

ORDINANCE NUMBER O- 21537 (NEW SERIES)

DATE OF FINAL PASSAGE OCT 12 2022

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 2, DIVISION 30 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 22.3003 AND 22.3018; AMENDING CHAPTER 2, ARTICLE 2, DIVISION 31 BY AMENDING SECTIONS 22.3102, 22.3103, 22.3104, AND 22.3105; AND AMENDING CHAPTER 2, ARTICLE 2, DIVISION 32 BY AMENDING SECTION 22.3207 AND ADDING SECTION 22.3211, RELATING TO THE CITY MANAGER'S AUTHORITY TO AWARD AND AMEND CONTRACTS.

WHEREAS, the City of San Diego (City) desires to streamline the award of consultant contracts by amending San Diego Municipal Code (Municipal Code) section 22.3207 to increase the Mayor's authority to award consultant contracts up to \$3 million for Capital Improvement Program (CIP) projects, \$3 million for projects funded by the Utilities Undergrounding Program (UUP), and \$1 million for non-CIP projects, and to increase the single-year consultant contract cumulative limit for Mayoral actions from \$1 million to \$5 million; and

WHEREAS, the City desires to amend Municipal Code section 22.3018 to facilitate project efficiency and avoid delays by reducing the time required to execute change orders on public works projects, to increase the Mayor's authority for execution of construction change orders up to \$1 million on certain construction contracts over \$10 million; and

WHEREAS, consistent with the thresholds for CIP projects, the City desires to add language to Municipal Code section 22.3102 to grant the Mayor authority to award construction contracts up to \$30 million for projects funded by the UUP; and

WHEREAS, the City desires to amend Municipal Code sections 22.3103 and 22.3104 to define a task order modification, increase the task order dollar limit, and increase the task award period under a job order contract (JOC) from two years to three years to increase the efficiency and effectiveness of tasks issued under JOCs; and

WHEREAS, to provide City staff more opportunities to perform work in-house, the City desires to amend Municipal Code section 22.3105 to increase the limit of work that City Forces may perform on the construction of CIP projects from \$100,000 to \$500,000; and

WHEREAS, to streamline the process of entering into inter-agency agreements and mirror the threshold for CIP projects, the City desires to add a new section 22.3211 to the Municipal Code to give the Mayor authority to enter into Caltrans cooperative agreements for up to \$3 million for design contracts and up to \$30 million for construction contracts; NOW, THEREFORE,

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

Section 1. That Chapter 2, Article 2, Division 30 of the San Diego Municipal Code is amended by amending sections 22.3003 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 Bidder [No change in text.]

Caltrans Cooperative Agreement means a written agreement between the City and the State of California acting through its Department of Transportation for the City to assist the State with the acquisition, design, construction, improvement, or maintenance of any State rights-of-way.

City's Public Contracts Code through Task order [No change in text.]

Task order modification means a change to an existing *task order* that is necessary to perform the authorized work.

Underground Utility District has the same meaning as in San Diego Municipal Code section 61.0504(d).

Valued [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 or identified in a City Council resolution establishing an *Underground Utility District*, the City Manager is authorized to make alterations to *major public works contracts* without City Council approval provided that:
- (1) The cost of each alteration does not increase the total contract amount by more than:
 - (A) \$1,000,000 for *major public works contracts* that were awarded in an amount equal to or greater than \$10,000,000;
 - or
 - (B) \$500,000 for all other *major public works contracts*;
 - (2) The cost of the alterations does not cause the project to exceed the total amount authorized for the project in the Annual Capital Improvements Program budget;
 - (3) The alterations are necessary to complete the contract; and
 - (4) [No change in text.]
- (b) When a public works project has been approved and appropriated through the Annual Capital Improvements Program budget, the City Manager is authorized to make alterations to *consultant contracts* for those public works projects without City Council approval provided that:

- (1) The cost of each alteration does not increase the *consultant contract* amount by more than either \$200,000 or 10 percent of the original contract value, whichever is greater;
 - (2) The cost of the alterations does not cause the project to exceed the total amount allocated for the project in the Annual Capital Improvements Program budget adopted by City Council;
 - (3) The alterations are necessary to complete the *consultant contract*;
and
 - (4) The alterations to the *consultant contract* are made by written agreement.
- (c) For all other contracts, the City Manager or the Purchasing Agent is authorized to make alterations without City Council approval provided that:
- (1) The cost of each alteration does not increase the contract amount by more than \$200,000;
 - (2) The cost of the alterations does not cause the project to exceed the total amount authorized for the project;
 - (3) The alterations are necessary to complete the contract;
 - (4) through (5) [No change in text.]

Section 2. That Chapter 2, Article 2, Division 31 of the San Diego Municipal Code is amended by amending sections 22.3102, 22.3103, and 22.3104 to read as follows:

§ 22.3102 City Manager's Authority to Award Public Works Contracts

- (a) Except as otherwise provided in this Article, the City Manager may award a *major public works contract* that provides for an expenditure of an amount equal to or less than \$30,000,000 without City Council approval, provided that:
- (1) The public works project was previously identified and appropriated through the Annual Capital Improvements Program budget adopted by City Council or identified in a City Council resolution establishing an *Underground Utility District*;
 - (2) The *major public works contract* has been advertised as described in section 22.3106 or has been certified by the City Manager as a *sole source contract* in accordance with section 22.3016; and
 - (3) [No change in text.]
- (b) Notwithstanding section 22.3102(a), when the Annual Capital Improvements Program budget is approved, the City Council may, by resolution, require certain *major public works contracts* for projects in the budget be returned to City Council for approval prior to award.
- (c) Notwithstanding section 22.3102(a), when a resolution establishing an *Underground Utility District* is adopted, the City Council may, in that resolution, require certain *major public works contracts* for projects in that *Underground Utility District* be returned to City Council for approval prior to award.

- (d) The City Manager may award *minor public works contracts* without City Council approval pursuant to Chapter 2, Article 2, Division 36 of the Municipal Code.
- (e) Except as otherwise provided in this Article, the award of all other *major public works contracts* must be approved by the City Council.

§ 22.3103 City Manager's Authority to Award Job Order Contracts

- (a) *Job order contracts* for public works may be awarded by the City Manager provided that:
 - (1) The specifications were advertised in accordance with section 22.3106.
 - (2) [No change in text.]
 - (3) The period for award of *task orders* under *job order contracts* shall not exceed three years. *Job order contracts* may have a duration of longer than three years only as necessary to complete outstanding *task orders* and *task order modifications* that were awarded within the three-year period.
 - (4) [No change in text.]
- (b) [No change in text.]

§ 22.3104 City Manager's Authority to Award Task Orders Under Job Order Contracts

- (a) Except for emergency work under section 22.3108(a), a *task order* shall not exceed \$5,000,000 without City Council approval.
- (b) A *task order modification* shall not exceed \$500,000 without City Council approval.

- (c) The City Manager shall not subdivide any public work into separate *task orders* or *task order modifications* which logically should be performed as a single transaction with the intent of avoiding the limits in sections 22.3104(a) and 22.3104(b).

§ 22.3105 Use of City Forces

- (a) City forces shall not be used on a public works project if the cost of using City forces exceeds \$500,000 unless the City Council has approved use of City forces on the project. When City Council approval is required, the City Manager shall indicate justification for the use of City forces and shall indicate whether the work can be done by City forces more economically than if let by contract.
- (b) The City Manager may exercise the City Manager's discretion of the use of City forces on a public works project when the cost of using City forces does not exceed \$500,000.

Section 3. That Chapter 2, Article 2, Division 32 of the San Diego Municipal Code is amended by amending section 22.3207 and adding new section 22.3211, to read as follows:

§ 22.3207 Award of Consultant Contracts

- (a) The Purchasing Agent may award a *consultant contract* without City Council approval if:
 - (1) The *consultant contract* does not exceed \$1,000,000; and
 - (2) The total cumulative amount of contract awards to the consultant, including the current award, does not exceed \$1,000,000 in any given fiscal year.

- (b) Notwithstanding section 22.3207(a), the Purchasing Agent may award a *consultant contract* for a public works project without City Council approval provided that:
- (1) The public works project was previously identified and appropriated through the Annual Capital Improvements Program budget adopted by City Council or identified in a City Council resolution establishing an *Underground Utility District*;
 - (2) The *consultant contract* does not exceed \$3,000,000; and
 - (3) The total cumulative amount of contract awards to the consultant, including the current award, does not exceed \$5,000,000 in any given fiscal year.
- (c) [No change in text.]
- (d) Notwithstanding section 22.3207(b), when the Annual Capital Improvements Program budget is approved, the City Council may, in that resolution, require certain *consultant contracts* for public works projects in the budget to be returned to City Council for approval prior to award.
- (e) Notwithstanding section 22.3207(b), when a resolution establishing an *Underground Utility District* is adopted, the City Council may, in that resolution, require certain *consultant contracts* for public works projects in that *Underground Utility District* be returned to City Council for approval prior to award.

§ 22.3211 Caltrans Cooperative Agreements

The City Manager may enter into a *Caltrans Cooperative Agreement* without City Council approval provided that:

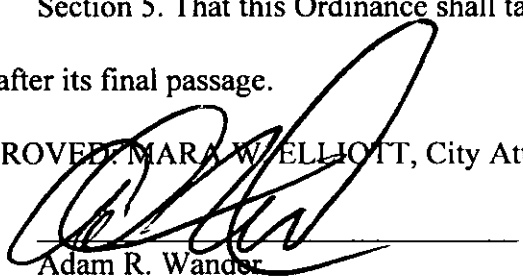
- (a) The City's contribution does not exceed \$30,000,000 for construction costs or \$5,000,000 for design and other construction support services for a particular project; and
- (b) The project was identified and appropriated through the Annual Capital Improvements Program budget adopted by City Council.

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

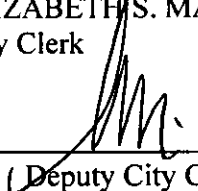
By


Adam R. Wander
Deputy City Attorney

ARW:cs:cm
08/25/2022
09/22/2022 REV.
Or.Dept: Engineering & Capital Projects
CC No.: N/A
Doc. No. 3091594

I hereby certify that this Ordinance was passed by the Council of the City of San Diego, at this meeting of OCT 03 2022.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 10/12/22
(date)


TODD GLORIA Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck-Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 2, DIVISION 30 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 22.3003 AND 22.3018; AMENDING CHAPTER 2, ARTICLE 2, DIVISION 31 BY AMENDING SECTIONS 22.3102, 22.3103, 22.3104, AND 22.3105; AND AMENDING CHAPTER 2, ARTICLE 2, DIVISION 32 BY AMENDING SECTION 22.3207 AND ADDING SECTION 22.3211, RELATING TO THE CITY MANAGER'S AUTHORITY TO AWARD AND AMEND CONTRACTS.

Article 2: Administrative Code

Division 30: Contract Definitions and Procedures

§ 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 Bidder [No change in text.]

Caltrans Cooperative Agreement means a written agreement between the City and the State of California acting through its Department of Transportation for the City to assist the state with the acquisition, design, construction, improvement, or maintenance of any State rights-of-way.

City's Public Contracts Code through *Task order* [No change in text.]

Task order modification means a change to an existing *task order* that is necessary to perform the authorized work.

Underground Utility District has the same meaning as in San Diego Municipal Code section 61.0504(d).

Valued [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 or identified in a City Council resolution establishing an *Underground Utility District*, the City Manager is authorized to make alterations to *major public works contracts* without City Council approval provided that:

(1) The cost of each alteration does not increase the total contract amount by more than ~~\$500,000; and;~~

(A) \$1,000,000 for *major public works contracts* that were awarded in an amount equal to or greater than \$10,000,000;

or

(B) \$500,000 for all other *major public works contracts*;

(2) The cost of the alterations does not cause the project to exceed the total amount authorized for the project ~~by ordinance or resolution in the Annual Capital Improvements Program budget; and~~

(3) The alterations are necessary to ~~fulfill the purpose of complete~~ the contract; and

(4) [No change in text.]

(b) When a public works project has been approved and appropriated through the Annual Capital Improvements Program budget, the City Manager is authorized to make alterations to consultant contracts for those public works projects without City Council approval provided that:

- (1) The cost of each alteration does not increase the consultant contract amount by more than either \$200,000 or 10 percent of the original contract value, whichever is greater;
- (2) The cost of the alterations does not cause the project to exceed the total amount allocated for the project in the Annual Capital Improvements Program budget adopted by City Council;
- (3) The alterations are necessary to complete the consultant contract;
and
- (4) The alterations to the consultant contract are made by written agreement.

(bc) For all other contracts, the City Manager or the Purchasing Agent is authorized to make alterations without City Council approval provided that:

- (1) The cost of each alteration does not increase the contract amount by more than \$200,000; and
- (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) The alterations are necessary to fulfill the purpose of complete the contract; and

(4) through (5) [No change in text.]

Division 31: Public Works Contracts

§ 22.3102 City Manager's Authority to Award Public Works Contracts

- (a) Except as otherwise provided in this Article, the City Manager may award a *major public works contract* that provides for an expenditure of an amount equal to or less than \$30,000,000 without City Council approval, provided that:
- (1) The public works project was previously identified and appropriated through the Annual Capital Improvements Program budget adopted by City Council or identified in a City Council resolution establishing an *Underground Utility District*; and
 - (2) The *major public works contract* has been advertised as described in ~~§~~section 22.3106 or has been certified by the City Manager as a *sole source contract* in accordance with section 22.3016; and
 - (3) [No change in text.]
- ~~(b) Except as otherwise provided in this Article, the award of all other *major public works contracts* must be approved by the City Council.~~
- (e**b**) Notwithstanding ~~§~~section 22.3102(a), when the Annual Capital Improvements Program budget is approved, the City Council may, by resolution, require certain *major public works contracts* for projects in the budget be returned to City Council for approval prior to award.
- (c) Notwithstanding section 22.3102(a), when a resolution establishing an *Underground Utility District* is adopted, the City Council may, in that resolution, require certain *major public works contracts* for projects in that

Underground Utility District be returned to City Council for approval prior to award.

- (d) [No change in text.]
- (e) Except as otherwise provided in this Article, the award of all other major public works contracts must be approved by the City Council.

§ 22.3103 City Manager's Authority to Award Job Order Contracts

- (a) *Job order contracts* for public works may be awarded by the City Manager ~~under the provisions of Section 94.1 of the City Charter,~~ provided that:
 - (1) The specifications were advertised in accordance with ~~§~~section 22.3106.
 - (2) [No change in text.]
 - (3) The period for award of *task orders* under *job order contracts* shall not exceed ~~two~~three years. *Job order contracts* may have a duration of longer than ~~two~~three years only as necessary to complete outstanding *task orders* and task order modifications that were awarded within the ~~two~~three-year period.
 - (4) [No change in text.]
- (b) [No change in text.]

§ 22.3104 City Manager's Authority to Award Task Orders Under Job Order Contracts

- (a) Except for emergency work under section 22.3108(a), a *task order* shall not exceed \$5,000,000 ~~for pipeline work and asphalt paving work, or \$1,000,000 for all other work,~~ without City Council approval.

(b) A task order modification shall not exceed \$500,000 without City Council approval.

(bc) The City Manager shall not subdivide any public work into separate *task orders* or task order modifications which logically should be performed as a single transaction with the intent of avoiding the ~~task order~~ limits in sections 22.3104(a) and 22.3104(b).

§ 22.3105 Use of City Forces

- (a) City forces shall not be used on a public works project if the cost of using City forces exceeds \$4500,000 unless the City Council has approved use of City forces on the project. When City Council approval is required, the City Manager shall indicate justification for the use of City forces and shall indicate whether the work can be done by City forces more economically than if let by contract.
- (b) The City Manager may exercise ~~his or her~~ the City Manager's discretion of the use of City forces on a public works project when the cost of using City forces does not exceed \$4500,000.

Division 32: Contracts for Goods, Services, and Consultants

§ 22.3207 Award of Consultant Contracts

- (a) The Purchasing Agent may award a *consultant contract* without City Council approval if:
- (1) The *consultant contract* does not exceed \$251,000,000; and
 - (2) The total cumulative amount of contract awards to the consultant, including the current award, does not exceed \$251,000,000 in any given fiscal year.

- (b) Notwithstanding section 22.3207(a), the Purchasing Agent may award a *consultant contract* for a public works project without City Council approval provided that:
- (1) The public works project was previously identified and appropriated through the Annual Capital Improvements Program budget adopted by City Council or identified in a City Council resolution establishing an *Underground Utility District*; and
 - (2) ~~The Annual Capital Improvements Program budget is the source of funding for the *consultant contract*; and~~
 - (3) The *consultant contract* does not exceed \$13,000,000; and
 - (4) The total cumulative amount of contract awards to the consultant, including the current award, does not exceed \$15,000,000 in any given fiscal year.
- (c) [No change in text.]
- (d) Notwithstanding section 22.3207(b), when the Annual Capital Improvements Program budget is approved, the City Council may, ~~by~~ in that resolution, require certain *consultant contracts* for public works projects in the budget to be returned to City Council for approval prior to award.
- (e) Notwithstanding section 22.3207(b), when a resolution establishing an *Underground Utility District* is adopted, the City Council may, in that resolution, require certain *consultant contracts* for public works projects in that *Underground Utility District* be returned to City Council for approval prior to award.

§ 22.3211 Caltrans Cooperative Agreements

The City Manager may enter into a Caltrans Cooperative Agreement without City Council approval provided that:

- (a) The City's contribution does not exceed \$30,000,000 for construction costs or \$5,000,000 for design and other construction support services for a particular project; and
- (b) The project was identified and appropriated through the Annual Capital Improvements Program budget adopted by City Council.

ARW:cw:cm
08/25/2022
09/22/2022 REV.
Or. Dept: Engineering & Capital Projects
CC No.: N/A
Doc. No. 3091593

Passed by the Council of The City of San Diego on OCT 03 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<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"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<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"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage OCT 12 2022.

AUTHENTICATED BY:

TODD GLORIA
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

SEP 20 2022, and on OCT 12 2022.

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- 21537