

ORDINANCE NUMBER O- 21192 (NEW SERIES)

DATE OF FINAL PASSAGE JUN 04 2020

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 2, DIVISION 5 OF THE SAN DIEGO MUNICIPAL CODE BY REPEALING SECTION 22.0503 AND AMENDING SECTION 22.0506; AMENDING CHAPTER 2, ARTICLE 2, DIVISION 30 BY AMENDING SECTIONS 22.3003, 22.3011, AND 22.3018; AMENDING CHAPTER 2, ARTICLE 2, DIVISION 32 BY AMENDING SECTIONS 22.3202, 22.3206, 22.3208 AND 22.3209, ALL RELATING TO THE PURCHASING AGENT, CONSULTANT CONTRACTS, AND AWARDING CONTRACTS FOR GOODS THROUGH REVERSE AUCTIONS.

WHEREAS, the City of San Diego (City) uses a competitive procurement process to provide for a fair and transparent method of procuring goods, services, and consultants for the City; and

WHEREAS, a reverse auction is a competitive process in which bidders submit bids for prices that they are willing to sell their goods; and

WHEREAS, the use of reverse auctions will broaden and enhance the City's competitive procurement process for goods and save costs; and

WHEREAS, the City desires to amend the San Diego Municipal Code (Municipal Code) to incorporate a reverse auction process for awarding contracts for goods; and

WHEREAS, the City also desires to amend the Municipal Code to clarify the definition of consultant contract and clarify that consultants may not be retained through a cooperative procurement contract; and

WHEREAS, this Ordinance also updates provisions in the Municipal Code, to reflect current operational practices, including changes to the Purchasing Agent's responsibilities for the reporting of disposed assets; NOW, THEREFORE,

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

Section 1. That Chapter 2, Article 2, Division 5 of the San Diego Municipal Code is amended by repealing section 22.0503 and amending section 22.0506, to read as follows:

§ 22.0506 Obsolete or Depreciated Property—Selling, Disposing

(a) through (b) [No change in text.]

(c) The Purchasing Agent shall report in writing, annually, to the Department of Finance all the proceeds from the sale of personal property pursuant to Section 22.0506. The report to the Department of Finance shall describe the property disposed of and state the consideration received by the City for the property.

Section 2. That Chapter 2, Article 2, Division 30 of the San Diego Municipal Code is amended by amending sections 22.3003, 22.3011, and 22.3018, to read as follows:

§ 22.3003 Definitions

For purposes of this Division and Chapter 2, Article 2, Divisions 30, 31, 32, 33, 34, 35, 36, 38 and 48, the following defined terms appear in italics:

Agency through City's Public [No change in text.]

Consultant contract means a contract for architectural, engineering, or other expert or professional services procured to render advice or an opinion that influences or impacts a *municipal decision*. Except for contracts with an *agency* or a non-profit pursuant to Section 22.3210, if the scope of work for a *contract for goods* or a *contract for services* includes components that meet the definition of a *consultant contract*, the requirements for *consultant contracts* shall control.

Contract for goods through Minor [No change in text.]

Municipal decision has the same meaning as in Section 27.3503.

Public works through Responsible [No change in text.]

Reverse Auction means a competitive process in which *bidders* submit one or more bids for the prices at which they are willing to sell their goods, and at the end of the auction the *bidder* offering the lowest price wins.

Sole through Valued [No change in text.]

§ 22.3011 Bid Opening

(a) through (b) [No change in text.]

(c) Any person present shall have the right to ask that the announcements be repeated or to ask that omitted data be supplied. Such requests will be honored to the extent they do not unreasonably delay or interfere with the bid opening procedure, as determined in the sole discretion of the City employee opening bids.

(d) [No change in text.]

§ 22.3018 Alterations in Contracts

(a) For public works projects previously approved and appropriated through the Annual Capital Improvements Program budget, the City Manager is authorized to make alterations to *major public works contracts* without City Council approval provided that:

(1) [No change in text.]

(2) The cost of the alterations does not cause the project to exceed the total amount authorized for the project by ordinance or resolution;
and

(3) through (4) [No change in text.]

(b) [No change in text.]

Section 3. That Chapter 2, Article 2, Division 32 of the San Diego Municipal Code is amended by amending sections 22.3202, 22.3206, 22.3208, and 22.3209, to read as follows:

§ 22.3202 Competitive Process for Consultant Contracts

Except as otherwise provided in section 22.3208:

(a) through (e) [No change in text.]

(f) A consultant shall not be retained through a *cooperative procurement contract*.

§ 22.3206 Award of Contracts for Goods and Services

(a) through (b) [No change in text.]

(c) The Purchasing Agent may award a *contract for goods* through a reverse auction.

(d) The Purchasing Agent may award a *contract for goods* or a *contract for services* that provides for an expenditure of an amount greater than \$3,000,000 provided that:

(1) through (3) [No change in text.]

(e) Unless otherwise provided in this Division, *contracts for goods* and *contracts for services* that exceed \$3,000,000 as awarded, amended, or extended, must be approved by the City Council.

§ 22.3208 Contracts Not Required to be Competitively Awarded

The Purchasing Agent may award the following contracts without advertisement or a competitive process:

(a) through (d) [No change in text.]

(e) Purchase orders for an expenditure greater than \$25,000 for commercially available materials and supplies provided that they are:

(1) [No change in text.]

(2) Less than \$150,000.

(f) through (g) [No change in text.]

§ 22.3209 Contracts for Inmate Services

The Purchasing Agent may award a *contract for inmate services* without City

Council approval provided that:

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

Section 4. 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 5. That this Ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Jill S. Cristich
Jill S. Cristich
Deputy City Attorney

JSC:MRS:jls:nja:hm
06/04/18
Or. Dept: Purchasing & Contracts
COR.COPY
Doc. No.: 1764974_5

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of 06/02/2020.

ELIZABETH S. MALAND
City Clerk

By /s/ Connie Patterson
Deputy City Clerk

Approved: 6/3/2020
(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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§22.0503 ~~Department or Office Estimates of Procurement Needs~~

~~At such times as contracts for supplies are to be let, the head of each department or office of the City shall, when requested by the Purchasing Agent, submit to him an estimate of major articles, commodities, supplies, equipment and materials anticipated to be needed by such department or office for its regular operation during the ensuing fiscal year within the limits of the department's or office's budget.~~

§ 22.0506 Obsolete or Depreciated Property—Selling, Disposing

(a) through (b) [No change in text.]

(c) ~~Within five (5) business days after selling or otherwise disposing of personal property pursuant to Section 22.0506, t~~The Purchasing Agent shall report in writing, annually, to the Department of Finance City

~~Manager when all the proceeds from of the sale of personal property pursuant to Section 22.0506 are more than two thousand dollars (\$2,000). The City Manager shall report annually in writing to the Council the result of any sales, exchanges or other disposal of personal property made pursuant to Section 22.0506 when the proceeds of the sale exceed five thousand dollar (\$5,000). The report to the council Department of Finance shall describe the property disposed of and state the consideration received by the City for the property.~~

§ 22.3003 Definitions

~~Terms defined in For purposes of this Division and Chapter 2, Article 2, Divisions 30, 31, 32, 33, 34, 35, 36, and 38 and 48, are indicated by italics. For purposes of these Divisions the following defined terms appear in italics:~~

Agency through City's Public [No change in text.]

~~*Consultant contract* means a contract to provide expert or professional services including, but not limited to, accounting, architectural, engineering, marketing, public relations, management, financial, and legal services.~~

Consultant contract means a contract for architectural, engineering, or other expert or professional services procured to render advice or an opinion that influences or impacts a *municipal decision*. Except for contracts with an *agency* or a non-profit pursuant to Section 22.3210, if the scope of work for a *contract for goods* or a *contract for services* includes components that meet the definition of a *consultant contract*, the requirements for *consultant contracts* shall control.

Contract for goods through *Minor* [No change in text.]

Municipal decision has the same meaning as in Section 27.3503.

Public works through Responsible [No change in text.]

Reverse Auction means a competitive process in which bidders submit one or more bids for the prices at which they are willing to sell their goods, and at the end of the auction the bidder offering the lowest price wins.

Sole through Valued [No change in text.]

§ 22.3011 Bid Opening

(a) through (b) [No change in text.]

(c) Any person present shall have the right to ask that the announcements be repeated or to ask that omitted data be supplied. Such requests will be honored to the extent they do not unreasonably delay or interfere with the bid opening procedure, as determined in the sole discretion of the City employee opening bids.

(d) [No change in text.]

§ 22.3018 Alterations in Contracts

(a) For public works projects previously approved and appropriated through the Annual Capital Improvements Program budget, the City Manager is authorized to make alterations to *major public works contracts* without City Council approval provided that:

(1) [No change in text.]

(2) The cost of the alterations does not cause the project to exceed the total amount authorized for the project by ordinance or resolution;
and

(3) through (4) [No change in text.]

(b) [No change in text.]

§ 22.3202 Competitive Process for Consultant Contracts

Except as otherwise provided in section 22.3208:

(a) through (e) [No change in text.]

(f) A consultant shall not be retained through a cooperative procurement contract.

§ 22.3206 Award of Contracts for Goods and Services

(a) through (b) [No change in text.]

(c) The Purchasing Agent may award a contract for goods through a reverse auction.

(e)(d) The Purchasing Agent may award a *contract for goods* or a *contract for services* that provides for an expenditure of an amount greater than \$3,000,000 provided that:

(1) through (3) [No change in text.]

(d)(e) Unless otherwise provided in this Division, *contracts for goods* and *contracts for services* that exceed \$3,000,000 as awarded, amended, or extended, must be approved by the City Council.

§ 22.3208 Contracts Not Required to be Competitively Awarded

The Purchasing Agent may award the following contracts without advertisement or a competitive process:

(a) through (d) [No change in text.]

(e) ~~Annual blanket purchase orders~~ Purchase orders for an expenditure greater than \$25,000 for commercially available materials and supplies provided that they are:

(1) [No change in text.]

~~(2) Not normally kept in City stores; and~~

~~(3)~~(2) Less than \$150,000.

(f) through (g) [No change in text.]

§ 22.3209 Contracts ~~F~~for Inmate Services

The Purchasing Agent may award a *contract for inmate services* without City

Council approval provided that:

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

JSC:MRS:jls:nja:hm

08/01/18

Or. Dept: Purchasing & Contracts

Doc. No.: 1804421_5

Passed by the Council of The City of San Diego on JUN 02 2020, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 04 2020

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 Connie Patterson, 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 MAY 12 2020, and on JUN 04 2020.

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 Connie Patterson, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 21192