

**State of Texas
County of Bexar
City of San Antonio**



**DRAFT
Meeting Minutes
City Council B Session**

City Hall Complex
105 Main Plaza
San Antonio, Texas 78205

Wednesday, March 7, 2018

2:00 PM

Municipal Plaza Building

The City Council of San Antonio convened in the “B” Room of the Municipal Plaza Building. City Clerk Leticia Vacek took the Roll Call noting the following Councilmembers present:

PRESENT: 11 - Mayor Nirenberg, Treviño, Shaw, Viagran, Saldaña, Gonzales, Brockhouse, Sandoval, Pelaez, Courage, and Perry

1. Briefing and recommendations on the City’s Procurement and Preference Programs.
[Ben Gorzell, Chief Financial Officer]

Troy Elliott provided an overview of the Local Preference Program and Veteran-Owned Small Business (VOSB) Program. He stated that program components were either covered by statute or discretionary. He noted that Councilmembers asked staff to investigate the expansion of Local Preference Program boundaries to municipalities within San Antonio City Limits. He reported that State Statute restricted the City’s ability to change boundaries for Low Bid Contracts but boundaries for Discretionary Contracts not covered by statute could be modified. He recommended maintaining the current boundaries for Low Bid and Discretionary Contracts and to pursue changing the boundary through the next Legislative Agenda. He stated that current Low Bid price variance for Local Preference was set at 3% but could be raised to 5%. He noted that the threshold for price variance had been set at \$50,000 due to the high volume of contracts under said amount that would require

additional staff to review. He recommended raising the variance to 5% for Goods and Non-Professional Services valued between \$50,000 and \$500,000. He provided an overview of potential cost impacts if the recommendations were accepted. He recommended that the next Legislative Agenda include changes to allow Local Preference and VOSB in Requests for Competitive Sealed Proposals and to allow VOSB in Invitations for Bids.

Mr. Elliott stated that the Local Preference Program did not lend itself to acquisition of Lobbying Services due to the nature and location of services and staff recommended an exception to the Ordinance for such services. He noted that the VOSB Program could not be expanded to Low Bids but could be expanded to Discretionary Contracts if not governed by statute. He recommended five additional points for Service Disabled Veterans in Discretionary Contracts. He stated that the current maximum evaluation point value was 35 points across SBEDA, Local Preference, and VOSB. He recommended a 25-point cap across all three programs. He stated that San Antonio was progressive in its use of Preference Programs compared to other large municipalities in Texas.

Mr. Elliott provided an overview of the current High Profile Process. He recommended that the definition of High Profile Contracts be changed to raise the monetary value for consideration to \$5 million and to exclude On-Call and Job Order Contracts. He stated that changing High Profile Considerations would allow a more focused review and approval process for the Audit and Accountability Council Committee.

Mr. Elliott stated that consideration of a Living Wage was introduced through a Council Consideration Request (CCR) from Councilmember Saldaña requesting a new scoring category with weighted points for the employee compensation package. He provided an overview of staff research and benchmarking with Dallas, Houston, and Austin. He recommended the inclusion of Wage and Benefit Consideration under the Proposed Plan for Service Contracts over \$50,000 where labor constituted at least 20% with the exclusion of Construction Contracts.

Mr. Elliott stated that review of a Responsible Bidder Program was requested by Councilmember Pelaez. He noted that the definition of a Responsible Bidder varied by city, construction, and trade organization but was primarily focused on Public Works Projects. He stated that the aim of the program was to reward contractors for high quality work that was delivered efficiently, safely, on-time, and on-budget. He provided an overview of statutory requirements and the current due diligence process. He stated that future research considerations included apprenticeships, employee compensation claims, OSHA requirements, training programs, and debarment programs. He recommended maintenance of existing due diligence practices at the Prime Contractor level for contracts over \$50,000.

Mayor Nirenberg asked of the process to update Procurement Programs and public

engagement efforts. Mrs. Sculley stated that public forums could be held prior to another B Session briefing with recommendations or A Session for action before Summer 2018. Mayor Nirenberg asked if the proposed changes would affect the current Bond Program. Mr. Elliott replied that they could.

Councilmember Pelaez asked of the use of internet searches during due diligence. Mr. Elliott replied that staff searched for media regarding the bidder and presented it to the Evaluation Committee. Councilmember Pelaez asked if due diligence captured all out-of-state offenses. Mr. Elliott replied that there was a chance it would not. Mrs. Sculley added that investigations were more in depth for high profile and high value contracts, including criminal history. Councilmember Pelaez expressed concern that Subcontractors would not be held to the same standards as Primes under the current recommendations.

Councilmember Brockhouse expressed concern that Councilmembers had not been sufficiently included in the development of the proposed recommendations. He asked for more information regarding cost impact to businesses if the changes were implemented and expansion of the consideration period for High Profile Contracts. Mr. Elliott replied that the intention of the current B Session was to introduce topics of discussion and staff would consider timeline expansion moving forward. Councilmember Brockhouse asked if the Living Wage component received a specific allocation within the Evaluation Process. Mr. Elliott replied that it would be part of the 25 points available for the Proposed Plan. Councilmember Brockhouse expressed concern that bias toward higher wages over other evaluation criteria would lead to scoring that would harm Small Business Owners. He asked of the community feedback process. Mr. Elliott stated that a feedback process had not yet been conducted. Mrs. Sculley clarified that feedback regarding Procurement Programs had been received since the inception of the programs and stakeholder feedback regarding the current meeting's recommendations would be gathered and presented at a later time.

Councilmember Saldaña stated that his intent behind requesting a Living Wage requirement was to provide evaluators with an additional criterion to choose between well-qualified bidders. He asked of the use of a Prevailing Wage for Construction Contracts. Mr. Frisbie replied that State Law mandated Prevailing Wage and changing that to a Living Wage requirement would require statutory change. Councilmember Saldaña expressed support for a Living Wage in the interest of transparency.

Councilmember Shaw asked if Responsible Bidder requirements would be implemented if a bidder was awarded multiple contracts totaling over \$50,000. Mr. Elliott replied that the requirement would only apply to individual contracts. Councilmember Shaw expressed support for the current three-year limit on disqualification for felonies and asked for an analysis of best practices in other cities. He spoke in favor of boundary expansion for Local Preference where possible.

Councilmember Courage asked for a more comprehensive briefing process to address each component of the Procurement Process separately and asked of the Living Wage used in Dallas. Mr. Elliott replied that they utilized a wage index based on the region to set the Living Wage requirement. Councilmember Courage asked that Local Preference be applied for State Lobbying Services. Jeff Coyle stated that the reason for the recommended exclusion was due to the historically small number of bidders.

Councilmember Viagran asked of the determination of weighted values for evaluation components. Mr. Elliott replied that the originating department set the plan criteria required for each bid but those components did not receive specific weights. Councilmember Viagran expressed support for more specific point assignments to remove subjectivity. Mr. Elliott stated that Procurement Specialists had the option to reconstitute Evaluation Committees if they felt a member was manipulating the scoring. Councilmember Viagran asked staff to investigate if expansion of Local Preference would de-incentivize growth on the Southside because there were no internal municipalities or opportunities for annexation in the area. She expressed support for leaving the High Profile designation at \$1 million and for lengthening the City Council's review period for contracts before a vote.

Councilmember Pelaez stated that background checks could be performed at a low cost and did not present an undue burden to Small Business Owners. He asked staff to examine best practices in cities outside Texas.

Councilmember Treviño asked of practices to guarantee quality of work and alignment with the City's Core Values. Mr. Elliott replied that staff worked with the originating department and vendors to ensure work quality and provided training and assistance in cases of service delivery issues.

Councilmember Sandoval spoke of the importance of balancing monetary value and ethical values in the Procurement Process and asked how due diligence impacted the Evaluation Process. Mr. Elliott replied that due diligence was conducted at the beginning of the process and compiled for presentation to the Evaluation Committee. Councilmember Sandoval asked if staff disclosed their specific due diligence criteria to bidders in advance. Mr. Elliott replied that they did not. Councilmember Sandoval asked how contractor performance on prior projects factored into the Evaluation Process. Mr. Frisbie replied that the Evaluation Process considered previous performance and customer service and could eliminate contractors from consideration. Councilmember Sandoval spoke in favor of raising the Local Preference percentage for Low Bid Contracts to 5% and asked staff to explore a tiered system for Local Preference Points, inclusion of OSHA Requirements and Sexual Harassment Training in a Responsible Bidder Ordinance, and an environmentally-friendly Procurement Process.

Councilmember Perry spoke in favor of staff recommendations regarding VOSB and asked of the number of failures to fulfill contracts. Mr. Elliott replied that there were only a few such instances. Councilmember Perry expressed concern that additional contract requirements would discourage investment in San Antonio and asked if detailed cost proposals were released upon contract award. Mr. Elliott replied that cost proposals were usually provided with the exclusion of proprietary information. Councilmember Perry asked staff to gather input from Small Business Owners and consider the fiscal impact of new requirements prior to legislative or procedural changes.

Councilmember Gonzales expressed support for a Living Wage, Responsible Bidder Ordinance, and extended contract consideration periods depending on the size and complexity of the contract.

Mayor Nirenberg thanked staff for the presentation.

EXECUTIVE SESSION

Mayor Nirenberg recessed the meeting into Executive Session at 4:41 pm to discuss the following:

- A. Economic development negotiations pursuant to Texas Government Code Section 551.087 (economic development).
- B. The purchase, exchange, lease or value of real property pursuant to Texas Government Code Section 551.072 (real property).
- C. Evaluation and duties of public officers or employees and any related legal issues pursuant to Texas Government Code Section 551.074 (personnel matters) and Texas Government Code Section 551.071 (consultation with attorney).
- D. Legal issues related to the competitive matters of CPS Energy as a publicly owned utility pursuant to Texas Government Code Section 551.071 (consultation with attorney).

RECONVENED

Mayor Nirenberg reconvened the meeting at 6:00 pm and announced that no action was taken in Executive Session. He stated that the Executive Session would resume the next day

after the Business Portion of the City Council Meeting.

CEREMONIALS

Mayor Nirenberg presented a Citation to the Sophomore Digital Media students of Communication Arts High School, and their Teacher Jill Barton. It was noted that the students poured their hearts and creative energies into a project to help Texans devastated by Hurricane Harvey by using their Photoshop skills. The students restored water-damaged photos and memories, returning some hope to people who still have a long way to go to rebuild homes and lives. Additionally, the students traveled to the Houston and Port Aransas Areas to personally deliver the restored photos to their owners.

Mayor Nirenberg presented a Proclamation in recognition of the 22nd Annual Cesar Chavez March for Justice that will be held on Saturday, March 24, 2018. It was noted that thousands of citizens would come together to celebrate the legacy and life of an outstanding American, Cesar E. Chavez, who founded the National Farm Workers Association which later became the United Farm Workers. It was noted that Mr. Chavez persevered to ensure that farmers received benefits and that individuals would not have to live or work in undesirable conditions. It was also noted that this year's event would commemorate the memory of the late Jaime P. Martinez, founder of the local march, and his tireless efforts to fight for justice for all.

CITIZENS TO BE HEARD

Mayor Nirenberg called upon the citizens registered to speak.

Mark Perez expressed concern with local businesses operating without the necessary permits.

Alan Montemayor thanked Councilmember Sandoval for her CCR regarding public participation. He expressed concern that CPS Energy did not have a process similar to Citizens to be Heard and asked City Council to support the addition of said process.

Nazirite Ruben Flores Perez spoke of the Texas Municipal Retirement System and Biblical End Times.

Diana Saenz asked the City Council to give Viewshed Protection to the Hays Street Bridge and spoke of its importance to the neighborhood and city.

Antonio Diaz stated that he was an original founder of the local César E. Chavez March for Justice and was not recognized as such by the city or current organizers. He spoke of the struggles of migrant workers and the economically disadvantaged.

Mayor Nirenberg exited the meeting and Mayor Pro Tem Brockhouse presided.

Juan Macias expressed concern with violent crime and Mexican gang activity in San Antonio.

Brian Gordon expressed concern that City Leaders were not engaging sufficiently with citizens regarding construction around the Hays Street Bridge. He asked the City Council to allow additional time for community input regarding Viewshed Protection.

Graciela Sanchez expressed concern that the City Council was not allowing sufficient time for community input regarding the Hays Street Bridge. She asked City Council to delay the Historic and Design Review Commission (HDRC) meeting.

Ray Zavala proposed a Dressing Ordinance to encourage more modest attire by citizens.

Alice Canestaro-Garcia asked the City Council to delay the HDRC meeting regarding the Hays Street Bridge and expressed concern that CPS Energy was not sufficiently committed to renewable energy sources.

RECESSED

There being no further discussion, Mayor Pro Tem Brockhouse recessed the meeting at 7:16 pm.

APPROVED

RON NIRENBERG
MAYOR

ATTEST:

LETICIA M. VACEK, TRMC/CMC/MMC
CITY CLERK