

ORDINANCE NUMBER O- 20574 (NEW SERIES)

DATE OF FINAL PASSAGE NOV 20 2015

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 2,  
DIVISION 33 OF THE SAN DIEGO MUNICIPAL CODE BY  
AMENDING SECTION 22.3310, RELATING TO MULTIPLE  
AWARD CONSTRUCTION CONTRACT PROGRAM  
STREAMLINING MEASURE IMPLEMENTATION.

WHEREAS, on April 10, 2012, the Council of the City of San Diego (City Council) approved the Multiple Award Construction Contract (MACC) Program as a pilot program to be utilized for implementation of the City's Capital Improvement Program (CIP); and

WHEREAS, this action amends the San Diego Municipal Code to increase the Mayor's authority to award task orders for the MACC Program from \$10,000,000 to \$30,000,000, to eliminate the three year limitation to compete for task orders, and to remove the June 30, 2017 sunset date of the original pilot program; NOW, THEREFORE,

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

Section 1. That Chapter 2, Article 2, Division 33 of the San Diego Municipal Code is amended by amending Section 22.3310, to read as follows:

**Article 2: Administrative Code**

**Division 33: Design-Build Contracts**

**§22.3310 Multiple Award Design-Build Contracts**

The City may award *design-build* contracts to more than one *design-build entity* in which the *design-build entities* compete for public works projects on a *task order* basis, under the following conditions:

- (a) The City issues a request for qualifications or proposals generally describing the types of public works projects anticipated to be

performed under the multiple award *design-build* contracts, and the evaluation criteria to be used to determine which *design-build entities* will be awarded contracts.

- (b) The City Council approves the award of the multiple award *design-build* contracts.
- (c) Only the *design-build entities* awarded multiple award *design-build* contracts are eligible to compete for the public works projects submitted to them by the City, with the winning *design-build entity* determined in accordance with Section 22.3308. The winning *design-build entity* is awarded the public works project through the issuance of a *task order*.
- (d) No multiple award *design-build* contract may guarantee a *design-build entity* cumulative *task orders* in excess of \$50,000.
- (e) A *task order* may not exceed \$30,000,000 without City Council approval.
- (f) The cumulative amount of *task orders* issued to all *design-build entities* awarded contracts through each request for qualifications or proposals may not exceed \$100,000,000 without City Council approval.
- (g) Every request for proposals for a *task order* that the City estimates to cost over \$1,000,000 shall include mandatory minimum participation by Small Local Business Enterprises and/or Emerging Local Business Enterprises, as defined in Section 22.3603.

The City Manager may include mandatory minimum participation by Small Local Business Enterprises and/or Emerging Local Business Enterprises in requests for proposals for *task orders* estimated to cost \$1,000,000 or less. The City Manager may also include mandatory minimum participation by Disabled Veteran Business Enterprises in any request for proposal for a *task order*.

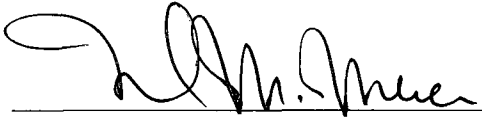
- (1) The City Manager shall determine the levels of mandatory minimum participation for Small Local Business Enterprises, Emerging Local Business Enterprises, and Disabled Veteran Business Enterprises on a project-by-project basis, and include the mandatory minimum participation levels in the request for proposals for each *task order*.
- (2) Notwithstanding Sections 22.3609 and 22.3610, good faith efforts by the *design-build entity* shall not satisfy the mandatory minimum participation levels required by Section 22.3310(h)(1).
- (3) Any *design-build entity* awarded a *task order* who fails to achieve the required mandatory minimum participation levels in the request for proposals shall be ineligible to compete for further *task orders* under that multiple award *design-build* contract.

Section 2. That Chapter 2, Article 2, Division 33 of the San Diego Municipal Code is amended to remove the June 30, 2017 sunset date from the current MACC Program, by deleting Section 22.3310(i).

Section 3. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 4. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Mark M. Mercer  
Deputy City Attorney


MMM:cw  
09/28/15  
Or.Dept: Public Works/Engineering  
CC No.: N/A  
Doc. No.: 1075584

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of NOV 03 2015.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 11/19/15  
(date)

  
KEVIN L. FAULCONER, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

**STRIKEOUT ORDINANCE**

**OLD LANGUAGE: ~~Struck Out~~**  
**NEW LANGUAGE: Double Underline**

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DIVISION 33 OF THE SAN DIEGO MUNICIPAL CODE BY  
AMENDING SECTION 22.3310, RELATING TO MULTIPLE  
AWARD CONSTRUCTION CONTRACT PROGRAM  
STREAMLINING MEASURE IMPLEMENTATION.

**Article 2: Administrative Code**

**Division 33: Design-Build Contracts**

**§22.3310 Multiple Award Design-Build Contracts**

The City may award *design-build* contracts to more than one *design-build entity* in which the *design-build entities* compete for public works projects on a *task order* basis, under the following conditions:

(a)-(c) [No change in text.]

(d) ~~The period for competition and award of *task orders* under multiple award *design-build* contracts shall not exceed three years. Multiple award *design-build* contracts may have a duration of longer than three years only as necessary to complete outstanding *task orders* that were awarded within the three year period.~~

~~(e)~~(d) No multiple award *design-build* contract may guarantee a *design-build* entity cumulative *task orders* in excess of \$50,000.

~~(f)~~(e) A *task order* may not exceed ~~\$10,000,000~~ \$30,000,000 without City Council approval.

~~(g)~~(f) The cumulative amount of *task orders* issued to all *design-build* entities awarded contracts through each request for qualifications or proposals may not exceed \$100,000,000 without City Council approval.

~~(h)~~(g) Every request for proposals for a *task order* that the City estimates to cost over \$1,000,000 shall include mandatory minimum participation by Small Local Business Enterprises and/or Emerging Local Business Enterprises, as defined in Section 22.3603.

The City Manager may include mandatory minimum participation by Small Local Business Enterprises and/or Emerging Local Business Enterprises in requests for proposals for *task orders* estimated to cost \$1,000,000 or less. The City Manager may also include mandatory minimum participation by Disabled Veteran Business Enterprises in any request for proposal for a *task order*.

(1) The City Manager shall determine the levels of mandatory minimum participation for Small Local Business Enterprises, Emerging Local Business Enterprises, and Disabled Veteran Business Enterprises on a project-by-project basis, and include

the mandatory minimum participation levels in the request for proposals for each *task order*.

- (2) Notwithstanding Sections 22.3609 and 22.3610, good faith efforts by the *design-build entity* shall not satisfy the mandatory minimum participation levels required by Section 22.3310(h)(1).
- (3) Any *design-build entity* awarded a *task order* who fails to achieve the required mandatory minimum participation levels in the request for proposals shall be ineligible to compete for further *task orders* under that multiple award *design-build* contract.

- (i) ~~The City shall not award a new *task order* under a multiple award *design-build* contract after June 30, 2017.~~

MMM:cw  
09/28/15  
Or.Dept: Public Works/Engineering  
CC No.: N/A  
Doc. No.: 1075586

Passed by the Council of The City of San Diego on NOV 03 2015, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherr Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage NOV 20 2015.

AUTHENTICATED BY: KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

(Seal) ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.  
By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on OCT 19 2015, and on NOV 20 2015.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal) ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.  
By [Signature], Deputy

Office of the City Clerk, San Diego, California  
Ordinance Number O- 20574