

5-4-21

ORDINANCE NO. 31872

An ordinance amending Chapter 1, “General Provisions,” and Chapter 2, “Administration,” of the Dallas City Code by amending Sections 1-10, 2-27, 2-29, 2-30, 2-32, and 2-37.4; deleting provisions regarding the official newspaper of the city; including construction managers, interior designers, and registered nurses as professional services; providing plans and specifications be retained in accordance with state law requirements governing the retention of records; increasing the threshold for certain administrative actions and contracts to \$100,000; deleting the prohibition against the city manager adjusting payment schedules; retitling Article IV of Chapter 2; 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 Section 1-10, “Official City Newspaper,” of Chapter 1, “General Provisions,” of the Dallas City Code is amended to read as follows:

“**SEC. 1-10. RESERVED. [~~OFFICIAL CITY NEWSPAPER.~~**

(a) ~~In this section, DISTRIBUTION POINT means any place from which newspapers are lawfully sold, offered for sale, or distributed free of charge, including, but not limited to, a store, an open air stall, a news rack, or a coin operated machine.~~

(b) ~~A person awarded a contract as the official newspaper of the city in accordance with Chapter XXIV, Section 11 of the city charter shall maintain copies of the newspaper available to the public at not less than 280 distribution points located as evenly as may be practicable throughout the city.~~

(c) ~~The official newspaper of the city must be selected every 24 months, after competitive bidding, in accordance with Chapter XXIV, Section 11 of the city charter.]”~~

SECTION 2. That Article IV, “Purchasing,” of Chapter 2, “Administration,” of the Dallas City Code is retitled to, “Procurement.”

SECTION 3. That Paragraph (15) of Section 2-27, "Definitions," of Division 1, "Purchasing and Contracting Generally," of Article IV, "Procurement," of Chapter 2, "Administration," of the Dallas City Code is amended to read as follows:

"(15) PROFESSIONAL SERVICES means those services defined as professional services under state law applicable to municipal purchases or contracts, including but not limited to services provided by accountants, architects, artists, attorneys, auditors, construction managers, court reporters, doctors, engineers, interior designers, optometrists, real estate appraisers, registered nurses, land surveyors, scientists, and teachers."

SECTION 4. That Section 2-29, "Approval of Plans and Specifications," of Division 1, "Purchasing and Contracting Generally," of Article IV, "Procurement," of Chapter 2, "Administration," of the Dallas City Code is amended to read as follows:

"SEC. 2-29. APPROVAL OF PLANS AND SPECIFICATIONS.

(a) Except as provided in this section, i[~~H~~]f the director determines that preparation of plans and specifications is necessary and practical for the purchase of goods, general services, or facility construction, the director shall require the preparation of the plans and specifications in cooperation with the department concerned. The plans and specifications must be approved by [~~both the director and~~] the director of the department concerned. If the plans and specifications are approved, the director shall keep a copy of the plans and specifications on file in the director's office and make the copy available for public inspection in accordance with the [~~for five years after the date of approval of the plans and specifications. Subject to~~] state law requirements governing the retention [~~and disposal~~] of records[~~, t~~]. The director may dispose of any plans and specifications that have been on file in the director's office in accordance with the state law requirements governing the disposal of records [~~longer than five years after the date of their approval~~].

(b) This section does not apply to plans and specifications for facility construction."

SECTION 5. That Subsection (d) of Section 2-30, "General Delegation of Contracting Authority," of Part 1, "Purchasing and Contracting Generally," of Article IV, "Procurement," of Chapter 2, "Administration," of the Dallas City Code is amended to read as follows:

"(d) The city manager is authorized to approve the following by administrative action, without further city council action:

(1) A contract for the purchase of goods, general services, or facility construction, or for any other lawful municipal purpose not specifically described in this

subsection, that requires a city expenditure not exceeding \$100,000, except that no formal administrative action is required for the purchase of non-legal advertising placement (media buys) [\$50,000].

(2) Except as provided in Paragraph (3), a change order to a contract required by state law to be procured through competitive bid, competitive sealed proposal, or an alternative delivery method that increases or decreases the contract price by \$50,000 or less, provided that the original contract price may never be increased by more than 25 percent. [A contract requiring a city expenditure exceeding \$50,000, but not exceeding \$70,000, for:

(A) ~~the purchase of goods or general services required to be procured through competitive bid or competitive sealed proposal in accordance with Chapter 252, Texas Local Government Code, as amended, including purchases made utilizing a cooperative purchasing program; or~~

(B) ~~facility construction required to be procured through competitive bid or competitive sealed proposal in accordance with Chapter 252, Texas Local Government Code, as amended, or through an alternative delivery method in accordance with Chapter 2269, Texas Government Code, as amended.]~~

(3) A change order to a contract for facility construction (public works project) required by state law to be procured through competitive bid, competitive sealed proposal, or an alternative delivery method that increases or decreases the contract price by \$100,000 [\$50,000] or less, provided that the original contract price may never be increased by more than 25 percent. [~~This paragraph does not delegate authority to the city manager to approve a change order amending a contract provision or a specification for the purpose of altering an existing payment schedule, payment method, time or date of payment, or interest rate on a payment, regardless of whether the payment obligation under the contract belongs to the contractor or the city and regardless of the amount of the increase or decrease in the contract price.]~~

(4) A contract for personal, professional, or planning services requiring a city expenditure not exceeding \$100,000 [\$50,000], except that no formal administrative action is required to execute a contract for real estate appraisal services requiring a city expenditure not exceeding \$50,000.

(5) An amendment to a contract not required by state law to be procured through competitive bid, competitive sealed proposal, or an alternative delivery method, which amendment increases the contract price by \$100,000 [\$50,000] or less or causes any decrease in the contract price, except that approval of the city council is required on an amendment that increases the contract price by \$100,000 [\$50,000] or less if:

(A) the original contract price does not exceed \$100,000 [\$50,000] and the amendment increases the total contract price to an amount greater than \$100,000 [\$50,000]; or

(B) the original contract price exceeds \$100,000 [\$50,000] and the amendment increases the original contract price by more than 25 percent.

(6) The exercise of a renewal option of a contract required by state law to be procured through competitive bid, competitive sealed proposal, or an alternative delivery method, if the city expenditure required during the renewal term does not exceed \$100,000 or the renewal amount specified in the resolution approving the original contract [~~\$70,000~~].

(7) The exercise of a renewal option of a contract not required by state law to be procured through competitive bid or competitive sealed proposal, if the city expenditure required during the renewal term does not exceed \$100,000 or the renewal amount specified in the resolution approving the original contract [~~\$50,000~~].

(8) A contract with an intergovernmental agency pursuant to Chapter 791 of the Texas Government Code, as amended, that generates less than \$100,000 [~~\$50,000~~] of revenue and does not require a city expenditure of upfront costs or other types of funding in excess of \$100,000 [~~\$50,000~~].”

SECTION 6. That Section 2-32, “Rules Regarding Expenditures Exceeding \$50,000,” of Division 1, “Purchasing and Contracting Generally,” of Article IV, “Procurement,” of Chapter 2, “Administration,” of the Dallas City Code is amended to read as follows:

“SEC. 2-32. RULES REGARDING EXPENDITURES EXCEEDING \$50,000.

(a) Advertisement. No city expenditure exceeding \$50,000 may be made without advertising for competitive bids or competitive sealed proposals pursuant to Chapter 252, Texas Local Government Code, as amended, and this division, or without following the advertisement requirements in Chapter 2269, Texas Government Code, as amended, and this division, for alternative delivery methods, except in cases of an immediate emergency, or where competitive bidding, sealed proposal, or an alternative delivery method is not otherwise required by state law or the city charter.

(b) Emergency expenditures. In cases of immediate emergency, the director may make the necessary emergency expenditure, subject to the approval of the city manager or a designee. If an emergency expenditure is made, a written report setting out the emergency purchase, accompanied by a definite statement of the occasion and the reasons for the purchase, must be submitted by the director to the city manager for presentation to the city council for its approval prior to payment for the purchase.

(c) Administratively authorized purchases. The following rules govern purchases authorized administratively as described in Section 2-30(d)(1[2]) of this division:

(1) If the purchase is for goods, the director or the director's designee, or the city council if the purchase is being considered under Subsection (c[~~b~~])(6), shall tabulate the bids or sealed proposals and shall select the vendor or contractor with the lowest responsible bid (or with the most advantageous proposal if the purchase is by competitive sealed proposal under

Chapter 252, Texas Local Government Code, as amended), or the vendor or contractor who provides the best value if the bid specifications or requirements indicate contract selection on a best value basis.

(2) If the purchase is for general services, the director or the director's designee shall tabulate the bids or sealed proposals and present to the city manager a recommendation as to the lowest responsible bidder (or as to the most advantageous proposal if the purchase is allowed by competitive sealed proposal under Chapter 252, Texas Local Government Code, as amended), or present a recommendation as to who provides the best value if the bid specifications or requirements indicate contract selection on a best value basis. The city manager, or the city council if the contract is being considered under Subsection (c)(6), shall select the contractor that provides the lowest responsible bid, the most advantageous proposal, or the best value, whichever applies.

(3) If the purchase is for facility construction, and an alternative delivery method is not being used, the director or the director's designee shall tabulate the bids or sealed proposals and present to the city manager a recommendation as to the lowest responsible bidder or proposer. The city manager, or the city council, if the contract is being considered under Subsection (c)(6), shall select the contractor with the lowest responsible bid or the most advantageous proposal.

(4) If the purchase is for facility construction, and an alternative delivery method is being used, the director or the director's designee shall present to the city manager a recommendation based on the applicable standard in Chapter 2269, Texas Government Code, as amended.

(5) If, in the opinion of the city manager or the city council, if the purchase is being considered under Subsection (c)(6) and no bid or sealed proposal is satisfactory or it is otherwise in the best interest of the city, the city manager or the city council may reject all bids or sealed proposals, and the director may readvertise for competitive bids or competitive sealed proposals.

(6) A member of the city council may request that a purchase or contract be brought before the city council for consideration any time before 48 hours have elapsed after bid or proposal opening.

(d) Contracts requiring council approval. The following rules govern competitive bid or sealed proposal contracts requiring a city expenditure exceeding \$100,000 [~~\$70,000~~]:

(1) The director or the director's designee shall tabulate the bids or sealed proposals.

(2) If the purchase is for goods or general services, the city manager shall recommend to the city council who, in the city manager's opinion, provides the lowest responsible bid; the most advantageous proposal if the purchase is by competitive sealed proposal under Chapter 252, Texas Local Government Code, as amended; or the best value to the city if the bid

specifications or requirements indicate contract selection on a best value basis. The city council shall determine which bidder provides the lowest responsible bid, the most advantageous proposal, or the best value, whichever applies, and, if that bidder or proposer is acceptable, approve the contract. If, in the judgment of the city council, no bid or sealed proposal is satisfactory or it is in the best interest of the city, then the city council may reject all bids or sealed proposals.

(3) If the purchase is for facility construction, and an alternative delivery method is not being used, the city manager shall recommend who, in the city manager's opinion, is the lowest responsible bidder. The city council shall determine the lowest responsible bidder and, if that bidder is acceptable, approve the contract. If, in the judgment of the city council, no bid or sealed proposal is satisfactory or it is in the best interest of the city, then the city council may reject all bids.

(4) If the purchase is for facility construction, and an alternative delivery method is being used, the director shall present to the city manager a recommendation. The city manager shall then present a recommendation to the city council. If, in the judgment of the city council, no bid, proposal, or other offer is satisfactory or it is in the best interest of the city, then the city council may reject all bids. All recommendations and determinations under this subsection must be made according to the criteria set out in Chapter 2269 of the Texas Government Code, as amended.

(5) If all bids or sealed proposals are rejected, the city council may authorize the director to readvertise or proceed otherwise, as may be determined at the discretion of the city council, in accordance with state law. The original specifications, as amended or changed, must be kept on file in the office of the director in accordance with Section 2-29 of this division.

(e[d]) Additional rules for competitive bids. The following additional rules govern all purchases made by competitive bid, including purchases on a best value basis, in accordance with Subsections [(b) and] (c) and (d) of this section:

(1) If there is a single responsive bid, the director, the city manager, or the city council may consider the bid as the lowest responsible bid.

(2) A nonresponsive bid has the effect of being a no bid and may not be considered for any purpose.

(3) A bid that has been opened is not subject to amendment, alteration, or change for the purpose of correcting an error in the bid price. This restriction is not intended to alter, amend, or revoke the common law right of a bidder to withdraw a bid due to a material mistake in the bid.

(f[e]) Competitive sealed proposals. For the purchase of goods and general services (including but not limited to community development items, high technology items, and insurance) requiring a city expenditure exceeding \$50,000, the director may follow the competitive sealed proposal procedures authorized in this division and in Chapter 252, Texas Local Government Code, as amended. If the director chooses not to follow the competitive sealed proposal process,

the purchase must be competitively bid as required by this division and by Chapter 252, Texas Local Government Code, as amended.

(g[f]) Electronic procurement and reverse auctions. The city manager may establish procedures for purchasing goods, general services, or facility construction under this section through electronic means, including but not limited to the Internet, to the extent the procedures do not conflict with state law, the city charter, or other provisions of this code. The city manager may also establish procedures for purchasing goods or general services pursuant to the reverse auction method defined in Section 2155.062(d), Texas Government Code, as amended, to the extent the procedures do not conflict with state law, the city charter, or other provisions of this code.

(h[g]) Competitive purchasing programs. The director may, with prior authorization by city council resolution, purchase goods, including high technology items, through a cooperative purchasing program established pursuant to Chapter 271, Subchapter D, F, or G, Texas Local Government Code, as amended, or through a cooperative purchasing program established by interlocal agreement pursuant to Chapter 791, Texas Government Code, as amended. Authorized participation in a cooperative purchasing program satisfies the requirements of this section.

(i[h]) Local preferences.

(1) Where a contract is required to be awarded to the lowest responsible bidder and a competitive bid is received from a nonresident bidder, the city may not award a governmental contract to the nonresident bidder unless the nonresident's bid is lower than the lowest bid submitted by a responsible Texas resident bidder by the same amount that a Texas resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located. This requirement does not apply to a contract involving federal funds.

(2) In a purchase for goods, general services, or facility construction through competitive bid, if one or more bids are received from a local business whose bid is within five percent of the lowest responsible bid received from a bidder who is not a local business, a contract for facility construction in an amount less than \$100,000 or a contract for goods or general services in an amount less than \$500,000 may be awarded to:

(A) the bidder with the lowest responsible bid; or

(B) the local business if the city council determines, in writing, that the bid submitted by the local business offers the city the best combination of contract price and additional economic development opportunities for the city created by the contract award, including employment of residents of the city and increased tax revenue to the city.

(3) In a purchase for goods through competitive bid, if one or more bids are received from a local business whose bid is within three percent of the lowest responsible bid received from a bidder who is not a local business, a contract in an amount of \$500,000 or more may be awarded to:

(A) the bidder with the lowest responsible bid; or

(B) the local business if the city council determines, in writing, that the bid submitted by the local business offers the city the best combination of contract price and additional economic development opportunities for the city created by the contract award, including employment of residents of the city and increased tax revenue to the city.

(4) Subsection (i[h])(2) of this section does not apply to the purchase of telecommunication services or information services, as those terms are defined by 47 U.S.C. Section 153, as amended.

(5) Subsections (i[h])(2) and (i[h])(3) of this section do not prohibit the city from rejecting all bids.”

SECTION 7. That Subsection (g) of Section 2-37.4, “Method of Sale,” of Division 2, “Sale of Unclaimed and Surplus Property,” of Article IV, “Procurement,” of Chapter 2, “Administration,” of the Dallas City Code is amended to read as follows:

“(g) If the highest bid for property is \$100,000 [~~\$20,000~~] or less (or the equivalent in trade-in value when applicable), the property may be sold to the highest bidder by the director subject to the approval of the city manager. If the highest bid for property is more than \$100,000 [~~\$20,000~~] (or the equivalent in trade-in value when applicable), the sale to the highest bidder must be confirmed by the city council.”

SECTION 8. That Chapters 1 and 2 of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 9. 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 10. 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.

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SECTION 11. 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, City Attorney

By Casey Byers
Assistant City Attorney

Passed MAY 26 2021



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 MAY 26 2021

ORDINANCE NUMBER 31872

DATE PUBLISHED MAY 29 2021

ATTESTED BY: