

**ORDINANCE NO. 431**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARVIN, CALIFORNIA, AMENDING SUBSECTION 3.08.090(E) AND ADDING SUBSECTION 3.08.095(D) TO THE ARVIN MUNICIPAL CODE ADDRESSING WHEN NO BIDS OR RESPONSES TO REQUEST FOR PROPOSALS (RFPS) HAVE BEEN RECEIVED**

**WHEREAS**, the City Council adopted Arvin Municipal Code (AMC) Section 3.08.090 (Formal Contract Procedure - Purchases Over Thirty Thousand Dollars) in 1978 as was subsequently amended; and

**WHEREAS**, AMC Section 3.08.090 establishes the formal contract procedure for bidding on purchases over thirty thousand dollars; and

**WHEREAS**, on June 21, 2016, the City Council adopted Resolution No. 2016-33 (Resolution) confirming its desire in enacting and amending AMC Section 3.08.090 was to have a process consistent with the requirements of Public Contract Code Section 20166, in that no further formal bidding would be required if there were no bids received, and it was not the intent to mandate the formal bid process to either be repeated or the project abandoned if no bids were received; and

**WHEREAS**, the City Council also adopted Arvin Municipal Code Section 3.08.095 (Procurement of Professional Services) in 2015; and

**WHEREAS**, AMC Section 3.08.095 establishes a request for proposals (RFP) process for certain professional services over thirty thousand dollars; and

**WHEREAS**, the Resolution also clarifies the City Council's desire in enacting AMC Section 3.08.095 to be interpreted in light of state law that does not always require a formal competitive bidding, or even an RFP process for certain services, and it was not the intent to require the formal RFP process to be either repeated or halted when no responses to RFPs are received; and

**WHEREAS**, the City Council desires to ensure a transparent and efficient process for the City's purchasing system in a manner that will meet the City's purchasing needs consistent with state law and without unnecessary duplication; and

**WHEREAS**, the City Council now desires to codify its interpretations by clarifying AMC Sections 3.08.090 and 3.08.095, to avoid unnecessary delays when no bid responses or proposals have been received by the City.

**NOW, THEREFORE,** the City Council of the City of Arvin does ordain as follows:

**Section 1.** The Recitals set forth above are true and correct and incorporated herein.

**Section 2.** Subsection E of Section 3.08.090 of Chapter 3.08 of Title 3 of the Arvin Municipal Code is amended to read as follows:

**3.08.090 - Formal contract procedure—Purchases over thirty thousand dollars.**

...

E. Award of Contracts. Except as otherwise provided herein, orders or contracts shall be awarded by the city council to the lowest responsible bidder. Notwithstanding any other provision in this section, if no bids are received, orders or contracts may be awarded by the city council in its discretion without complying with any further bidding requirements of this section.

**Section 3.** Subsection D of Section 3.08.095 of Chapter 3.08 of Title 3 of the Arvin Municipal Code is added to read as follows:

**3.08.095 - Procurement of professional services**

...

D. If no proposals are received in response to the RFP after solicitation as required by this section, then this may serve as a presumption that no competitive advantage may be served by further solicitation of bids as it would either be impossible or not in the public interest. Upon such a determination by the city manager, or the city council for contracts in excess of thirty thousand dollars (\$30,000), no further solicitation of bids is required by this section.

**Section 4.** If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**Section 5.** The provisions of these Sections shall be liberally construed as necessary to effectively carry out its purposes, which are hereby found and declared to be in furtherance of the public health, safety and convenience.

**Section 6.** The City Clerk shall certify to the adoption of this Ordinance and cause it to be published, in accordance with Government Code, section 36933.

**Section 7.** This Ordinance shall become effective thirty (30) days from the adoption of this Ordinance.

I **HEREBY CERTIFY** that the foregoing Ordinance was introduced by the City Council after waiving reading, except by Title, at a regular meeting thereof held on the 19<sup>th</sup> day of July, 2016, and adopted the Ordinance after the second reading at a regular meeting held on the 16<sup>th</sup> day of August 2016, by the following roll call vote:

AYES: CM Ortiz, CM Robles, CM Gurrola, MPT Madrigal, Mayor Flores

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

**ATTEST:**



**CECILIA VELA, City Clerk**

**ARVIN CITY COUNCIL**

By: JOSE C FLORES  
**JOSE FLORES, Mayor**

APPROVED AS TO FORM:

By: SHANNON L. CHAFFIN  
**SHANNON L. CHAFFIN, City Attorney**  
Aleshire & Wynder, LLP

I, \_\_\_\_\_, City Clerk of the City of Arvin, California, DO **HEREBY CERTIFY** that the foregoing is a true and accurate copy of the Ordinance passed and adopted by the City Council of the City of Arvin on the date and by the vote indicated herein.