

Article 2: Administrative Code

Division 31: Public Works Contracts

(“Public Works Contracts” added 6-29-1998 by O-18532 N.S.)

§22.3101 Purpose

This Division establishes requirements and procedures for the award of *public works contracts* and related matters regarding public works projects.

(Amended 9-3-2002 by O-19095 N.S.)

(Amended 4-23-2012 by O-20148 N.S.; effective 5-23-2012.)

(Amended 12-16-2016 by O-20764 N.S.; effective 1-15-2017.)

§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) The *major public works contract* is in writing.
- (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.

(“Public Works Contracts Required to be Competitively Awarded” retitled to “When Major Public Works Contracts May be Awarded by City Manager” and amended 9-3-2002 by O-19095 N.S.)

(Amended 1/24/2005 by O-19353 N.S.)

(Retitled to “City Manager’s Authority to Award Public Works Contracts” and amended 4-23-2012 by O-20148 N.S.; effective 5-23-2012.)

(Amended 10-12-2022 by O-21537 N.S.; effective 11-11-2022.)

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) The specifications provided for sealed competitive bidding on unit-cost terms for all labor, material, and equipment necessary to perform all work contemplated for individual *task orders*.
 - (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) The *job order contract* does not contain any provision which would guarantee the contractor cumulative *task orders* in excess of \$50,000.
- (b) A *job order contract* may not exceed \$30,000,000 without City Council approval.

(“General Requirements Contracts” added 6-29-1998 by O-18532 N.S.)

(Retitled to “City Manager’s Authority to Award Job Order Contracts” and amended 4-23-2012 by O-20148 N.S.; effective 5-23-2012.)

(Amended 12-9-2013 by O-20325 N.S.; effective 1-8-2014.)

(Amended 10-12-2022 by O-21537 N.S.; effective 11-11-2022.)

§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).

(“*Task Orders*” added 6-29-1998 by O-18532 N.S.)

(Retitled to “*City Manager’s Authority to Award Task Orders Under Job Order Contracts*” and amended 4-23-2012 by O-20148 N.S.; effective 5-23-2012.)

(Amended 12-9-2013 by O-20325 N.S.; effective 1-8-2014.)

(Amended 10-12-2022 by O-21537 N.S.; effective 11-11-2022.)

§ 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.

(“*Use of City Forces*” added 6-29-1998 by O-18532 N.S.)

(Amended 4-23-2012 by O-20148 N.S.; effective 5-23-2012.)

(Amended 10-12-2022 by O-21537 N.S.; effective 11-11-2022.)

§ 22.3106 Advertising of Public Works Contracts

- (a) *Major public works contracts* shall be advertised for a minimum of one day in the City official newspaper at least ten days before the deadline to submit bids or proposals.
- (b) The City Manager may award *minor public works contracts* without advertising. In lieu of advertising, the City Manager shall follow procedures set forth in Chapter 2, Article 2, Division 36 of the Municipal Code.

(“Advertising of Public Works Contracts” added 4-23-2012 by O-20148 N.S.; effective 5-23-2012.)

§ 22.3107 Award of Public Works Contracts

- (a) *Major public works contracts* of \$1,500,000 or more shall be awarded through a competitive process according to the project delivery method:
 - (1) Design-build contracts shall be awarded pursuant to Chapter 2, Article 2, Division 33 or 34 of the Municipal Code.
 - (2) *Job order contracts* shall be awarded to the *responsible* and reliable *bidder* with the lowest total unit cost.
 - (3) Construction manager at risk contracts shall be awarded pursuant to Chapter 2, Article 2, Division 38 of the Municipal Code.
 - (4) All other *major public works contracts* of \$1,500,000 or more shall be awarded to the lowest *responsible* and reliable *bidder*.
- (b) *Major public works contracts* of more than \$1,000,000 and less than \$1,500,000 shall be awarded through a competitive process pursuant to Section 22.3107(a), except that the City Manager may include a *bid discount* pursuant to Chapter 2, Article 2, Division 36 of the Municipal Code.
- (c) *Minor public works contracts* shall be awarded through a competitive process pursuant to Chapter 2, Article 2, Division 36 of the Municipal Code.

(“Award of Public Works Contracts” added 4-23-2012 by O-20148 N.S.; effective 5-23-2012.)

(Amended 8-10-2022 by O-21516 N.S.; effective 9-9-2022.)

§22.3108 Exceptions to Advertisement and Competitive Award of Public Works Contracts

- (a) Unless otherwise authorized by Section 22.3614, *public works contracts* may be awarded by the City Manager without advertisement and competition when the public interest or necessity demands the immediate expenditure of public money to safeguard life, health or property due to extraordinary fire, flood, storm, epidemic or other disaster, provided that:
 - (1) The City Manager immediately reports the emergency award and its justifications to the City Council in writing; and
 - (2) The City Council ratifies the award by resolution and by a two-thirds vote.
- (b) *Public works contracts* may be awarded by the City Manager without advertisement and competition if the City Manager certifies a *sole source contract* is necessary pursuant to Section 22.3016. If the justification of the *sole source contract* is the emergency nature of the project, the City Manager shall notify the City Council and obtain the City Council's approval pursuant to Section 22.3108(a).

(“Exceptions to Advertisement and Competitive Award of Public Works Contracts” added 4-23-2012 by O-20148 N.S.; effective 5-23-2012.)

§22.3109 Public Information on Public Works Projects

- (a) The City Manager shall post a list of all City public works projects over \$250,000 on the City's website. The list shall include, at a minimum:
 - (1) The name and location of each project;
 - (2) The type of facility involved;
 - (3) The estimated cost of the project;
 - (4) The estimated start and completion dates; and
 - (5) The level of participation by Small Local Business Enterprises, as defined in Section 22.3603.

- (b) The City Manager shall post this list on the City's website by July 1, 2012, or the effective date of this Section, whichever occurs later, and shall ensure the list remains current.
- (c) The City Manager may post additional information not required by this Section or Council Policy.

(“Public Information on Public Works Projects” added 4-23-2012 by O-20148 N.S.; effective 5-23-2012.)

§22.3110 Acquisition of Interests in Real Property

- (a) Notwithstanding any other provision of this Code, the City Manager may acquire interests in real property necessary for the construction, reconstruction, repair, operation, or maintenance of City facilities without City Council approval, provided that:
 - (1) For projects previously identified and appropriated through the Annual Capital Improvements Program budget, sufficient funds are available in the approved project budget to acquire the property interests.
 - (2) For projects that are not identified and appropriated through the Annual Capital Improvements Program budget but are related to existing City facilities, the cost of the property interests being acquired does not exceed \$250,000 per parcel.
- (b) This section does not apply to acquisition of interests in real property by eminent domain.

(“Acquisition of Interests in Real Property” added 12-16-2016 by O-20764 N.S.; effective 1-15-2017.)