

1 [Approval to Implement Alternative Bid Process for Construction Trade Packages for the
2 Construction of the California Academy of Sciences Facility]

3 **Ordinance authorizing the Recreation and Park Commission to implement an**
4 **alternative bid process for construction trade packages for the construction of the**
5 **California Academy of Sciences Facility.**

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7 Be it ordained by the People of the City and County of San Francisco:

8 Section 1. In September 2003, the Board of Supervisors authorized, by Ordinance
9 229-03 (File No. 031194) (“Ordinance”, incorporated herein by reference), the Recreation and
10 Park Commission to award contracts for construction and/or design/build services in
11 connection with the reconstruction of the California Academy of Sciences, including the
12 Steinhart Aquarium, the Morrison Planetarium, and the Natural History Museum (collectively,
13 the “Academy Facility”). Capitalized terms not otherwise defined below have the meaning
14 given to them in the Ordinance.

15 Section 2. Because of the unique public-private nature of the funding for this
16 reconstruction project and because of the equally unique technical and design challenges
17 presented by the scope of the project, the Ordinance amended the City’s generally applicable
18 public contracting statutory requirements for the purposes of this project. Pursuant to the
19 Ordinance, CAS retained Webcor Builders to act as the project's general contractor. Webcor,
20 acting as General Contractor / Construction Manager “At Risk”, will be paid entirely out of
21 Other Funds. Work by specific trade subcontractors to be paid out of City Funds is to be
22 publicly bid to a minimum of three pre-qualified trade contractors. The successful bidder in
23 each trade will be awarded a contract which will then be novated to CAS, ultimately becoming
24 a subcontract to Webcor.

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1 Section 3. The Ordinance further provides that portions of the project, including much
2 of the new Steinhart Aquarium, could be bid as public design/build trade contracts in order to
3 reduce costs, minimize change orders, and obtain access to expertise and proprietary
4 information early in the design process that would not otherwise be available in a traditional
5 publicly bid process.

6 Section 4. Comprehensive cost estimates based on the 50% Construction
7 Documentation indicate that the Academy Facility faces a potentially severe budget crisis due
8 to factors out of CAS's, the City's, or Webcor's control. Current and anticipated global,
9 national, and State market conditions are expected to result in a dramatic increase in bid
10 prices far beyond what was originally budgeted for the project. Specifically, substantial and
11 largely unanticipated increases in the cost of basic building materials such as concrete and
12 steel have combined with a strong demand for construction services in California to
13 significantly increase the anticipated cost of the Academy Facility reconstruction project.

14 Section 5. Allowing the CAS and the City to incorporate value-engineering alternates
15 into their bid packages, respond to certain of those alternates, and adjust the project scope
16 quickly and cost effectively through an alternative bid process would benefit CAS and the City.
17 Such an approach would result in an anticipated cost savings by giving the bidders an
18 opportunity to identify potential cost savings and by providing CAS, the City, and Webcor
19 Builders the opportunity to incorporate these savings into the project's scope prior to awarding
20 the contracts.

21 Section 6. The Board of Supervisors does hereby authorize the Recreation and Park
22 Commission to implement the following:

23 A. The City, with CAS and Webcor (collectively, the "Project Team"), will
24 advertise in conformance with City and Ordinance requirements.

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1 B. The Project Team will review pre-qualification submittals and notify trade
2 contractors of their status to bid on the project. The Project Team will endeavor to attain at
3 least three bids per trade package.

4 C. The Project Team will issue bid documents to pre-qualified bidders.

5 D. Pre-qualified bidders will be requested to submit voluntary value-engineering
6 suggestions as deductive alternates to the bid documents. For any such deductive alternates
7 submitted, the bidders will be required to provide a specific price deduction for each value-
8 engineered suggestion.

9 E. City staff members who are not part of the Project Team will accept sealed
10 value-engineered deductive alternates, with respective price deductions, from pre-qualified
11 bidders and will not open them publicly.

12 F. City staff members who are not part of the Project Team will open the sealed
13 deductive alternate packages and will prepare a summary of the deductive alternates with no
14 trade contractor identified. This summary will be provided to the Project Team to evaluate.

15 G. The Project Team will evaluate the deductive alternates summary and
16 advise the City staff members with access to the full deductive alternate packages as to which
17 deductive alternates the Project Team will accept.

18 H. Once the Project Team has decided which deductive alternates to accept,
19 the Project Team may, at its discretion, issue an addendum to all pre-qualified bidders
20 instructing them to include the accepted deductive alternates in their bids.

21 I. If the bid package is for a design-build trade contract, the Project Team will
22 interview the pre-qualified bidders to review their design-build and design-assist capabilities.
23 Based in part on these interviews and in part on information submitted with the bid packages,
24 the Project Team will rate the pre-qualified bidders.

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1 J. After the foregoing deductive alternate process has occurred, pre-qualified
2 bidders will submit their base bid in compliance with all bid documents. The base bid will not
3 contain any of the value-engineered deductive alternates. The City will publicly open the bids
4 at this time.

5 K. After bids are received, but not yet opened, City staff members who are not
6 part of the Project Team will make public the accepted deductive alternates and respective
7 value-engineered pricing, with each bidder now identified in connection with his or her
8 suggested deductive alternates.

9 L. With both the base bids and the accepted deductive alternates now made
10 public and publicly identified with the bidder who submitted them, the price of the accepted
11 deductive alternates will be deducted from the base bid of the bidder who submitted that
12 alternative to determine the apparent low bidder.

13 M. If the bid package is for a design-build trade contract, the apparent low bid
14 will be weighted at sixty-percent; the bidder's rating regarding the other criteria such as
15 experience, financial capacity, and design quality, among others, will be weighted at forty-
16 percent, to determine the bidder to whom the contract will be awarded.

17 N. The City will certify the bids and confirm which trade contractor will be
18 awarded the work.

19 Section 7. Award to a bidder shall be made by the Recreation and Park Commission.

20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

22 By: _____
23 LORENZO DONATI
24 Deputy City Attorney

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