

ORDINANCE NO. 28185

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTIONS 4.04.010, AND 4.04.020 OF CHAPTER 4.04 OF TITLE 4 OF THE SAN JOSE MUNICIPAL CODE TO DELEGATE TO THE CITY MANAGER THE AUTHORITY TO EXECUTE CERTAIN AGREEMENTS FOR THE PURCHASE OR DONATION OF REAL PROPERTY, PERMANENT EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS WITH TERMS OF TWO YEARS OR LESS, WHERE THE CONSIDERATION FOR THE REAL PROPERTY, PERMANENT EASEMENT OR TEMPORARY CONSTRUCTION EASEMENT DOES NOT EXCEED \$100,000.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Section 4.04.010 of Chapter 4.04 of Title 4 of the San José Municipal Code is hereby amended, to be numbered and entitled and to read as follows:

4.04.010 Scope of Contract Authority

- A. The term “contract,” for the purpose of this Chapter, shall include, but not be limited to:
1. Agreements for the construction of public works projects;
 2. Agreements for the lease or purchase of supplies, materials and equipment;
 3. Leases and other agreements for the use of real property;
 4. Agreements for professional services;

5. Agreements for personal services, including agreements with independent contractors and employees;
 6. Agreements relating to the grant of funds by the City and to the City;
 7. Agreements to sponsor a City event, activity or public facility where the sponsor provides financial support to the City, which may be in the form of money, goods, personal property, or in-kind services and in exchange, the sponsor receives more substantial recognition from the City than a nominal acknowledgement of the financial support;
 8. Agreements for the purchase of real property; and
 9. Temporary construction easements.
- B. The term “contract,” for the purpose of this Chapter, except as provided in Section 4.04.025, shall not include:
1. Unless specifically authorized under Section 4.04.020, agreements for the transfer of title to or substantial permanent interest in real property, including:
 - a. Grant deeds;
 - b. Quit claim deeds; and
 - c. Easements.
 2. Agreements for the donation of personal property by the City.

- C. The term “having a maximum value of” means the contract obligations involve the transfer to or from the City of money, goods, tangible or intangible personal property or an interest in real property having a dollar value in the amount stated.

SECTION 2. Section 4.04.020 of Chapter 4.04 of Title 4 of the San José Municipal Code is hereby amended to be numbered and entitled and to read as follows:

4.04.020 Contract Authority of the City Manager

- A. The City Manager is authorized to enter into and execute for and on behalf of the City of San José, without the prior approval of the City Council, any Contract, for which:
1. Moneys have been appropriated; and
 2. There is an unexpended and unencumbered balance of such appropriation sufficient to pay the expense of the contract; and
 3. The total monetary value expended or received by the City does not exceed the amount listed below with respect to the type of contract:
 - a. Emergency purchases pursuant to Section 4.12.220 regardless of the amount expended;
 - b. Agreements for the lease or purchase of supplies materials and equipment including the delivery thereof, having a maximum value of One Million Dollars (\$1,000,000);
 - c. Agreements for services, other than professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction management firms, having a

maximum value of Two Hundred Fifty Thousand Dollars (\$250,000);

d. All other types of contracts having a maximum value of One Hundred Thousand Dollars (\$100,000).

B. In addition, the City Manager is authorized to enter into and execute for and on behalf of the City of San José, without the prior approval of the City Council, the following:

1. Any contract for the payment of fees imposed on the developer of a residential project pursuant to Chapter 14.25 or Chapter 19.38 of this Code;
2. One or more amendments to a lease, where City is a lessor or lessee, for the purpose of undertaking a cumulative total of no more than One Hundred Thousand Dollars (\$100,000) in improvements to the leased property over the term of the lease, including option periods;
3. Tenant estoppel certificates on behalf of the City, where City is a tenant or subtenant under an existing lease;
4. Agreements for the purchase or donation of fee interests in real property or for the grant of easements to the City, and all documents necessary to complete the purchase, where:
 - a. the real property or the easement is being acquired in order to implement a project approved by the City Council; and
 - b. the grant of easement or acquisition of real property has been determined to present no significant toxics liability; and

- c. the compensation to the seller of the real property or grantor of the easement does not exceed one hundred thousand dollars (\$100,000) and all costs of purchase and additional costs of escrow and closing are lawfully available in accordance with Subsections 4.04.020 A. 1 and 2 above.
 5. Temporary construction easements for terms not exceeding two (2) years where the City is grantor or grantee and the compensation for the temporary construction easement rights does not exceed One Hundred Thousand Dollars (\$100,000).
- C. No provision of this Chapter is intended to limit the authority of the City Manager or any Council Appointee from seeking approval of a specific action by the City Council, nor is it intended to limit the authority of the City Council to place limitations on the City Manager's or other Council Appointee's authority with respect to entering into specific contracts.

PASSED FOR PUBLICATION of title this 4th day of December, 2007, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, CORTESE,
OLIVERIO, PYLE, WILLIAMS; REED

NOES: NONE

ABSENT: LICCARDO, NGUYEN

DISQUALIFIED: NONE

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk