

Proposition A: City of Chula Vista Charter Amendment

September 2014

SDCTA Position:

SUPPORT

Rationale for Position:

The proposed charter amendment will limit the City of Chula Vista's charter to procurement principles; giving the ability of the city to implement streamlining measures that will allow for the spending of tax dollars toward infrastructure projects in an efficient manner, while maintaining within the Charter checks and balances. SDCTA will actively monitor the city's effort to engage the community for feedback prior to the adoption via municipal code specific contracting procedures.

Title: Proposition A: City of Chula Vista Charter Amendment

Jurisdiction: City of Chula Vista

Type: Proposition

Vote: Majority of public vote

Status: November 4, 2014 ballot

Issue: Amendment to charter relating to public works contracting in order to enhance efficiency and flexibility in city procurement practices.

Description: If approved, the measure would amend charter sections 1009, 1010 and 1011 which set forth procedures for awarding public works contracts and other types of city contracts. The proposed modifications eliminate procurement practice details and replace them with procurement practice principles. The authority for making detailed procurement rules is delegated to the City Council.

Fiscal Impact: The City of Chula Vista estimates it will on average process approximately 72 public works contracts between \$25,000 and \$250,000 each year. Staff estimates annual administrative savings of 1,100 hours (\$162,000) representing the effort of preparing and reviewing agenda items for city council approval.

Background:

Charter Provisions: Public Works Contracting

Charter section 1009 outlines the city's policies for public works contracts. The charter states that any contract greater than \$25,000 must be approved by the City Council. Specifically, the charter states:

“Every project involving an expenditure of fifty thousand dollars (\$50,000) or more for the construction, reconstruction, improvement or repair of public buildings, streets, drains, sewers, utilities, parks and playgrounds and other public works, and the furnishing of supplies, materials, equipment or contractual services for same shall be done by written contract except as otherwise provided in this chapter, and the Council, upon the recommendation of the City Manager, shall let said contract to the lowest responsible bidder after notice by publication in the official newspaper for sealed bids for the work contemplated by one or more insertions, the first of which shall be at least ten days before the time for opening bids. If the cost of said public works project is more than the sum of twenty-five thousand dollars (\$25,000) but less than fifty thousand dollars (\$50,000), the City

Council may let said contract without advertising for bids after prices from interest contractors; which shall be considered by the Council before said contract is let.”

This process requires staff to prepare detailed project bid documents, the advertisement for bids and a formal sealed bid process. In addition, all contracts exceeding \$25,000 must also be agendized, with all necessary background documents, and presented to City Council for approval.

Charter Sections 1010 and 1011

Charter sections 1010 and 1011 deal with general purchasing provisions by the city. Section 1010 requires a centralized purchasing system be established for all departments and the council adopt an ordinance governing the “purchasing, storing, distribution or disposal of all property, supplies, materials and equipment required or possessed by and [city] department.”

Section 1011 states that “ample opportunity” is required to be given during the competitive bidding for purchases or contracts for supplies, materials or equipment by the city. It also states, “When making purchases for the City, merchants with places of business located within the City shall be given the preference, quality and prices being equal.”

Staff has stated that the language within these sections limits alternative purchasing programs intended to increase local business retention, expansion and attraction. It is the belief of staff that current language only allows for a local preference only as a tiebreaker when bids are identical in price and quality.

Charter Review Process

Since 2013, the City Attorney’s office has been working with the Charter Review Commission and city departments to identify areas in which amendments are determined necessary. Drafts of the proposed recommendations were discussed over a period of six public meetings, with a final recommendation for placement on the ballot being adopted on April 23, 2014. According to staff reports, discussion at the Commission meeting resulted in consensus around the option of eliminating the specifics from the Charter, and instead having specific policies approved by the city council via ordinance.

Proposal:

On August 5, 2014, the Chula Vista City Council voted to place the charter amendments on the ballot. The ballot language will read:

“Shall the City’s Charter provisions regarding public works and general purpose contracting be amended to replace specific contracting procedures with more general contracting principles that would be implemented by ordinance, including the requirement for competitive bidding, City Council approval of major contracts and other best practices, and the requirement that any exceptions to standard competitive purchasing practices be approved by 4/5ths votes of the City Council with findings of public benefit?”

Policy Implications:

Guiding Principles

Voters within the city have twice approved amendments to Section 1009. In 1992, voters agreed to increase the formal bid threshold from \$25,000 to \$50,000, and the council approval threshold from \$10,000 to \$25,000. In 2000, voters approved an amendment that allowed the city to utilize the design-build procurement process, as previously only the traditional design-bid-build process had been legally allowed. In order to allow for more flexibility in the various delivery methods allowed by the city, the proposed amendment will grant the city council flexibility to utilize various delivery methods while following guiding principles that are outlined within the Charter.

The proposed Charter language amends section 1009 by requiring the city council to adopt an ordinance that details “specific policies and procedures for the award of Public Works contracts.” The language redefines “Public Works” by removing routine maintenance projects. Specific provisions that must be included within the ordinance, as outlined under section 1009 include:

- City council definition of “major” contracts or “special contracts”
- Competitive bid process for all contracts, including formal advertisement for bids and sealed bids for all “major” contracts
- Awards of contracts to lowest responsive and responsible bidder
- Emergency authority to waive applicable competitive bid process requirements if City Manager determines work required is of urgent necessity for preservation of life, health or property

The ordinance may also provide for one or more exceptions to the approval and competitive bid processes as long as the exception is implemented as part of a city-wide policy approved and determined to be in the best interests of the city by a 4/5ths vote of the city council.

Amendments to Sections 1010 and 1011

The proposed measure amends Charter sections 1010 and 1011 by including additional guiding principles that relate to non-public works projects and a centralized system for city property. Section 1010 amends current language regarding the centralized purchasing system to include the leasing and other types of acquisition of property, supplies, materials or equipment by city departments. Amended language also includes the provision that the same competitive bidding exception outlined in section 1009 applies to non-public works contracts.

Section 1011 is essentially eliminated as the current language deals with bid policies, which will be adopted via ordinance by the city council should the amendments be approved by voters. In its place, section 1011 requires the establishment of a centralized system for the storage, distribution and inventory of all city property. The proposed amendment also requires the approval of policies and procedures for the disposition of surplus city property.

Other Cities

Other charter cities within the county, including Carlsbad, Oceanside, San Marcos and Vista, all have similar language that outlines the criteria for public works contract. Each of their charters state, with some variation:

“The City shall have the power to establish standards, procedures, rules or regulations relating to all aspects of the award and performance of contracts, including contracts for the construction of public improvements, including, but not limited to, compensation paid for performance of such work.”

The proposed language is stronger than that of the other cities by requiring the city council to adopt an ordinance that includes specific provisions relating to competitive bidding, the awarding of contracts and the ability of a supermajority of the council to waive such processes.

The City of San Diego is the exception with respect to the depth of detail within their charter regarding public works contracts. San Diego’s charter does outline the process for the awarding of contracts under various project delivery methods, but not outline an amount by which a contract must be approved by the city council. This is the same for the other charter cities previously mentioned.

Fiscal Impact:

It is estimated the cost to place the measure on the ballot will total approximately \$47,000. The funding source for this expense will be allocated from the city’s General Fund reserve account. The allocation will be offset by carryover funding that includes savings from past elections.

City staff estimated the on average the city will process about 72 public works contracts greater than \$25,000 and below \$250,000 each year. Should the measure pass, staff estimates ongoing administrative savings of 1,100 hours totaling \$162,000 annually.

List of Proponents:

- Chula Vista City Council

Proponent Arguments:

- The proposed Charter amendments will replace detailed procurement policies with procurement guiding principles, allowing the city council to amend policies to adjust to current state of contracting.
- Measure will provide for savings as the city moves forward with public works contracts.
- Amendment fulfills city’s strategic goals of streamlining city government and being able to respond to critical maintenance issues without delay.

List of Opponents:

- N/A

Opponent Arguments:

- N/A