

**ORDINANCE NO. 9836**

AN ORDINANCE REPEALING AND RE-ENACTING SECTIONS 401, 402, 403, 409, 416, 422, 425, AND 426, AND REPEALING SECTION 425 OF ARTICLE XXIII OF THE SAN DIEGO COUNTY ADMINISTRATIVE CODE ENTITLED, "PROCUREMENT"

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

Section 1. Article XXIII of the County Administrative Code is revised to read as follows:

**ARTICLE XXIII  
DEPARTMENT OF PURCHASING AND CONTRACTING**

**SEC. 401. PROCUREMENT.**

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

(b) The Director has authority to enter into contracts to purchase, rent, or lease all personal property for the County, including any insurance, supplies, materials, furnishings, equipment, and computer hardware and software systems (collectively, "Non-Service Contracts"). Unless otherwise provided for in this Code of Administrative Ordinances, the Director also has authority to engage independent contractors to perform services for the County ("Service Contracts"). The Director may enter into the following contracts without obtaining the approval of the Board of Supervisors:

i. All Service Contracts (except for "professional services," as defined in Board policy and as otherwise provided for in this Code of Administrative Ordinances) where the total estimated value of services provided during the entire term of the contract is under \$100,000; and

ii. All Service Contracts (except for "professional services," as defined in Board policy and as otherwise provided for in this Administrative Code of the County of San Diego) and all Non-Service Contracts where the total anticipated value provided is under \$100,000 per year and Board policy sets forth a procedure for excepting the procurement from competition; and

iii. All Service and Non-Service Contracts, except as noted below, where the total anticipated value of the Services or Non-Services provided are under \$1,000,000 per year, subject to the following conditions:

a. The Board of Supervisors has exempted the category of Services or Non-Services (including “professional services,” as defined in Board policy and as otherwise provided for in this Code of Administrative Ordinances) provided under the subject contract from competitive bidding requirements pursuant to a written Board policy exempting specific classes of procurement from such requirements; or

b. The contract is awarded pursuant to a “competitive negotiated procurement” procedure, as defined in Board policy.

iv. All Service and Non-Service Contracts, with no maximum limitation on contract value, where the Director awards the contract in accordance with a process of either “formal bidding” or “reverse auction,” and Non-Service contracts for goods acquired from other government agencies or contracts competitively awarded by those agencies.

v. The Director may amend any contract, without obtaining approval of the Board of Supervisors, in accordance with provisions of this Section 401.

(c) For contracts to purchase, rent or lease personal property, and for contracts to engage independent contractors to perform services, the Director has authority to enter into a particular or individual contract where the Board has specifically authorized the Director to negotiate and award or amend that contract, in accordance with any conditions and pricing terms specified by the Board as applicable to such contract and any amendments thereto.

(d) The Director is authorized to enter into public works contracts (as described in section 20121 of the Public Contract Code). The Director may enter into these contracts, without obtaining approval of the Board of Supervisors, if the estimated cost of the work is less than the amounts prescribed by the Public Contract Code.

(e) The Director is authorized to enter into contracts for highways (as described in section 20390 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 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.

#### **SEC. 402. EMERGENCY PURCHASES.**

In cases of emergency, as determined by department heads or elected officials, such officials may make emergency purchases when Purchasing and Contracting staff is not available to approve such emergency purchases or under circumstances where immediate

action is necessary to contain and control the emergency condition. The Director of the Department of Purchasing and Contracting, as the County's Purchasing Agent, in cases of emergency, may extend existing (non-emergency) contracts in any amount if the original contract was awarded competitively. All officials making emergency purchases shall report such actions to the Purchasing Agent at the first available opportunity and shall submit sufficient and proper documentation, as required by County procurement procedures, for subsequent approval by the Purchasing Agent or ratification by four-fifths vote of the Board of Supervisors, as appropriate. For the purpose of this Section, an "emergency" means conditions that present an immediate danger or an immediate threat of danger to the public health, safety, and welfare.

**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 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.

**SEC. 409. RECORDS MANAGEMENT.**

The Department of Purchasing and Contracting will perform the following records management and storage functions:

(a) Manage the County's purchase orders for off-site records storage, scanning services, and duplicating services, and provide records storage and retrieval of historical documents maintained in the County's vault; and

(b) Administer a uniform Records Management Program encompassing all County departments and offices.

**SEC. 416. PREPARATION OF PURCHASE ORDER AND SUBMISSION TO AUDITOR & CONTROLLER FOR APPROVAL.**

Where requisitioned articles are to be procured, the Director shall prepare a purchase order on forms or electronic media and as many copies thereof as may be necessary and transmit the necessary copies thereof to the Auditor & Controller for proper budgeting and certification as to the availability of money to meet the cost of the articles proposed to be purchased. After the Director has determined that there is sufficient money in the proper funds to pay for the purchase, the Director shall be authorized to sign on the original or on the copies or approve electronically the purchase order and issue it to the vendor.

**SEC. 422. DISPOSAL OF PERSONAL PROPERTY NO LONGER NEEDED BY COUNTY.**

Whenever the head of any County department, office, or institution determines that any items of personal property are no longer needed by that department, office, or institution and the Director of Purchasing and Contracting determines that such items are no longer needed by the County, the Director may sell or otherwise dispose of such items in accordance with Sections 25503 through 25507, inclusive, plus 25372 and 26227 of the Government Code unless otherwise directed by the Board.

**SEC. 425. SMALL PURCHASE ORDER CHECK PROCEDURE** is hereby repealed.

**SEC. 426. RULES AND REGULATIONS.**

The Director is authorized to prepare procedural rules and regulations implementing and supplementing the applicable statutes and the provisions of this Code relating to the performance of Purchasing and Contracting functions. A copy of such rules and regulations and of any and all amendments thereto shall be posted on the County's Internet site.

Section 2. This ordinance shall take effect 30 days after its adoption. Within 15 days after the date of adoption of this Ordinance, a summary shall be published once with the names of those members voting for and against the same in the newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED this 13<sup>th</sup> day of March, 2007