (d) Amendments to an agreement or contract not addressed by subsections (a), (b), and (c) above shall be approved by the city council.

**Sec. 10-98 Competitive negotiated procurement.**

- (a) The purchasing officer may authorize the use of competitive, negotiated procurement procedures for the purchase of specialized goods or services, or both

goods and services including, but not limited to, the purchase of technology-related services or goods.

(b) The competitive negotiated procurement procedures are as follows:

- (1) A request for proposals is submitted to at least three (3) vendors or contractors which must include the evaluation criteria to be used for selection of the successful vendor or contractor; and
- (2) Written proposals are submitted based upon the proposed goods or services, qualifications, price, and other relevant criteria; and
- (3) The purchasing officer may select the proposal or proposals that provide the best value to the city. Best value means the most advantageous offer determined by evaluating and comparing all relevant criteria in addition to price so that the offer meeting the overall combination that best serves the city is selected. These criteria may include, in addition to others, the total cost of ownership, performance history of the vendor or contractor, quality of goods, delivery, and proposed technical performance; and
- (4) The city may negotiate with one or more of the vendors or contractors for final contract award based on the best value to the city.

**Sec. 10-99     Reserved**

**Division 2. Procurement of Goods**

**Sec. 10-100    Small purchase procedures.**

(a) The small purchase procedures may be used when:

- (1) The estimated value of the goods is between ten thousand dollars (\$10,000) and two hundred thousand dollars (\$200,000); or
- (2) When, in the course of the formal bid procedure, no bids are received or all bids received substantially exceed the city's cost estimate for the purchase.

(b) The small purchase procedures shall be as follows:

- (1) At least three (3) written quotes or bids from prospective vendors for the purchase must be obtained.
- (2) The purchasing officer shall keep a public record of all informal bid requests and bids for one (1) year after the submission of the bids or, if no bids are received, after the placing of the orders.
- (3) Purchases shall be awarded to a responsible vendor who submits the lowest responsive quote or bid.



(4) The purchasing officer or his or her designee shall complete the purchase.

**Sec. 10-101 Formal procurement procedures.**

Except as otherwise provided in this chapter, purchases of goods of an estimated value greater than two hundred thousand dollars (\$200,000.00) shall be by written contract with the lowest responsible bidder who submits a responsive bid. The formal bidding procedures are as follows:

- (a) Notices inviting for sealed bids shall be published at least once, fourteen (14) days before the date of opening of the bids, in a newspaper of general circulation in the city, printed and published in the county. Notices inviting bids shall include: a general description of the articles to be purchased; where bid forms and specifications may be obtained; any required bidder's security; and the time and place for the opening of bids.
- (b) Where possible the purchasing officer shall also solicit sealed bids from all responsible prospective bidders from the bidders list maintained by the city or as known to the purchasing officer. Minimum criteria for development and maintenance of the bidders list shall be determined pursuant to the Uniform Public Construction Cost Accounting Commission and state law.
- (c) When deemed necessary by the purchasing officer, bidder's security may be prescribed in the public notices inviting bids. Bidders shall be entitled to the return of the bid security, however, a successful bidder may forfeit his or her bid security upon his or her refusal or failure to execute the contract within twenty (20) days after the notice of award of contract has been mailed, or as otherwise specified in the bid documents, unless the city is solely responsible for the delay in executing the contract.
- (d) Sealed bids shall be submitted to the purchasing officer and shall be so identified on the envelope. Bids shall be opened in public at the time and place stated in the public notices inviting the bids. A tabulation of all bids received shall be available for public inspection during regular business hours for a period of no less than thirty (30) calendar days after the bid opening.
- (e) In its sole discretion, the city council may reject any and all bids presented and re-advertise for bids. Such rejections shall not give rise to a claim for bid preparation costs and submission of bids pursuant to this article shall constitute the bidder's agreement to this waiver.
- (f) If no bids are received, or that all bids received substantially exceed the city estimate of cost for the purchase, the city council may reject all bids and direct that the city proceed pursuant to the terms of section 10-102.
- (g) If two (2) or more bids received are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay of re-advertising for bids, the purchasing officer may in his or her discretion accept either bid. The purchasing officer may also negotiate with the tie bidders and accept the lowest bid.
- (h) The city may require a performance bond before entering a contract in such amount

as it finds reasonably necessary to protect the best interests of the city. If the city requires a performance bond, the form and amount of the bond shall be described in the notice inviting bids or proposals.

- (i) The definition of a responsible bidder includes, but is not limited to, a bidder who has the capability in all respects to fully perform the bid requirements, including the integrity, reliability, and references that will ensure good faith performance to the city. The determination of whether a bidder is a responsible bidder is left to the sole discretion of the city.
- (j) The definition of a responsive bidder includes, but is not limited to, a bidder who has submitted a bid that conforms in all material respects to the invitation for bids. The city council has the sole discretion to determine whether a bidder is responsive or whether to waive an immaterial deviation in a bid.
- (k) In the event a successful bidder fails to execute a contract:
  - (1) The city council or its designee may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder who submits a responsive bid.
  - (2) If the city council or its designee awards the contract to the next lowest bidder, the amount of the lowest bidder's security may be applied by the city to the contract price differential between the lowest bid and the second lowest bid, and the surplus, if any, may be returned to the lowest bidder.
  - (3) If the city council rejects all bids presented due to the failure of the successful bidder to execute the contract, and re-advertises, the amount of the lowest bidder's security may be used to offset the cost of receiving new bids, and the surplus, if any, may be returned to the lowest bidder.
- (l) In the event the city has a bid protest for purchase of items needing city council approval:
  - (1) Any bid protest for city purchases of supplies and equipment must be made in writing and submitted to the purchasing officer five (5) calendar days after the bid opening.
  - (2) The purchasing officer shall notify the city council of the facts and circumstances regarding the bid protest.
  - (3) The city council shall hear and determine the bid protest before the bid award. The city council may continue the matter to obtain additional information as the city council deems necessary, or may determine the final decision of the bid award.

#### **Sec. 10-102 Exceptions to small purchase and formal procurement procedures.**

The informal and formal procurement procedures required under this chapter shall not be necessary under the following circumstances:

- (a) When an emergency or exigency requires the goods as set forth in section 10-80; or
- (b) When the commodity or item is required to match or be compatible with other furnishings, materials or equipment presently on hand and is to be purchased from the supplier of such on-hand items; or
- (c) When a particular type or make of commodity or item, furnishings, type of material or equipment has been standardized for the city by order of the city manager; or
- (d) When the city manager has declared in writing a specific brand or a specialized piece of equipment is required to meet quality and performance criteria, and a substitute item would not meet or exceed the specified criteria. In such cases, the brand item or specialized piece of equipment may be considered a sole source; or
- (e) When the competitive negotiated procurement procedure in section 10-98 is used.

**Sec. 10-103 Goods not governed by this division.**

Purchases not subject to the provisions of this division 2 are as follows:

- (a) Transportation and freight charges;
- (b) Works of art, entertainment or performers;
- (c) Books and periodicals; and
- (d) Software licensing for existing software;

**Sec. 10-104 Recycled products.**

- (a) Specifications for goods may not require the use of products manufactured from virgin materials or exclude the use of recycled products, reusable products or products designed to be recycled unless it can be demonstrated to the purchasing officer that these products would not achieve a necessary performance standard.
- (b) Award of bids to the lowest bidder may not be required when recycled products are purchased. The city encourages the purchase of recycled content for goods. It may include post-consumer waste of the highest content possible.
- (c) The purchasing officer may encourage manufactures, distributors, and bidders to provide and use recycled products or products designed to be recycled. The city may participate in cooperative purchasing efforts with other government agencies buying recycled products.

**Sec. 10-105– 10-121 Reserved.**

**Division 3. Procurement of Services****Sec. 10-122 Procurement procedure for services.**

- (a) The procurement procedure for the purchase of services shall be as follows:
- (1) The purchasing officer shall solicit quotes or proposals by written request from prospective contractors.
  - (2) The purchasing officer shall keep a public record of all requests for one (1) year after the submission of the proposals or, if no proposals are received, the placing of the purchase orders.
  - (3) For purchases of services greater than \$10,000, if feasible, the contract award shall be made based upon at least three (3) written quotes or proposals to a responsible contractor, who submits the lowest responsive quote or proposal, or whose quote or proposal provides the best value to the City. Best value means the same as used in Sec. 10-98 of this article.
- (b) Nothing in this division shall be construed to authorize the purchase of services that would otherwise not comply with relevant state law or other legal authority.

**Sec. 10-123 Specialized professional services.**

- (d) The selection of specialized professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms shall be awarded based on demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required at a fair and reasonable price consistent with Government Code 4526.
- (e) Requests for proposals shall be used when the specialized services of professionals are needed. For services in excess of \$10,000, whenever possible, at least three (3) proposals shall be received for the specialized professional service needed. The purchasing officer may waive the requirements for solicitation of multiple proposals if only one (1) individual or firm can readily provide the specialized professional service or if services are entirely funded through reimbursement from a private party.
- (f) The award of the specialized service contract shall be made to the responsible bidder whose proposal is determined to be most advantageous to the city, taking into consideration not just the proposal price, but also the evaluation criteria set forth in the request for proposal.
- (g) In carrying out its procurement procedures, the city is specifically prohibited from any unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration, and city employees are specifically prohibited from

participating in the selection process if they have a relationship with a person or business entity seeking a contract that would subject those employees to the prohibition of Government Code section 87100 or a violation of any other law.

**Sec. 10-124 Exceptions to procurement procedures for services.**

The procurement procedures for services may be dispensed with when:

- (a) The services will be performed entirely by city forces at no cost;
- (b) The services are otherwise excepted from the procurement procedures pursuant to section 10-123 or state law;
- (c) When only one (1) individual or firm can provide the service;
- (d) The services are secured by the competitive negotiation procedures in section 10-98; or
- (e) An emergency or exigency requires the services as set forth in section 10-80.

**Sec. 10-125 Services not governed by this division.**

Purchases not subject to the provisions of this division 3 are as follows:

- (a) Real property purchases and related title and escrow fees;
- (b) Real property leases;
- (c) Procurement credit card purchases;
- (d) Transportation and freight charges when not specifically indicated on a purchase order;
- (e) Works of art, entertainment or performers;
- (f) Periodicals;
- (g) Insurance and bond premiums;
- (h) Advertising;
- (i) Membership dues, conventions, training, travel arrangements, including hotels, car rentals, and airfare;
- (j) Services provided by other governmental agencies, as authorized by Government Code section 54981 or other legal authority; and
- (k) Maintenance or upgrades to existing software purchased from the same contractor.

**Sec. 10-126 – 10-130 Reserved.**

## **ARTICLE 6     Public Projects**

### **Sec. 10-131     Adoption of the California Uniform Construction Cost Accounting Act.**

By adoption of Resolution 2007-10, the City of Escondido has elected to become subject to the bidding procedures set forth in the Uniform Construction Cost Accounting Act, found in California Public Contract Code (“PCC”) section 22000, et seq. (hereafter, the “Act”).

### **Sec. 10-132     Public projects.**

Contracts for public projects in the city shall be defined and governed by applicable state laws, including PCC section 20100, et seq., and the city’s adoption of the alternative provisions of the Act. Contracts for public projects shall be governed by the current edition of the Standard Specifications for Public Works Construction and the latest supplement thereto, except as otherwise provided by city council, the city manager, or in proposed contract documents.

### **Sec. 10-133     Authorizations for award of contracts.**

- (h) Authorization and responsibility for the award of contracts for public projects shall be by the following parties, once all insurance requirements are met, and agreements have been approved as to form by the city attorney:
  - (a) The city council shall approve public projects for amounts over two hundred thousand dollars (\$200,000.00).
  - (b) The city manager may approve and execute contracts for public projects up to a maximum amount of two hundred thousand dollars (\$200,000.00).
  - (c) Department heads may approve and execute contracts for public projects up to a maximum amount of seventy-five thousand dollars (\$75,000.00).
- (i) Authorization for the award of contracts for public projects shall be made on standard forms approved in advance for such purpose, or on other forms with the approval of the city attorney.

### **Sec. 10-134     Public projects under sixty thousand dollars.**

Public projects for amounts of sixty thousand dollars (\$60,000.00) or less may be awarded without using the informal or formal bid procedures. Such expenditures shall be made after obtaining written quotes to establish cost comparisons.

### **Sec. 10-135     Public project informal bid procedures.**

- (a) Public projects that are estimated to cost more than sixty thousand dollars (\$60,000.00) but no more than two hundred thousand dollars (\$200,000.00) shall be bid to contract by the informal procedures set forth in PCC section 22034, et seq., as amended.
- (b) Subject to the provisions of PCC section 22034, as amended, the city must comply

with the following requirements for such informal bidding procedures:

- (a) The city shall maintain a list of qualified contractors, identified according to categories of work. Minimum criteria for development and maintenance of the contractor's list shall be determined pursuant to the Uniform Public Construction Cost Accounting Commission and state law.
- (b) All contractors on the list for the category of work being bid shall be mailed a notice inviting informal bids, except when:
  - (i) There is no list of qualified contractors maintained by the city for the particular category of work to be performed, the notice inviting bids shall be sent to construction trade journal(s) as specified by the California Construction Cost Accounting Commission in accordance with section 22036 of the Act; and
  - (ii) The product or service is proprietary or so specialized in nature 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.
- (c) Additional contractors and/or construction trade journals may be notified at the city's discretion.
- (d) All mailing of notices to contractors shall be completed not less than ten (10) calendar days before bids are due.
- (e) The notice inviting informal bids shall describe the project in general terms, how to obtain more detailed information about the project, and the time and place for the submission of bids.
- (f) If all bids received are in excess of two hundred thousand dollars (\$200,000.00), the city council may by adoption of a resolution by a four-fifths (4/5) majority vote, award a contract, up to two hundred twelve thousand five hundred dollars (\$212,500.00) to the lowest responsible bidder, if the city council determines the city's cost estimate was reasonable.
- (c) Pursuant to the provisions of PCC section 22035, in case of emergency where repair or replacements are necessary, the city council may authorize the work to proceed on an emergency basis, and without giving notice for bids to let contracts. The procedure for declaration of an emergency must follow the provisions set forth in PCC section 22050.

**Sec. 10-136 Public project formal bid procedures.**

Public projects, as defined by the Act, which are estimated to be greater than two hundred thousand dollars (\$200,000.00) shall be let to contract by formal bid procedures as set forth by the Act and state law.

**Sec. 10-137 Design-build.**

The City Manager may authorize the use of design-build services for public projects as authorized by state law.

**Sec. 10-138 Change orders.**

- (a) No change in an agreement or a contract for a public project shall be made without the issuance of a written change order. Also, no payment for any such change shall be made unless a written change order 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) The authorized purchaser shall have the authority to execute change orders within the authority granted by section 10-96, provided the amount as revised is no greater than ten percent (10%) of the upper limit of that authority.
- (c) If the funding for an agreement or a contract has been previously approved and the expenditure of such funds authorized by the city council, the city manager shall have the authority to execute change orders to public project contracts in an amount equal to the contingency set at the time of the bid award, or ten percent (10%) of the original bid price, whichever is greater.

**Sec. 10-139 – 10-144 Reserved.**