

11/28/18

ORDINANCE NO. 31049

An ordinance amending Chapter 2, "Administration," of the Dallas City Code, by amending Sections 2-30, 2-37.12, 2-47, 2-102, 2-105, 2-161, 2-162 and 2-161.2; repealing and reserving Sections 2-78 and 2-79; adding Sections 2-162.3 and 2-162.4; providing that the city manager is authorized to approve certain contracts with intergovernmental agencies without further city council action; clarifying the definition of collectible property to mean property owned by the city that is under the care and control of the Dallas Museum of Art; removing WRR radio station from duties of the director of convention and event services; renaming the cultural affairs commission to arts and culture advisory commission; renaming the arts committee to the public art committee; clarifying the definition of public art committee; providing that the director of cultural affairs may manage approval of lease or license agreements for use of cultural facilities for short terms not exceeding a year; providing that the director of cultural affairs may award cultural funding contracts to cultural organizations and individuals; providing that short-term lease and license agreements with small or ethnically and culturally specific nonprofit arts and cultural organizations may be entered into for nominal consideration; providing procurement rules and regulations for cultural services; providing a saving clause; providing a severability clause; and providing an effective date.

Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Subsection (d) of Section 2-30, "General Delegation of Contracting Authority," of Division 1, "Purchasing and Contracting Generally," of Article IV, "Purchasing," of Chapter 2, "Administration," of the Dallas City Code, is amended by adding a new Paragraph (8) to read as follows:

"(8) A contract with an intergovernmental agency pursuant to Chapter 791 of the Texas Government Code, as amended, that generates less than \$50,000 of revenue and does not require a city expenditure of upfront costs or other types of funding in excess of \$50,000."

SECTION 2. That Subsection (a) of Section 2-37.12, "Sales of Certain Collectible Property," of Division 2, "Sale of Unclaimed and Surplus Property," of Article IV, "Purchasing," of Chapter 2, "Administration," of the Dallas City Code, is amended to read as follows:

"(a) In this chapter:

(1) COLLECTIBLE PROPERTY means an item of personal property owned by the city under the care and control of the Dallas Museum of Art originally acquired for exhibition, collection, or study, including, but not limited to, any work of art, antique, memorabilia, rare object, art education material or display, or other item of lasting interest or value.

(2) CULTURAL AFFAIRS DIRECTOR means the director of the office of cultural affairs of the city or a designated representative."

SECTION 3. That Subsection (b) of Section 2-37.12, "Sales of Certain Collectible Property," of Division 2, "Sale of Unclaimed and Surplus Property," of Article IV, "Purchasing," of Chapter 2, "Administration," of the Dallas City Code, is amended to read as follows:

"(b) Collectible property owned by the city under the care and control of~~[that has been acquired by]~~ the Dallas Museum of Art may be sold, exchanged, or otherwise disposed of in accordance with this section."

SECTION 4. That Subsection (i) of Section 2-37.12, "Sales of Certain Collectible Property," of Division 2, "Sale of Unclaimed and Surplus Property," of Article IV, "Purchasing," of Chapter 2, "Administration," of the Dallas City Code, is amended to read as follows:

"(i) Proceeds of a sale of collectible property must be used by the Dallas Museum of Art to purchase other collectible property, such acquisition being of similar type and identified in

the name of the original donor whenever feasible. Proceeds of an exchange will be placed directly in the collection of the Dallas Museum of Art.”

SECTION 5. That Section 2-47, “Duties of the Director of Convention and Event Services,” of Article V-b, “Department of Convention and Event Services,” of Chapter 2, “Administration,” of the Dallas City Code, is amended to read as follows:

“SEC. 2-47. DUTIES OF THE DIRECTOR OF CONVENTION AND EVENT SERVICES.

- (a) The director of convention and event services shall perform the following duties:
- (1) Supervise and administer the department of convention and event services.
 - (2) Supervise and manage the facilities of the convention center, reunion arena, the municipal produce market, Union Station, [~~and WRR radio station~~] and other facilities of the city as designated by the city manager or by ordinance or resolution of the city council.
 - (3) Supervise and administer the special events program of the city, except as otherwise provided by the city manager, the city charter, or ordinance or resolution of the city council.
 - (4) Perform such other duties as may be required by the city manager or by ordinance of the city council.
- (b) The director of convention and event services and any designated representatives may represent the city in negotiating and contracting with persons planning to use the facilities of the convention center, reunion arena, the municipal produce market, Union Station, [~~or WRR radio station~~] or any other facility under the management of the director of convention and event services.”

SECTION 6. That of Article VIII, “Department of Public Affairs,” of Chapter 2, “Administration,” of the Dallas City Code, is amended to read as follows:

**“ARTICLE VIII.
RESERVED. [~~DEPARTMENT OF PUBLIC AFFAIRS.~~]**

SECS. 2-76 THRU 2-80[~~2-77~~]. RESERVED.

[~~SEC. 2-78. STATION MANAGER; OFFICE CREATED, APPOINTMENT.~~]

~~There is hereby created the office of station manager to which the city manager shall appoint a person professionally competent to manage a radio station.~~

SEC. 2-79.

~~CONTRACTS FOR RADIO STATION AIR TIME REQUIRED; OTHER RADIO STATION CONTRACTS.~~

~~(a) There shall be a contract made for the use of each period of air time sold by the radio station, no matter how small, and the sale shall be represented by written contract. Each contract shall be signed by the station manager or shall be approved by the station manager if the sale was made by some subordinate. In the event a contract for sale of air time provides for other services such as line rentals, commentators, musicians, announcers and other costs incidental to the rendition of the program, then such contract shall distinctly specify each separate item or charge made for such service.~~

~~(b) Each contract shall provide for cancellation by the city upon reasonable notice, and shall distinctly specify whether the air time used is commercial, civic or non-revenue and shall be signed by the person or organization so using the air time.~~

~~(c) The following types of contracts for the benefit of the radio station, requiring an expenditure of \$50,000 or less, may be authorized by the city manager by administrative action, approved as to form by the city attorney, without further city council approval:~~

~~(1) payment of copyright or license fees or royalties to obtain the rights to broadcast or play specific musical works or compositions;~~

~~(2) the purchase of rights to broadcast radio programs produced by persons or entities other than other radio station employees or former radio station employees less than two years after their employment with the city;~~

~~(3) the purchase of advertising, through radio, television, print, billboard, or other media, to promote the radio station, including services rendered in connection with the production or preparation of artwork, copy or music used in such advertising;~~

~~(4) payment of fees to secure professional talent (other than employees of the radio station) for the purpose of promoting the radio station;~~

~~(5) payment of commissions (not to exceed 25 percent of the contract amount) to persons or advertising agencies (other than employees of the radio station) who render services in connection with the sale of radio station air time or the purchase of advertising to promote the radio station; and~~

~~(6) the purchase of services rendered in connection with market research and analysis, radio station ratings, and statistical, demographic, or other related research or analysis.~~

~~(d) If a contract described in Subsection (c) requires an expenditure exceeding \$50,000, the contract must be authorized by the city council. If a contract described in Subsection (c) is~~

~~required by state law to be competitively bid, the rules stated in Sections 2-34(a) through (c), 2-35, 2-37, and 2-37.1 of this code apply to the contract.~~

~~(e) All other radio station contracts not covered by this section are governed by the other applicable provisions of this code.~~

SEC. 2-80. RESERVED.]”

SECTION 7. That Section 2-102, “Definitions,” of Article X, “Public Art Program,” of Chapter 2, “Administration,” of the Dallas City Code, is amended to read as follows:

“SEC. 2-102. DEFINITIONS.

(1) ANNUAL PUBLIC ART PROJECTS PLAN means a prioritized list, to be recommended by the arts and culture advisory~~[cultural affairs]~~ commission and approved by the city council, of visual projects, including budgets and recommended design approaches, developed by the public art~~[s]~~ committee in consultation with city departments anticipating capital improvement projects.

~~(2) [ARTS COMMITTEE means a subcommittee of the cultural affairs commission appointed to oversee quality control of the public art program and projects and to recommend the scope of projects, artworks, and artists for the public art program. The arts committee shall be composed of three members who are the full city council appointments to the cultural affairs commission and eight members who are professionally qualified citizens appointed by the cultural affairs commission.~~

~~(3)] BONDS means all general obligation bonds, revenue bonds, certificates, notes, or other obligations authorized and issued by the city.~~

~~(3[4]) CITY means the city of Dallas, Texas.~~

~~(4[5]) CITY BOND PROCEEDS means the proceeds from bonds payable from a pledge of all or part of any revenues, funds, or taxes, or any combination thereof. The term does not include proceeds of bonds authorized and issued by the city to refund or otherwise refinance other bonds.~~

~~(5[6]) CITY CAPITAL IMPROVEMENT PROJECT means any permanent public improvement project paid for wholly or in part by monies appropriated by the city to construct, improve, or renovate a building, including its appurtenant facilities, a decorative or commemorative structure, a park, a street, a sidewalk, a parking facility, a utility, or any portion thereof, within the city limits or under the jurisdiction of the city. This term includes projects at the Dallas/Fort Worth International Airport only upon approval of the public art program by the airport board and the city of Fort Worth.~~

(6[7]) DEMOLITION COSTS means payments for any work needed for the removal of a building or other existing structure from city property.

(7[8]) EQUIPMENT COSTS means payments for any rolling stock, equipment, or furnishing that is portable and of standard manufacture or that is installed as part of normal major maintenance, whether portable or affixed. The term does not include an item, whether portable or affixed, that is custom designed or specially fabricated for a facility.

(8[9]) NORMAL MAJOR MAINTENANCE COSTS means payments for any work needed to maintain and preserve city property in a safe and functional condition, including, but not limited to, the cleaning, replacement, and repair of floors, ceilings, roofs, landscaping, and plumbing, mechanical, and electrical systems.

(9[10]) PUBLIC ART ACCOUNT means a separate account established within each capital improvement project fund by the city to receive monies appropriated to the public art program; provided that:

(A) city bond proceeds to be used for the public art program must be maintained in the respective bond funds established in accordance with the city ordinance authorizing the issuance of the bonds; and

(B) monies from non-bond sources that are appropriated from a city fund to be used for the public art program must be maintained in a separate account within that fund.

(10[11]) PUBLIC ART ADMINISTRATION FUND means an annual appropriation from each public art account for administration of the public art program.

(11[12]) PUBLIC ART COLLECTION means all city-owned artworks that are not under the care and control of nonprofit institutions operating under management agreements with the city.

(12) PUBLIC ART COMMITTEE means a subcommittee of the arts and culture advisory commission appointed to oversee quality control of the public art program and projects and to report to and recommend to the arts and culture advisory commission the scope of projects, artworks, and artists for the public art program. The public arts committee shall be composed of three members who are full city council appointments to the arts and culture advisory commission and eight members who are professionally qualified residents appointed by the arts and culture advisory commission.

(13) REAL PROPERTY ACQUISITION COSTS means payments made for the purchase of parcels of land, and any existing buildings, structures, or improvements on the land, and costs incurred by the city for appraisals or negotiations in connection with the purchase.”

SECTION 8. That Section 2-105, "Administration of the Public Art Program Responsibilities," of Article X, "Public Art Program," of Chapter 2, "Administration," of the Dallas City Code, is amended to read as follows:

"SEC. 2-105. ADMINISTRATION OF THE PUBLIC ART PROGRAM - RESPONSIBILITIES.

(a) Arts and culture advisory~~[Cultural affairs]~~ commission and the office of cultural affairs. The arts and culture advisory~~[cultural affairs]~~ commission, acting in cooperation with the director of cultural affairs, shall have the following duties and responsibilities associated with the administration of the public art program:

(1) The overall administration of the public art program, including the selection of resident ~~[citizen]~~ members of the public ~~[an]~~ art[s] committee, the establishment of program policies and guidelines, the recommendation of program budgets, and the approval of all selection juries and all other recommendations made by the public art[s] committee to the arts and culture advisory~~[cultural affairs]~~ commission.

(2) The establishment of policies and guidelines to facilitate and encourage the donation of high quality artworks to the city.

(3) The establishment of policies and guidelines to ensure that the long-term collection of artworks by the city represents a broad range of artistic schools, styles, tastes, and media, without giving exclusive support to any particular one, and gives consideration to affirmative action.

(4) The review ~~[conducting]~~ of a survey, to be updated annually, of the condition of the public art collection. The survey must include a report on the condition of each artwork, prioritized recommendations for the restoration, repair, and maintenance of the artwork, and estimated costs.

(5) The recommendation of an annual designation of funds for repair and maintenance of the public art collection. Any recommendation involving a work of art for which operation or maintenance costs exceed \$5,000 a year must be accompanied by a detailed fiscal note.

(b) Public art~~[Arts]~~ committee. The public art[s] committee shall have the following duties and responsibilities associated with the administration of the public art program, with all decisions and recommendations made by the public art[s] committee being subject to the review and approval of the arts and culture advisory~~[cultural affairs]~~ commission and, when required, the city council:

(1) The commission of artworks; the review of the design, execution, and placement of artworks; and the overseeing of the removal of artworks from the public art collection.

(2) The designation of sites for implementation of the public art program; the recommendation~~[determination]~~ of the scope and budget of public art program projects; and the overseeing of the artist selection process.

(3) The selection of juries, to be composed of professionals in the visual arts and design fields and members of the community, who will recommend artists and artworks of the highest quality.

(4) The education of the community on the public arts program.

(5) The review and recommendation for approval of any artworks proposed to be donated to the city.”

SECTION 9. That Article XXVI, “Cultural Affairs Commission,” of Chapter 2, “Administration,” of the Dallas City Code is retitled as “Arts and Culture Advisory Commission.”

SECTION 10. That Section 2-161, “Cultural Affairs Commission – Created; Terms; Membership; Meetings,” of Article XXVI, “Arts and Culture Advisory Commission,” of Chapter 2, “Administration,” of the Dallas City Code, is amended to read as follows:

“**SEC. 2-161. ARTS AND CULTURE ADVISORY~~[CULTURAL AFFAIRS]~~
COMMISSION – CREATED; TERMS; MEMBERSHIP;
MEETINGS.**

(a) There is hereby created the arts and culture advisory~~[cultural affairs]~~ commission of the city, which shall be an advisory body of 18 members appointed by the city council. Fifteen of the members shall be appointed respectively by each city council member, and three of the members shall be appointed by the city council as a whole. The mayor shall appoint the chair of the commission, and the full city council shall appoint the vice-chair.

(b) Each member shall be appointed for a two- year term beginning on October 1 of each odd-numbered year. All members shall serve until their successors are appointed and qualified.

(c) Members of the commission should be persons who are concerned about cultural affairs in the city of Dallas and may be persons who have professional expertise or substantial volunteer involvement in the following areas:

(1) architecture, design, or urban planning;

- (2) visual, performing, or literary arts;
- (3) history;
- (4) science;
- (5) cultural institutions management; or
- (6) volunteer cultural board experience.

(d) The membership of the arts and culture advisory~~[cultural affairs]~~ commission may include at least one of the each of the following persons:

- (1) a registered professional architect or landscape architect;
- (2) a professional visual artist;
- (3) a professional performing artist;
- (4) a scientist;
- (5) a~~n~~ historian; and

(6) an interested resident ~~[citizen]~~ who does not represent any specific cultural organization or interest group.

(e) The three members of the commission appointed by the city council as a whole shall also serve on the public art[s] committee of the arts and culture advisory~~[cultural affairs]~~ commission, and, in addition to qualifying for service on the commission under this section, must meet the qualifications for service on the public art[s] committee as set forth in the city's cultural policy and program adopted by city council resolution."

(f) The chair of the city council ~~[arts and education]~~ committee with jurisdiction over arts and culture and one member of the park and recreation board of the city shall serve as ex-officio, nonvoting members of the arts and culture advisory~~[cultural affairs]~~ commission.

(g) The commission must meet at least once each month and may hold additional meetings at the call of the chair."

SECTION 11. That Section 2-162, “Cultural Affairs Commission – Duties and Responsibilities,” of Article XXVI, “Arts and Culture Advisory Commission,” of Chapter 2, “Administration,” of the Dallas City Code, is amended to read as follows:

**“SEC. 2-162. ARTS AND CULTURE ADVISORY [CULTURAL AFFAIRS]
COMMISSION – DUTIES AND RESPONSIBILITIES.**

(a) The arts and culture advisory~~[cultural affairs]~~ commission shall act as an advisory body to the city manager and the city council and shall:

(1) make recommendations concerning the establishment and implementation of cultural policies and procedures, including cultural diversity;

(2) make recommendations concerning the design, operation, and use of city facilities devoted to the arts and other cultural activities;

(3) make recommendations to encourage the development of cultural programs and activities involving emerging cultural organizations and artists, with special emphasis on the development of ethnic and minority artists and arts organizations;

(4) make recommendations concerning the expenditure of city funds on cultural programs, facilities, and organizations; and

(5) make recommendations to create opportunities for all residents ~~[citizens]~~ of the city to have access to the arts and the means of cultural expression; and

(6) perform other duties assigned by the city council or requested by the city manager.

(b) The city manager shall provide staff to assist the commission in performing its duties and responsibilities.”

SECTION 12. That Section 2-162.2, “Duties of the Director of Cultural Affairs,” of Article XXVI-a, “Office of Cultural Affairs,” of Chapter 2, “Administration,” of the Dallas City Code, is amended to read as follows:

“SEC. 2-162.2. DUTIES OF THE DIRECTOR OF CULTURAL AFFAIRS.

(a) The director of cultural affairs shall perform the following duties:

(1) Supervise and administer the office of cultural affairs and WRR radio station.

(2) Manage cultural facilities of the city under the director's supervision as designated by the city manager or by ordinance or resolution of the city council, including approval of lease or license agreements for use of such cultural facilities for short terms not exceeding one year.

(3) Award cultural funding contracts to cultural organizations and to individuals as provided in Section 2-162.3 of this code.

(4) Perform such other duties as may be required by the city manager or by ordinance of the city council.

(b) The director of cultural affairs and any designated representatives may represent the city in negotiating and contracting with persons planning to use any cultural facility under the management of the director of cultural affairs. Short-term leases and license agreements with small or ethnically and culturally specific nonprofit arts and cultural organizations may be entered into for a nominal consideration, when the director of cultural affairs finds it to be of benefit to the public.

SECTION 13. That Article XXVI-a, "Office of Cultural Affairs," of Chapter 2, "Administration," of the Dallas City Code, is amended by adding a new Section 2-162.3, "Procurement of Cultural Services," to read as follows:

"SEC. 2-162.3. PROCUREMENT OF CULTURAL SERVICES.

(a) Except as provided in Subsection (f), contracts with organizations and individuals for cultural services shall be awarded in accordance with this section.

(b) Cultural services mean artistic and cultural services provided by individuals or organizations that have been recommended for funding by a review panel to the director of cultural affairs. Eligibility requirements to serve on each review panel and a review panel process for recommendations must be approved by city council. Cultural services do not include any services described in Subsection (f) below.

(c) The director of cultural affairs may procure services a maximum of five times per fiscal year for production, festivals, and exhibitions under \$50,000 without panel review or recommendation by the arts and culture advisory commission as the director deems necessary to implement arts and culture programs when:

(1) timing of support needed is outside of the fiscal year's cultural support program application period for cultural services;

(2) the support needed is from a Dallas-based 501(c)(3) cultural organization or individual artist;

- (3) the service to be provided is less than one year in length; and
- (4) the city manager, or designee, has issued a memorandum of justification establishing a special need that meets the requirements of Administrative Directive 4-5, as amended.
- (d) Contracts for cultural services, requiring an expenditure of \$50,000 or less, may be authorized by the city manager by administrative action, approved as to form by the city attorney, without further city council approval.
- (e) If a contract described under this section requires an expenditure exceeding \$50,000, the contract must be authorized by city council.
- (f) This section does not apply to services that are required to be competitively bid under state law or subject to other state law requirements such as requirements to contact historically underutilized businesses or the special rules for architect and engineering agreements.
- (g) All other contracts not covered under this section are governed by the other applicable provisions of this code or other local rules and regulations.”

SECTION 14. That of Article XXVI-a, “Office of Cultural Affairs,” of Chapter 2, “Administration,” of the Dallas City Code, is amended by adding a new Section 2-162.4, “Contracts for Radio Station Air Time Required; Other Radio Station Contracts,” to read as follows:

“SEC. 2-162.4. CONTRACTS FOR RADIO STATION AIR TIME REQUIRED; OTHER RADIO STATION CONTRACTS.

- (a) There shall be a contract made for the use of each period of air time sold by the radio station, no matter how small, and the sale shall be represented by written contract. Each contract shall be signed by the station manager or shall be approved by the station manager if the sale was made by some subordinate. In the event a contract for sale of air time provides for other services such as line rentals, commentators, musicians, announcers, and other costs incidental to the rendition of the program, then such contract shall distinctly specify each separate item or charge made for such service.
- (b) Each contract shall provide for cancellation by the city upon reasonable notice, and shall distinctly specify whether the air time used is commercial, civic, or non-revenue and shall be signed by the person or organization so using the air time.

(c) The following types of contracts for the benefit of the radio station, requiring an expenditure of \$50,000 or less, may be authorized by the city manager by administrative action, approved as to form by the city attorney, without further city council approval:

(1) payment of copyright or license fees or royalties to obtain the rights to broadcast or play specific musical works or compositions;

(2) the purchase of rights to broadcast radio programs produced by persons or entities other than other radio station employees or former radio station employees less than two years after their employment with the city;

(3) the purchase of advertising, through radio, television, print, billboard, or other media, to promote the radio station, including services rendered in connection with the production or preparation of artwork, copy, or music used in such advertising;

(4) payment of fees to secure professional talent (other than employees of the radio station) for the purpose of promoting the radio station;

(5) payment of commissions (not to exceed 25 percent of the contract amount) to persons or advertising agencies (other than employees of the radio station) who render services in connection with the sale of radio station air time or the purchase of advertising to promote the radio station; and

(6) the purchase of services rendered in connection with market research and analysis, radio station ratings, and statistical, demographic, or other related research or analysis.

(d) If a contract described in Subsection (c) requires an expenditure exceeding \$50,000, the contract must be authorized by the city council. If a contract described in Subsection (c) is required by state law to be competitively bid, the rules stated in Sections 2-32 and 2-33(a) through (c) of this code apply to the contract.

(e) All other radio station contracts not covered by this section are governed by the other applicable provisions of this code.”

SECTION 15. That Chapter 2 of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 16. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes

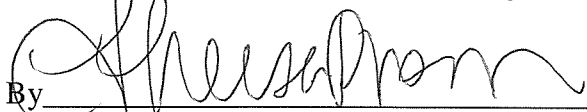
as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 17. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

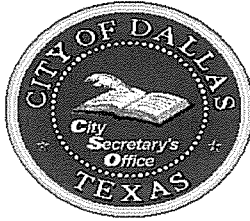
SECTION 18. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, Interim City Attorney

By 
Assistant City Attorney

Passed NOV 28 2018



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL NOV 28 2018

ORDINANCE NUMBER 31049

DATE PUBLISHED DEC 01 2018

ATTESTED BY: