DRAFT

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 27 OF THE SAN JOSE MUNCIPAL CODE RELATED TO THE PROCUREMENT PROCESS

WHEREAS, the San José City Council ("City Council") desires to amend Title 27 as set forth in the memorandum from the Director of Public Works, Matt Loesch, for the August 19, 2025 City Council meeting ("Memorandum"); and

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance do not constitute a project, under File No. PP PP17-008 (Code or Policy change that involve no changes in the physical environment); and

WHEREAS, the City Council is the decision-making body for this Ordinance; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Section 27.06.050 of Chapter 27.06 of Title 27 of the San José Municipal Code is hereby amended to read as follows:

27.06.050 Request for Quotes

The Director will use a request for quotes process that complies with the following requirements as the primary method of procuring Minor Public Works Contracts.

DRAFT--Contact the Office of the City Clerk at (408)535-1260 or CityClerk@sanjoseca.gov for final document.
REVISED – Redlines added after original posting on 08-08-2025 to show changes against existing Municipal Code.

A. The Director may send a request for quotes to Contractors by telephone, fax, e-mail or any other electronic means.

B. The request for quotes must be in writing, and the Director must send the same written request for quotes to all Contractors.

C. The Director must give Contractors a reasonable amount of time to respond to a request for quotes given the complexity of the Minor Public Works Project.

D. The Director may conduct the procurement consistent with the "best value" approach in Chapter 27.12, except that the Public Bidding requirements of Section 27.12.030 will not apply.

E. The Director must require Contractors to respond to a request for quotes in writing.

F. The Director must ~~obtain~~ solicit written quotes from at least 3 Contractors unless doing so is not practicable.

G. Except where legal constraints on the expenditure of funds prohibits the use of preferences, the Director will give the following preferences to a Contractor in determining the lowest quote:

1. A credit of 5.0 percent of the amount of the quote if the Contractor is a Local Business Enterprise, as defined in 4.12.030 of Chapter 4.12 of the Municipal Code; and

2. An additional credit of 5.0 percent of the amount of the quote if the Contractor is also a Small Business Enterprise, as defined in 4.12.060 of Chapter 4.12 of the Municipal Code.

H. The Director must award the Minor Public Works Contract in accordance with either of the following:

1. To the Contractor submitting the lowest quote; or

2. If the Director uses the "best value" approach, to the Contractor submitting the lowest quote as determined in accordance with Section 27.12.040 of Chapter 27.12.

SECTION 2. Section 27.06.070 of Chapter 27.10 of Title 27 of the San José Municipal Code is hereby amended to read as follows:

27.06.070 On-Call Contracts

A. An "On-Call Contract" is a City contract in which the specific maintenance or Public Works Project a Contractor will perform, and the compensation for such work, is not in the contract but is in negotiated work orders issued pursuant to the contract as the need for work arises.

B. The Director will procure On-Call Contracts ~~iin one of the following ways:~~

~~I~~n the same manner as Major Public Works Contracts, except the lowest bidders will be ranked based on either of the following :

1. The lowest percentage markup; or

2. The lowest bid for an exemplary project when the procurement is based on unit prices as applied to an exemplary project.

~~2. In the same manner as the City procures Services under Chapter 4.12 of Title 4 of the San José Municipal Code, entitled "Procurement of Goods and Services."~~

C. The Director cannot use On-Call Contracts to procure Major Public Works Projects, and no work order issued pursuant to an On-Call Contract can exceed the threshold amount of a Minor Public Works Contract.

D. At the Director's discretion, the bid solicitation documents may allow for the award to multiple bidders in order of the lowest bids. When multiple awards have been made under such circumstances, then at the time that work orders are issued, the choice to issue work orders between or among the Contractors will be based on the following: (a) lowest total cost and (b) availability.

SECTION 3. Section 27.06.080 of Chapter 27.06 of Title 27 of the San José Municipal Code is hereby amended to read as follows:

27.06.080 Micro Contracts

Notwithstanding anything to the contrary in this Chapter 27.06, the Director may procure without any competitive process a Minor Public Works Contract that does not exceed $~~10~~75,000, as adjusted for inflation pursuant to Section 27.04.100

SECTION 4. Section 27.10.260 of Chapter 27.10 of Title 27 of the San José Municipal Code is hereby amended to read as follows:

27.10.260 Timely Submission

A. The Director must receive a bid protest at the location stated in the notice of intended determination.

B. The Director must receive the bid protest by 5:00 p.m. on the ~~5th~~3rd Business Day after the day the Director gives bidders notice of the posting of the notice of intended determination.

C. The Director will not accept a late bid protest.

SECTION 5. Section 27.10.450 of Chapter 27.10 of Title 27 of the San José Municipal Code is hereby amended to read as follows:

27.10.450 Relevant Information

The following information is relevant to determining if a bidder is responsible:

A. The bidder's performance on other contracts, including other City contracts;

B. The bidder's record of compliance with relevant laws and regulations, such as laws related to contractor licensing, labor laws related to employee compensation and benefits, and laws related to the submission of false claims;

C. The bidder's record of business integrity;

D. The bidder's management expertise, technical qualifications, and experience;

E. The bidder's demonstrated financial resources;

F. The lack of responsibility of one or more of the subcontractors listed by the bidder; and

G. Any ground for debarment in Section 4.10.~~355~~ 150 of the San José Municipal Code.

SECTION 6. Section 27.10.560 of Chapter 27.10 of Title 27 of the San José Municipal Code is hereby amended to read as follows:

27.10.560 Award Authority - Director

A. The Director is authorized to award and execute a Major Public Works Contract under the following conditions:

1. The amount of the Major Public Works Contract is $~~1~~5,000,000 or less, exclusive of the amount of any bid alternates being awarded.~~;~~ ~~and~~

2. There is no unresolved bid protest that conforms to the requirements of Part 6 of this Chapter 27.10.

B. The Director's authority under this Section includes: ~~is authorized to award and execute a Major Public Works Contract under the following conditions:~~

1. The authority to award bid alternates, even if their cost would cause the Major Public Works Contract to exceed $~~1~~5,000,000;

2. The authority to reject bid alternates; and

3. The authority to establish a construction contingency in an amount consistent with Section 27.04.050.

C. The Director's authority under this Section is subject to the limitation that the contract amount, plus the project delivery costs, plus the construction contingency must be less than or equal to the amount appropriated for the project.

D. The Director's authority under this Section includes the authority to approve the plan or design associated with the Major Public Works Contract the Director awards and executes.

E. The $~~1~~5,000,000 threshold amount in this Section is subject to adjustment for inflation in accordance with Section 27.04.100.

SECTION 7. Section 27.14.560 of Chapter 27.14 of Title 27 of the San José Municipal Code is hereby amended to read as follows:

27.14.040 State Law Procedures

Except as otherwise set forth in this Chapter 26.14, the Director will procure a Design-Build Contract under Section 1217(c)(2) of the Charter of the City of San José in one of the following ways:

A. In accordance with the procedures and requirements of California Public Contract Code Sections 22160 through 22162.4 and Sections 22164 through 22168, as amended from time to time; or

B. In accordance with the procedures and requirements of California Public Contract Code Sections 22185 through 22185.7 and Section 22185.10, as amended from time to time. Notwithstanding the previous sentence, Design Build Contracts procured under this subsection:

1. Will not be subject to any limitation on the number of projects that may otherwise apply under California Public Contract Code Section 22185.1.

2. Will not be subject to any requirement to report to the policy and fiscal committees of the State Legislature on the City's use of progressive design-build process that may otherwise apply under California Public Contract Code Section 22185.7.

SECTION 8. Chapter 27.14 of Title 27 of the San José Municipal Code is hereby amended to read as follows:

27.14.045 Confidential Meetings

Retroactive to June 4, 2025, procurements conducted pursuant to this Chapter may include a process for conducting confidential meetings with responding teams that conflicts with the procurement and contract process protocol found in City Council Resolution No. 2024-99. In such an instance, the process will be narrowly constructed

to meet the specific needs of the procurement and will be clearly explained in the procurement documents.

PASSED FOR PUBLICATION of title this _____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
City Clerk