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(O-2006-93)

ORDINANCE NUMBER O- 19474 (NEW SERIES)

DATE OF FINAL PASSAGE MAR 27 2006

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO AT THE MUNICIPAL ELECTION CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON NOVEMBER 7, 2006, ONE PROPOSITION AMENDING THE CITY CHARTER BY ADDING SUBSECTION (C) TO ARTICLE VIII, SECTION 117, REGARDING THE USE OF MANAGED COMPETITION.

WHEREAS, pursuant to section 223 of the San Diego City Charter, section 3(b), article 11 of the California Constitution, and section 9255(a)(2) of the California Elections Code, the City Council has authority to place Charter amendments on the ballot to be considered at a Municipal Election; and

WHEREAS, by Ordinance No. O- 19519, adopted on JUL 18, 2006, the Council of the City of San Diego is calling a Municipal Election to be consolidated with the Statewide General Election on November 7, 2006, for the purpose of submitting to the qualified voters of the City one or more ballot propositions; and

WHEREAS, in an effort to improve City operations and provide necessary services to the citizens of San Diego, the City would like to have the ability to contract for services traditionally performed by City employees when it determines that contracting is more economical and efficient than using City employees, and that the service quality will be maintained, and that contracting for the service will not harm the public interest; and

WHEREAS, the contracting of services may allow the City to run in a more economical and efficient manner, while maintaining service quality, and protecting the public interest; and

WHEREAS, the City Council desires to submit to the voters at the Municipal Election one proposition amending the Charter of the City of San Diego by amending article VIII, section 117; and

WHEREAS, the City Council's proposal, on its own motion, of a charter amendment is governed by section 3(b), Article 11 of the California Constitution, section 9255(a)(2) of the California Elections Code, and section 34458 of the California Government Code, and is not subject to veto by the Mayor; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. One proposition amending City Charter article VIII, section 117 is hereby submitted to the qualified voters to be held on November 7, 2006, the proposition to read as follows:

PROPOSITION

Section 117: Unclassified and Classified Services

(c) The City may employ any independent contractor when the City Manager determines, subject to City Council approval, City services can be provided more economically and efficiently by an independent contractor than by persons employed in the Classified Service while maintaining service quality and protecting the public interest. The City Council shall by ordinance provide for appropriate policies and procedures to implement this subsection. Such ordinance shall include minimum contract standards and other measures to protect the quality and reliability of public services. A City department shall be provided with an opportunity and resources to develop efficiency and effectiveness improvements in their operations as part of the department's proposal. The City Manager shall establish the Managed Competition

Independent Review Board to advise the City Manager whether a City department's proposal or an independent contractor's proposal will provide the services to the City most economically and efficiently while maintaining service quality and protecting the public interest. The City Manager will appoint seven (7) members to the Board. Four (4) shall be private citizens whose appointments shall be subject to City Council confirmation. Each shall have professional experience in one or more of the following areas: finance, law, public administration, business management or the service areas under consideration by the City Manager. Three (3) shall be City staff including a City Manager staff designee, a City Council staff designee and the City Auditor and Comptroller or staff designee. Such appointees shall not have any personal or financial interests which would create conflict of interests with the duties of a Board member. Members of the Board shall be prohibited from entering into a contract or accepting employment from an organization which secures a City contract through the managed competition process for the duration of the contract. The City Council shall have the authority to accept or reject in its entirety any proposed agreement with an independent contractor submitted by the City Manager upon recommendation of the Managed Competition Independent Review Board. The City Manager shall have the sole responsibility for administering and monitoring any agreements with contractors. The City Manager shall be required to produce annual performance audits for contracted services, the cost of which must be accounted for and considered during the bidding process. In addition, the City Manager shall seek an independent audit every five (5) years to evaluate the City's experience and performance audits. During the period of time that the City operates under the Strong

Mayor form of governance pursuant to Article XV, the reference herein to City Manager shall be deemed to refer to the Mayor.

END OF PROPOSITION

Section 2. The proposition shall be presented and printed upon the ballot and submitted to the voters in the manner and form set out in Section 3 of this ordinance.

Section 3. On the ballot to be used at this Municipal Election, in addition to any other matters required by law, there shall be printed substantially the following:

PROPOSITION ____ . AMENDS THE CITY CHARTER TO ALLOW FOR CONTRACTING OUT OF CITY SERVICES	YES	
Shall the Charter be amended to allow the City to contract services traditionally performed by City civil service employees if determined to be more economical and efficient while maintaining the quality of services and protecting the public interest?	NO	

Section 4. An appropriate mark placed in the voting square after the word “Yes” shall be counted in favor of the adoption of this proposition. An appropriate mark placed in the voting square after the word “No” shall be counted against the adoption of the proposition.

Section 5. Passage of this proposition requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Election.

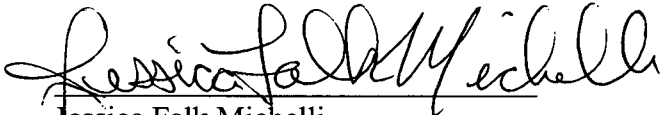
Section 6. The City Clerk shall cause this ordinance or a digest of this ordinance to be published once in the official newspaper following this ordinance’s adoption by the City Council.

Section 7. Pursuant to San Diego Municipal Code section 27.0402, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may

seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The Clerk shall post notice of the specific dates that the examination period will run.

Section 8. Pursuant to Sections 295(b) and 295(d) of the Charter of the City of San Diego, this ordinance shall take effect on the date of passage by the City Council, which is deemed the date of its final passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Jessica Falk Michelli
Deputy City Attorney

JFM:jfm
3/27/06
Or.Dept: Mayor
O-2006-93