

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 170963, AS  
AMENDED

Amending Chapter 3, Code of Ordinances by repealing Sections 3-1, Definitions, 3-3, Contract solicitation, 3-5, Contract solicitation; authority, 3-7, Contract solicitation waivers; ordinances, 3-9, Rejection of bids, proposals, qualifications, 3-31, Contract award, 3-35 General waivers, 3-41, Contract authorization, 3-43 Contract term; and enacting in lieu thereof new sections of like numbers and subject matters; repealing Section 3-91, Escalation of dollar limits; and setting an effective date.

WHEREAS, the City endeavors to provide open, transparent, and accountable government as well as efficient delivery of public services; and

WHEREAS, the Missouri Sunshine Law and the City of Kansas City, Missouri's Municipal Code for decades has provided that the City's actions are open to the public and the City's actions should promote the policy of transparency and accessibility of information for the public; and

WHEREAS, the City has expended significant sums to ensure all ordinances are available efficiently and easily for members of the public, the press, and others to search, review, and understand the operations of the City; and

WHEREAS, contract approval through the ordinance and council committee process creates efficient opportunities for public review; and

WHEREAS, administrative efficiency suggests that some contracts of low value should be exempted from the full legislative process; and

WHEREAS, between 2001 and 2005, the City Council increased dramatically the highest threshold by which the then-City Manager could approve a contract without Council review and attendant automatic public disclosure from \$35,000.00 to \$1,025,000.00; and

WHEREAS, the policy choice made by that prior Council and initially affecting the operations of the City under a prior City Manager have placed the City's non-City Council reviewable contract award threshold significantly above the thresholds of almost all other American cities of similar size and government structure; and

WHEREAS, the policy choice made by that prior Council and initially affecting the operations of the City under a prior City Manager have reduced public accessibility and the efficient availability of information relating to City operations including operations with costs in the millions of dollars; and

WHEREAS, use of waivers and exceptions to City procurement rules have the potential effects of undermining City policy pertaining not only to transparency, but also to principles of diversity and inclusion, open competition, and fair compensation; and

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WHEREAS, review of high-dollar contract awards provides Council no greater input and involvement in department or managerial activity than already contemplated by City policy and will not overly burden the several-hour per week legislative meeting commitment of most councilmembers; and

WHEREAS, like almost every other American city of similar size and government type, the City can continue to deliver efficient and effective quality services while also permitting efficient opportunities for public view of City activities pertaining to millions of dollars; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 3, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Sections 3-1, Definitions, 3-3, Contract solicitation, 3-5, Contract solicitation; authority, 3-7, Contract solicitation waivers, ordinances, 3-9, Rejection of bids, proposals, qualifications, 3-31, Contract award, 3-35 General waivers, 3-41, Contract authorization, 3-43 Contract term, and enacting in lieu thereof new sections of like numbers and subject, to read as follows:

**Sec. 3-1. Definitions.**

(a) The following definitions apply to Article I except where an alternate definition has been provided or the context indicates otherwise:

- (1) *Alternative construction delivery method* shall mean any project delivery method, other than a design-bid-build process, utilized to construct, reconstruct, improve, enlarge, alter, paint and decorate or make major repairs to any fixed work, the performance of which requires the payment of prevailing wage pursuant to state or federal law, including design-build, competitive sealed proposals, cooperative agreements with a private or public entity, construction-manager at risk services, or any other alternative procurement method authorized by law or specified in rules and regulations adopted by the city manager.
- (2) *Code* shall mean the City of Kansas City, Missouri Code of Ordinances.
- (3) *Concession contract* shall mean a contract for concessions or similar transactions involving the sale of products or rendition of services, or a combination thereof, in which funds are collected by the contractor from third parties for the sale of products, services, or a combination thereof, and from which the city may receive money in the form of a royalty or other financial return.
- (4) *Construction contract* shall mean a contract for the construction, reconstruction, improvement, enlargement, alteration, painting and

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decorating or major repair of any fixed work, the performance of which requires the payment of prevailing wage pursuant to state or federal law.

- (5) *Cooperative agreement* shall mean any agreement with any other municipality or political subdivision, or with an elective or appointive official thereof, or with a duly authorized agency of the United States, or of this state, or with other states or their municipalities or political subdivisions, or with any person, firm, association or corporation for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service.
- (6) *Cooperative procurement* shall mean entering into an agreement or working with another unit of federal, state, local government, or a political subdivision or organization comprised of or working on behalf of any of the foregoing, for the purpose of procuring goods, supplies, materials, equipment, services, or any combination thereof, needed by the parties thereto and expected to result in cost and time savings.
- (7) *Design-build contract* shall mean a contract in which the design professional and construction services are contracted by a single entity known as the design-builder, design-build contractor or a variant thereof, and which single entity is responsible for all of the work on the project.
- (8) *Design Professional contract* shall mean a contract for architectural, engineering or land surveying services relating to the design or construction of buildings, bridges, streets, sewers, viaducts, water mains, subways or any structure or public improvement of any nature whatsoever to be erected upon lands belonging to the city, excluding those contracts in which the design professional services are provided pursuant to a design-build contract.
- (9) *Indefinite Delivery/Indefinite Quantity Construction Contract* shall mean a construction contract which imposes no financial obligation on the City until the manager of procurement services issues a Purchase Order which includes the director of finance's certification of available funds and is used for the purchase of construction in which the exact nature of the construction projects or construction work during the course of the city's fiscal year cannot be determined by the city. A non-exhaustive list of examples of indefinite delivery/indefinite quantity construction contracts include but are not limited to: electrical, elevators, plumbing, HVAC, and job order types of contracts.
- (10) *Invitation for bids* shall mean a request or invitation for submission of an offer to enter into a contract pursuant to a competitive bidding process.

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- (11) *Manager of procurement services* shall mean the person appointed by the director of the general services department to manage the procurement services division of such department.
- (12) *Non-municipal agency contract* means a contract with a governmental entity or not-for-profit entity granted tax-exempt status under any provision of Section 501(c) of the Internal Revenue Code (26 U.S.C. § 501(c)) in which the city grants funds pursuant to an approved budget for the operation of administration of a program or services which furthers the public good.
- (13) *Personal services contract*: A contract or agreement of employment with an individual who is not acting as an independent contractor and who is not part of the city's classified or unclassified service.
- (14) *Piggybacking* shall mean entering into a contract for goods, supplies, materials, equipment, services, or any combination thereof, with an entity that has been awarded a contract for such goods, supplies, materials, equipment, services, or any combination thereof, through a competitive solicitation process undertaken by the federal government, any state or local government other than the city, any other tax supported public entity, or any cooperative or pooling arrangement, under equivalent contractual terms and conditions and subject to acceptance of the city's contractual terms and conditions when feasible.
- (15) *Procurement card* shall mean a credit card issued by the city for the purpose of purchasing goods, supplies, materials, equipment, or services, or to make payments under a contract.
- (16) *Professional services contract* shall mean a contract for licensed professional services or non-licensed professional services when the services are primarily for an outside expert opinion or advice, on business decision(s), processes, or project(s). The term Professional services contract shall not include Non-municipal agency contracts, Concession contracts, maintenance contracts, Construction contracts, Cooperative agreements, Design professional contracts, Personal services contract, and information technology contracts that include services.
- (17) *Purchasing pool or cooperative* is any arrangement whereby entities aggregate purchasing needs for the purpose of obtaining discounted pricing or better terms or conditions.
- (18) *Qualification based selection process* is a solicitation process that includes consideration of the qualifications of anyone responding to a solicitation as the determinative criteria for selection.

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- (19) *Reverse auction* shall mean an electronic reverse auction purchasing process in which vendors bid to provide any services needed by more than one department, or for goods, supplies, materials, or equipment utilized by one or more departments, at the lowest selling price, and in an open and interactive environment and which results in a contract being awarded to the lowest and best bidder.
- (20) *Request for proposals* shall mean a written invitation by the city for persons to submit an offer subject to subsequent negotiations with the city and subject to subsequent additions, deletions, modifications to the request for proposal specifications or any subsequent contract.
- (21) *Request for qualifications* shall mean a written invitation by the city for a person to submit a statement of qualifications to the city.
- (22) *Sole brand purchase* shall mean a process for purchasing which includes specifications restricting the purchase to a specific manufacturer or brand and includes services unique to the specific manufacturer or brand.
- (23) *Sole source purchase* shall mean a process for purchasing that allows the purchase of services from one business or person because: (a) there is only one unique source or one specialized source or no competition exists; or (b) the business or person to be utilized has unique or specialized experience suited to a specific project such that it is in the city's best interests to utilize such business or person; or (c) the city is collaborating on a project or common interest with a public or private entity. A sole source purchase must include a written justification approved by the city manager or manager of procurement services. If the sole source purchase is for a Professional services contract, the contract shall be authorized in accordance with dollar limits for a Professional services contract as provided in Section 3-41.
- (24) *Statement of qualifications* shall mean a statement submitted by a prospective contractor detailing a prospective contractor's experience, financial capacity, key personnel, and other information pertinent to a particular project.
- (25) *Term-supply contract* shall mean a contract which imposes no financial obligation on the City until the manager of procurement services issues a Purchase Order which includes the director of finance's certification of available funds and is used for the purchase of any services needed by one or more departments, or for goods, supplies, materials, equipment, or any combination thereof, utilized by one or more departments, of such a nature as may be needed by the city over the course of a fiscal year, including but not limited to catalog or standard production items, the price of which is

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determined by published price lists. A non-exhaustive list of examples of term-supply contracts for services include but are not limited to: janitorial services, security services, and temporary employment services.

**Sec. 3-3. Contract solicitation.**

(a) *General standard.* Except as otherwise provided in subsections (b) through (e) herein or the provisions of section 3-5, all city contracts shall be procured as follows:

- (1) *Contracts exceeding \$160,000.00.* If the contract's estimated consideration exceeds \$160,000.00, the city shall issue public notice within a reasonable time as determined by the city manager, director of the contracting department, or the manager of procurement services when soliciting such contract, prior to the closing date of the solicitation. Such notice may be made by publication on the world wide web, appropriate print media, or any other means of publicly making the solicitation known to potential bidders or proposers. Sealed bids or proposals are required. Notwithstanding any other Section to the contrary, Section 3-421 through 3-500 shall apply on non-construction contracts only if the non-construction contract exceeds \$160,000.00.
- (2) *Contracts between \$5,000.01 and \$160,000.00.* If the contract's estimated consideration is between \$5,000.01 and \$160,000.00, unsealed bids or proposals shall be solicited by any reasonable method from at least three qualified sources, or fewer if less than three qualified sources shall exist. Sealed bids or proposals and public notice may be used in the city's discretion, but their use is not mandatory. Notwithstanding any other Section to the contrary, Section 3-601 through 3-621 shall apply to professional services and supplies as defined by Section 3-601 only if the professional services and supplies contract is between \$5,000.00 and \$160,000.00.
- (3) *Contracts \$5,000.00 or less.* If the contract's estimated consideration is \$5,000.00 or less, or if the expense is to be incurred through the use of a procurement card pursuant to regulations implemented by the manager of procurement services or the director of finance, such regulations being hereby authorized, sealed or unsealed bids or proposals may be required in the city's discretion, but their use is not mandatory and the city is authorized to execute a contract without any solicitation.

(b) *Design professional contracts.* The city shall utilize a qualification based solicitation process and shall issue public notice within a reasonable time prior to the closing date of the solicitation requesting that a statement of qualifications be submitted by any firm seeking to provide architectural, engineering or land surveying services.

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(c) *Specialized procurements.* The following procurement methodologies may be utilized subject to rules and regulations that may be adopted by the city manager or manager of procurement services from time-to-time, such methods being deemed likely to produce cost and times savings to the city and therefore deemed to be in the public's best interest:

- (1) Reverse auction;
- (2) Cooperative procurement, in which solicitation will be performed by the city or another entity;
- (3) Piggybacking;
- (4) Purchasing pool or cooperative.

Notwithstanding the foregoing, the methods authorized in this subsection shall not be utilized to procure any construction contract, except for those providing for the maintenance or repair of any facility.

(d) *Solicitation-exempted contracts.* Solicitation shall not be required for the following contract types, provided however that solicitation shall not be precluded if the city manager, director of the contracting department, or the manager of procurement services when soliciting such contract on behalf of such department, determines that solicitation is in the city's best interests:

- (1) Concession contracts, except for those solicited by the manager of procurement services;
- (2) Cooperative agreements, to the extent such agreements are with any other municipality or political subdivision, or with an elective or appointive official thereof; or with a duly authorized agency of the United States, or of this state, or with other states or their municipalities or political subdivisions; or with any not-for-profit entity granted tax-exempt status under any provision of Section 501(c) of the Internal Revenue Code (26 U.S.C. § 501(c));
- (3) Non-municipal agency contracts;
- (4) Personal services contract;
- (5) Sole brand purchase;
- (6) Sole source purchase.

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(e) *Alternative construction delivery methods.* The city shall utilize such solicitation methods as the contracting department shall determine to be in the city's best interest with regard to the particular project to be constructed.

- (1) The use of alternative construction delivery methods shall be subject to any rules and regulations that may be adopted by the city manager from time-to-time.
- (2) If an alternate or additional method of solicitation is required by city charter, federal or state law, ordinance, contract or grant terms, the alternate or additional method shall be utilized.

**Sec. 3-7. Contract solicitation waivers; ordinances.**

(a) Unless otherwise prohibited by federal or state law, contract or grant terms, the following exceptions to the contract solicitation requirements in Section 3-3 may be utilized:

- (1) *Departmental waivers.* Unless otherwise prohibited by the city manager, the director of the contracting department and the manager of procurement services are authorized to waive the solicitation requirements for any contract with an estimated cost of \$160,000.00 or less if the director of the contracting department or the manager of procurement services explains based on the circumstances of the procurement, in writing, that:
  - a. There exists a potential Major emergency or potential Disaster as defined in Section 2-85, Code of Ordinances; or
  - b. There exists a potential imminent threat to life, health, property, or essential operations of the city; or
  - c. Public solicitation would result in substantial increased cost for the city; or
  - d. There is a construction emergency. Notwithstanding the \$160,000.00 limitation in subsection (a)(1), the Director is authorized to waive solicitation requirements for construction emergencies if the contract is estimated to cost less than \$1,000,000.00.

No contract awarded pursuant to this subsection (a)(1) shall be amended or changed in a manner that would increase the city's maximum financial obligation by more than ten percent except upon the written approval of the city manager, nor shall a new contract be awarded to the same person or firm for the same project for which the original contract was awarded pursuant to such a waiver

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except upon public solicitation in compliance with section 3-3 or a waiver granted pursuant to section 3-35.

(2) *City Manager and Manager of Procurement Services Waivers.* The city manager and the manager of procurement services may waive the solicitation requirements if the city manager or manager of procurement services determines, in writing, that:

- a. There exists a potential Major emergency or potential Disaster as defined in Section 2-85, Code of Ordinances; or
- b. There exists a potential imminent threat to public health, welfare, safety, substantial economic liability or essential operations or policies of the city; or
- c. Public solicitation would result in substantial increased cost for the city; or
- d. It is necessary to provide or continue to provide essential services or meet city contractual obligations.

(3) *Specialized waivers – design professional contract.* Regardless of the initial dollar amount of any design professional contract, the city may elect to utilize the same design professional or a subcontractor thereto on a subsequent design phase or for additional design work without a new qualification based selection process provided that the subsequent phase or additional work is to be performed on the same project for which the design professional was originally selected. If the city and the design professional or subcontractor thereto cannot agree on reasonable compensation for the subsequent design phase or additional design work, the city shall solicit and award a design professional contract in the manner otherwise prescribed in this Article.

(b) Any ordinance required by section 3-41 and that authorizes a contract for which the city manager shall have granted a waiver shall include recitals setting forth the rationale supporting such waiver, provided however that the failure to include such recitals shall not invalidate any public improvement procurement or any contract.

(c) The City Manager, upon a written recommendation from the Manager of Procurement Services, may waive the solicitation requirements imposed under this Article if the waiver is in the best interest of the city.

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**Sec. 3-9. Rejection of bids, proposals, qualifications.**

(a) The city may reject any and all bids or proposals for any or no reason. If all bids or proposals have been rejected, the city may do one or more of the following:

- (1) Resolicit bids or proposals only from those bidders or proposers that submitted a bid or proposal pursuant to the original solicitation; or
- (2) Use an expedited bid or proposal submission schedule with or without re-advertising or issuing any other public notice when the city determines that the delay from the normal solicitation procedure would not be in the city's best interests; or
- (3) Elect not to execute a contract.

(b) Nothing in this Article shall be construed as obligating the city to negotiate or execute any contract if the city shall have determined, at any point in time, that any project or solicitation should be terminated or cancelled for any or no reason.

**Sec. 3-31. Contract award.**

(a) *General standard.* Except as otherwise provided in this Division 2, all contracts in which bids or proposals were required shall be awarded to the lowest and best bidder or best proposer as determined by the city in the city's sole discretion, after due opportunity for competition.

(b) *Design Professional Contracts.* A qualification based selection shall be made based upon the statement of qualifications that was required to be submitted and any supplement thereto as requested by the city. The process for making the qualification based selection shall be determined by the estimated dollar value of the design professional contract as follows, provided however that the failure to utilize the applicable process shall not invalidate any public improvement procurement or any contract:

- (1) *Contracts exceeding \$600,000.00.* The city shall convene an architect and engineering selection committee, which committee shall rank the firms from most to least qualified. The committee shall be comprised of at least one member designated by the city manager and two members designated by the director of the contracting department. The chairperson of the city council committee cognizant of public improvements may elect to be a member of the committee or may designate a council member to serve on the committee and if the chairperson so elects, the director of the contracting department shall designate one less member to the committee.
- (2) *Contracts less than \$600,000.00.* The director of the contracting department shall rank the firms from most to least qualified.

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The city shall thereafter negotiate a contract for the project with the firm selected as most qualified. If the city is unable to negotiate a satisfactory contract with the firm selected, negotiations with that firm shall be terminated. The city shall then undertake negotiations with another of the qualified firms selected. If there is no agreement with the second firm, negotiations with such firm shall be terminated. The city shall then undertake negotiations with the third qualified firm. If the city is unable to negotiate a contract with any of the selected firms, the city shall reevaluate the necessary architectural, engineering or land surveying services, including the scope and reasonable fee requirements, and again conduct a qualification based selection process. Notwithstanding the foregoing, nothing herein shall obligate the city to undertake any negotiations if the city shall have determined to terminate the solicitation for any or no reason.

(c) *Design-Build Contracts.* Contracts shall be awarded as is appropriate to the manner in which the contract was solicited, as follows:

- (1) Best value. To the responsible design-build firm whose proposal is evaluated as providing the best value to the city based on any factors and method and formula included in the request for proposals. The city may elect to establish a fixed dollar budget for the project such that all proposers are operating under the same monetary limitations.
- (2) Qualification-based. A qualification based selection shall be made based upon the statement of qualifications that was required to be submitted. The process for making the qualification based selection shall be determined by the estimated dollar value of the design-build contract as follows, provided however that the failure to utilize the applicable process shall not invalidate any public improvement procurement or any contract:
  - i. *Contracts exceeding \$6,000,000.00.* The city shall convene an architect and engineering selection committee, which committee shall rank the design-builder from most to least qualified. The committee shall be comprised of one member designated by the city manager and four members designated by the director of the contracting department. The chairperson of the city council committee cognizant of public improvements may elect to be a member of the committee or may designate a council member to serve on the committee.
  - ii. *Contracts \$6,000,000.00 or less.* The director of the contracting department shall rank the design-builder from most to least qualified.

The city shall thereafter negotiate a contract for the project with the firm selected as most qualified. If the city is unable to negotiate a satisfactory contract with the firm selected, negotiations with that firm shall be

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terminated. The city shall then undertake negotiations with another of the qualified firms selected. If there is no agreement with the second firm, negotiations with such firm shall be terminated. The city shall then undertake negotiations with the third qualified firm. If the city is unable to negotiate a contract with any of the selected firms, the city shall reevaluate the scope of the project and again conduct a qualification based selection process. Notwithstanding the foregoing, nothing herein shall obligate the city to undertake any negotiations if the city shall have determined to terminate the solicitation for any or no reason.

- (3) Two-phase. The design-builders shall be ranked from most to least qualified in such manner as provided in subsection (c)(2) and a value shall be assigned based upon the rankings. The city shall thereafter evaluate and score any proposal or bid required to be submitted and shall identify the best proposal or the lowest and best bid, as applicable. The city shall thereafter negotiate a contract for the project with the firm selected as having the best proposal or execute a contract for the project with the firm having the lowest and best bid. If the city is unable to negotiate a satisfactory contract or execute a contract, the city shall then proceed to the next best proposal or next lowest and best bid, and such process shall continue in similar fashion unless the city shall have determined to terminate the solicitation.

**Sec. 3-35. Post solicitation waivers of solicitation and ordinance requirements.**

(a) *City manager waivers.* The city manager may waive any requirements imposed by any solicitation or by any city regulation if the city manager determines, that:

- (1) The failure to grant the waiver would result in a substantial increased cost to the city or harm other city policy or regulation and the requirement is one that would be waived for any bidder or proposer responding to the solicitation; or
- (2) The failure to grant the waiver would create a potential imminent threat to life, health, property, or essential operations of the city; or
- (3) It is in the best interests of the city to grant the waiver for any other reason consistent with protecting or enhancing city policies, city funds, city assets, or any consideration that benefits the city.

(b) *City council waivers.* The city council at any time may waive any provision of the Code with regard to the solicitation or award of any city contract if it finds that:

- (1) The failure to grant the waiver would be detrimental to preserving the public health, welfare, safety or essential operations of the city; or

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- (2) The waiver is necessary in order to participate in a purchasing pool or cooperative or a contract derived from a purchasing pool or cooperative; or
- (3) The good, supply, material, equipment or service is from a sole source; or
- (4) The failure to grant the waiver would result in an increased cost to the city, the requirement is one that would be waived for any bidder or proposer responding to the solicitation, and it is in the best interest of the city to grant the waiver; or
- (5) It is otherwise in the best interests of the city for any other reason as determined by the city council.

**Sec. 3-39. Bid revisions.**

(a) *Construction contracts.* If all bids exceed the price estimated by the city prior to bid opening, the city may offer the lowest and best bidder the option of doing the work for such estimate, with no changes to scope of the project, provided that the bid submitted by the lowest and best bidder is not more than five percent higher than such estimate.

(b) *All other city contracts.* The city may negotiate a revised bid with the apparent lowest and best bidder, including changes in bid requirements, price, scope, specifications or quantity, if the bid exceeds the appropriation or relevant budget for that project and the city manager, a director, or the manager of procurement services determines that resoliciting bids is not in the city's best interests.

**Sec. 3-41. Contract authorization.**

(a) Unless approval by the city council or the board of parks and recreation commissioners is specifically required by city charter, ordinance, federal or state law, contract or grant terms, the following provisions shall control:

- (1) The city manager and department directors are authorized to enter into any and all contracts and cooperative agreements on behalf of the city without city council authorization in which the term does not exceed six years or six one year terms and the consideration does not exceed \$1,000,000.00 for a construction contract, \$50,000.00 for a sole source professional services contract, and \$400,000.00 for all other contracts.
- (2) The city manager and manager of procurement services are authorized to enter into all contracts and cooperative agreements on behalf of the city without city council authorization in which the term does not exceed six years or six one year terms and the estimated consideration does not

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exceed \$1,000,000.00 for construction contracts, indefinite delivery/indefinite quantity construction contracts, contracts for goods, supplies, materials, or equipment, and \$400,000.00 for contracts for services other than a sole source professional services contract, provided however that the \$1,000,000.00 threshold shall apply to any contract or cooperative agreement in which services are to be provided in conjunction with the goods, supplies, materials of equipment being procured.

- (3) In lieu of obtaining council authorization on a sole source professional services contract between \$50,000.01 and \$400,000.00, the city manager may provide written notice of the intent to execute such an agreement or contract with the cost and term of such agreement or contract. Such notice shall include the names of the parties to the proposed contract or agreement, a description of the contract and the basic purpose and terms of the contract or agreement. No such contract or agreement shall be executed on behalf of the city without the authorization of the council if four or more council members file written objections to such contract or agreement within five working days of the notice date. The city manager shall establish procedures to ensure compliance with this provision.
- (4) No party in a single fiscal year may receive multiple contract awards related to a particular procurement pursuant to Sec. 3-41(a) that in sum exceed the maximum allowable thresholds under Sec. 3-41(a)(1) without prior Council authorization.

(b) If city council authorization is required and obtained, the contract may subsequently be amended by change order, contract amendment or otherwise in such a manner as to increase the consideration due by up to and including ten percent (10%) without further city council authorization. This cap may be exceeded, subject to the sufficiency of appropriated funds, if authorization to such effect is included within the body of the ordinance authorizing the contract or an amendment to the contract.

(c) The city manager shall file a regular report with the city clerk of all term and supply contracts, indefinite delivery/indefinite quantity construction contracts, sole source purchase contracts, and professional service contracts awarded without an ordinance, unless a particularized reason exists for nondisclosure that shall be reported to Council and any waivers of MBE/WBE goals. Such reports shall be published on the world wide web.

(d) Ordinances, except emergency ordinances, required by this Section and introduced from the legislative floor and that authorize a contract that exceeds \$100,000.00, shall be referred to the appropriate committee for a public hearing unless a motion is made by a Councilmember to dispense with the requirement of reading the ordinance on three separate days, and the motion is adopted upon the affirmative vote of nine councilmembers.

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**Sec. 3-43. Contract term.**

(a) *Maximum Term.* No contract shall be let or amended in such a manner as to exceed six (6) years in maximum duration or six (6) one year terms except upon authorization of the city council, provided however that this provision shall not prohibit the city from entering into one or more successive contracts with the same contractor and for the same or similar goods, supplies, materials, equipment, or services so long as such contracts are procured in accordance with Section 3-3 or an exception thereto. Nothing herein shall be deemed to invalidate or otherwise impair the term of any contract executed by the city prior to the effective date of this section.

(b) *Transitional term.* Notwithstanding the foregoing, the city manager may extend the maximum term of any contract by up to two (2) additional years provided the city is soliciting bids or proposals for the goods, supplies, materials, equipment, or services being provided and the goods, supplies, materials, equipment, or services are of such a nature that the city manager determines it is in the best interests of the city to extend the contract.

Section 2. That Section 3-91, Escalation of dollar limits is repealed.

Section 3. That all contracts entered into by the city prior to the effective date of this ordinance shall continue in full force and effect and shall be carried to completion in accordance with the provisions of those ordinances in effect as of the date upon which such contracts became effective. Contract renewals for contracts that are executed prior to the effective date of this ordinance may be executed according to the provisions of the ordinances in effect at the time of the original contract or under the provisions of this ordinance.

Section 4. That any contract solicitation or award having commenced prior to the effective date of this ordinance or otherwise pending or under consideration by the city council prior to the effective date of this ordinance shall remain unaffected and may be acted upon and disposed of as if they had originated and been introduced under the provisions of this ordinance.

Section 5. That this ordinance shall have an effective date of May 1, 2018.

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Approved as to form and legality:

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Jim Brady  
Assistant City Attorney