

ORDINANCE NO. \_\_\_\_\_(N.S.)

AN ORDINANCE AMENDING ARTICLE XXIII OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES RELATING TO COUNTY CONTRACTING

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. Section 400 of the San Diego County Code is amended as follows:

SEC. 400. RECOGNITION OF DEPARTMENT.

There is in the County a Department of Purchasing and Contracting under the supervision of the Chief Administrative Officer.

Section 2. Section 400.1 of the San Diego County Code is amended as follows:

SEC. 400.1. RECOGNITION OF DIRECTOR OF PURCHASING AND CONTRACTING.

There is in the County and in the Department of Purchasing and Contracting, the position of Director of Purchasing and Contracting, hereafter in this Article referred to as the Director, or the Purchasing Agent. The Director shall ex officio be the Purchasing Agent of the County. The position shall be in the Unclassified Service of the County and shall be filled by appointment by the Chief Administrative Officer in accordance with the County Charter, Rules of the Civil Service Commission and County ordinance.

The Director of Purchasing and Contracting may delegate to other appropriate Purchasing and Contracting staff, the performance of duties and responsibilities related to the functions of the Purchasing Agent.

Section 3. Section 401 of the San Diego County Code is amended as follows:

SEC. 401. PROCUREMENT.

(a) Except in the case of emergency as provided in Section 402, below, or as otherwise provided by State or federal law, County ordinance, or Board Policy, the Director of Purchasing and Contracting shall have exclusive authority to take the actions described in this section on behalf of the County.

(b) The Director of Purchasing and Contracting has authority to enter into contracts to purchase, rent, license, or lease all personal property for the County, including any insurance, supplies, materials, furnishings, equipment, computer hardware and software systems, and licenses to use intellectual property, and engage independent contractors to perform services for the County, with or without the furnishing of material ("Service Contracts"). The Director of Purchasing and Contracting may enter into the following Service Contracts without obtaining the approval of the Board of Supervisors (Board), except as set forth in Board Policy and as otherwise provided for in this Code of Administrative Ordinances:

(1) Service Contracts where the annual aggregate cost does not exceed the amount set

forth in Government Code section 25502.5, or successor statute; and

(2) Service Contracts where the annual value does not exceed the limits set forth in Board policy where awarded pursuant to a "competitive negotiated procurement" or "qualifications based selection" procedure, as defined in Board Policy.

(3) Service Contracts, with no maximum limitation on contract value, where:

a. The Service Contract is awarded pursuant to a "formal bidding" or "reverse auction" procedure, as defined in Board Policy, or

b. The Service Contract is awarded based upon contracts competitively awarded by other government agencies or cooperative of agencies; or

c. The Board has excepted or exempted the category of goods or services provided under the Service Contract from competitive procurement requirements pursuant to Board Policy; or

d. The Board has specifically authorized the Director of Purchasing and Contracting, subject to any conditions specified by the Board.

(c) The Director of Purchasing and Contracting may amend any contract without obtaining approval of the Board provided that the contract value remains within the authorities stated in this Section 401 or, for contracts awarded pursuant to subdivision (b)(2) of this Section 401, the amendment does not increase the annual value to more than twenty-five percent (25%) above such stated authority.

(1) The Director of Purchasing and Contracting has authority to negotiate and amend a contract or contracts where the Board has specifically authorized the Director to do so, in accordance with any conditions specified by the Board.

(d) The Director of Purchasing and Contracting is authorized to enter into Service Contracts for public works (public works contracts as described in section 20121 of the Public Contract Code) without obtaining the approval of the Board as follows:

(1) The estimated cost of the work is less than the amounts prescribed by the Public Contract Code.

(2) The work is performed by an entity that State or federal law has excepted from the bidding requirements of the Public Contract Code or applicable federal law.

(e) The Director of Purchasing and Contracting is authorized to enter into Service Contracts for highways (as described in section 20390 et seq. of the Public Contract Code) or a bridge or a subway (pursuant to Article 26 of the Public Contract Code) or for a project under the Improvement Act of 1911 (pursuant to Article 27 of the Public Contract Code) or under the County Sanitation District Act (pursuant to Article 50 of the Public Contract Code) or for construction by the San Diego County Flood Control District (pursuant to Article 120 of the Public Contract Code). The Director of Purchasing and Contracting may enter into these contracts, without obtaining approval of the Board of Supervisors, if:

(1) The Director, Department of Public Works, estimates the cost at less than the amount prescribed by the Public Contract below which threshold the requirements of the Public Contract Code for contracting are inapplicable.

(2) The work is performed by an entity that the State or federal law has excepted from the bidding requirements of the Public Contract Code or applicable federal law.

(f) The Department of Purchasing and Contracting is authorized to procure the professional services defined in Government Code section 4525 or successor statutes ("Professional Services") through a qualifications-based selection. When procurement Professional Services, the Director of Purchasing and Contracting shall comply with all mandatory provisions of Government Code sections 4525 through 4529.5 and procedures set forth in Board Policy.

(g) Where the Board of Supervisors authorizes a contract with a specified term, such term shall not limit the performance of obligations that survive the contract's expiration or termination, including disentanglement services.

Section 4. Section 402 of the San Diego County Code is amended as follows:

#### SEC. 402. EMERGENCY PURCHASES.

(a) An "emergency" means conditions that require immediate action to contain or control an immediate danger or threat of danger to the ~~public~~ health, safety, or welfare, of the public or to persons in the care or custody of the County, as determined by department heads or elected officials in accordance with County ordinances, Board Policy, and State or federal law or regulation.

(b) The Director of Purchasing and Contracting may, in cases of emergency, issue contracts or extend or modify existing (emergency or non-emergency) contracts in any amount.

(c) Department heads or elected officials may, in cases of emergency, take necessary emergency procurement actions where authorized by County ordinance, Board policy, or State or federal law or regulations, or where purchasing through the Director of Purchasing and Contracting is infeasible under the circumstances of the emergency. For public works emergencies, the appropriate department head may take all actions authorized under the applicable provisions of the Public Contract Code. All officials taking emergency and submit sufficient and proper documentation to the Director of Purchasing and Contracting

(d) The Director of Purchasing and Contracting is authorized to ratify emergency procurement actions taken by other department heads or elected officials that are within the Director of Purchasing and Contracting's authorities set forth in County ordinance, Board Policy, or State or federal law. Emergency procurements that exceed the Director of Purchasing and Contracting's authorities set forth in County ordinance, Board Policy, or State or federal law or regulation shall be ratified by the appropriate authority, including reporting to or approval by the Board of Supervisors when required.

Section 5. Section 403 of the San Diego County Code is amended as follows:

**SEC. 403. EFFECT OF AUTHORIZATION BY BOARD OF SUPERVISORS TO CONTRACT FOR PUBLIC WORKS AND RELATED PROJECTS.**

(a) Any action by the Board of Supervisors to authorize contracting for a public works project (pursuant to Article 3.5 in Part 3 of the Public Contract Code) or a highway (pursuant to Article 25 of the Public Contract Code) or a bridge or a subway (pursuant to Article 26 of the Public Contract Code) or for a project under the Improvement Act of 1911 (pursuant to Article 27 of the Public Contract Code) or under the County Sanitation District Act (pursuant to Article 50 of the Public Contract Code) or for construction by the San Diego County Flood Control District (pursuant to Article 120 of the Public Contract Code) shall be deemed to include approval of contract documents; adoption of plans and specifications; authority to advertise for bids, or ratification of advertising; authority to award to the lowest responsible bidder; and any other actions the Director of Purchasing and Contracting needs to award the contract and to take necessary administrative actions, up to and including, terminating the contract.

(b) Any action referred to in Subsection (a) shall be deemed to authorize the Director of Purchasing and Contracting to (1) modify the plans and specifications, if doing so will not increase the cost or cause a significant change in the project; (2) waive, in consultation with the County Counsel, minor irregularities in a bid, if doing so will not confer a competitive advantage on the bidder; (3) cancel solicitations when in the best interest of the County or district; (4) reject all bids, if the Director of Purchasing and Contracting determines that the bids are unreasonable or if the Director of Purchasing and Contracting determines for any other reason that doing so is clearly in the best interests of the County or district; (5) re-advertise and award, if the Director of Purchasing and Contracting has rejected all bids; and (6) issue termination notices and terminate contracts.

Section 6. Section 404 of the San Diego County Code is amended as follows:

**SEC. 404. ORDERS BY BOARD OF SUPERVISORS UNDER UNIT PRICE CONTRACTS.** Approval by the Board of Supervisors of departmental budgets, or of appropriation transfers or of appropriations of unanticipated or over-realized revenues, which include repair or remodeling costs shall be deemed an order of the Board for purposes of Public Contract Code section 20128.5 and shall authorize the Director of Purchasing and Contracting to direct that the work be done according to unit prices in any contract awarded under that provision. The Director of Purchasing and Contracting may issue work-orders or a work-order under the unit price contract to the full value of that contract.

Section 7. Section 404.1 of the San Diego County Code is amended as follows:

**SEC. 404.1. OTHER PUBLIC CONSTRUCTION.**

The provisions of Articles 25, 26 and 27, Chapters 1 and 2, Part 3, Division 2 of the Public Contract Code, as are applicable to the County of San Diego, shall apply to contracts awarded by the Director of Purchasing and Contracting for subject construction work.

Section 8. Section 405 of the San Diego County Code is amended as follows:

**SEC. 405. SMALL-LOCAL BUSINESS PREFERENCE PROGRAM.**

(a) The Department of Purchasing and Contracting shall give preference to any Local Business that is also a Small Business (“Small-Local Business”) in the evaluation of a bid or proposal as required by this Section 405. The terms Local Business, Small Business, and Small-Local Business shall have the meanings set forth in Board Policy.

(b) In any procurement where this Section 405 requires that a preference be applied, fifteen percent (15%) shall be subtracted from any Small-Local Business's bid or proposed price being evaluated for award, in accordance with procedures set forth in Board Policy. The amount subtracted shall not exceed one-hundred-fifty thousand dollars (\$150,000.00).

(c) This Section 405 shall not apply to procurements where prohibited by funding source requirements or state or federal law or regulation, or where the County leads or participates in a cooperative procurement with another public entity or entities. The Director of Purchasing and Contracting shall have full authority and discretion to implement this Section 405 to the maximum extent practicable where relevant authority or the specific circumstances of the procurement limits the implementation of some, but not all, of its provisions.

(d) This section shall apply to procurements and resulting contracts issued on or after September 25, 2025.

Section 9. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in a newspaper of general circulation published in the County of San Diego.

**APPROVED AS TO FORM AND LEGALITY**

**Claudia G. Silva, County Counsel**

**BY: SHIRI HOFFMAN, Chief Deputy County Counsel**