

INTRODUCED: February 22, 2021

AN ORDINANCE No. 2021-036

To amend City Code § 21-68, concerning contracting for professional services by competitive negotiation, for the purpose of increasing the threshold for competitive procurement of professional services from \$60,000.00 to \$80,000.00.

\_\_\_\_\_  
Patron – Mayor Stoney

\_\_\_\_\_  
Approved as to form and legality  
by the City Attorney  
\_\_\_\_\_

PUBLIC HEARING: MAR 8 2021 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That section 21-68 of the Code of the City of Richmond (2020) be and is hereby **amended** and reordained as follows:

**Sec. 21-68. Contracting for professional services by competitive negotiation.**

(a) *Conditions for use.* Where the cost of professional services is not expected to exceed [~~\$60,000.00~~] \$80,000.00 in the aggregate or for the sum of all phases of a contract or project, professional services may be procured in accordance with small purchase procedures adopted in writing by the Director provided such procedures provide for competition wherever practicable. Where the cost of professional services is expected to exceed [~~\$60,000.00~~] \$80,000.00

AYES: 9 NOES: 0 ABSTAIN: \_\_\_\_\_

ADOPTED: MAR 8 2021 REJECTED: \_\_\_\_\_ STRICKEN: \_\_\_\_\_

in the aggregate or for the sum of all phases of a contract or project, professional services shall be procured by competitive negotiation as set forth in this section.

(b) *Competitive negotiation; solicitation, discussion and award.* The Director shall issue a written request for proposals indicating in general terms that which is to be procured, specifying the factors that will be used in evaluating the proposal, indicating whether a numerical scoring system will be used in evaluation of the proposal, and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities, specifications, or qualifications that will be required. Except with regard to contracts for architectural or professional engineering services, the City may include as a factor that will be used in evaluating a proposal the offeror's employment of persons with disabilities to perform the specifications of the contract. In the event that a numerical scoring system will be used in the evaluation of proposals, the point values assigned to each of the evaluation criteria shall be included in the request for proposals or posted at the location designated for public posting of procurement notices prior to the due date and time for receiving proposals. At least ten days prior to the date set for receipt of proposals, the Director shall give public notice of the request for proposals by posting on the City's internet website. In addition, the Director shall publish the notice in a newspaper of general circulation in the city so as to provide reasonable notice to the maximum number of offerors that can be reasonably expected to submit proposals in response to the particular request and may publish the notice on the Virginia Department of General Services' central electronic procurement website. In addition, proposals may be solicited directly from potential contractors. Any additional solicitations shall include certified businesses from a list made available by the Virginia Department of Small Business and Supplier Diversity and shall include minority business enterprises or emerging small businesses, or both, selected from a list

made available by the Office of Minority Business Development. The Director shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. In addition, offerors shall be informed of any ranking criteria that will be used by the Director in addition to the review of the professional competence of the offeror. The request for proposals shall not, however, request that offerors furnish estimates of man-hours or cost for services. For architectural or engineering services, the Director shall not request or require offerors to list any exceptions to proposed contractual terms and conditions, unless such terms and conditions are required by statute, regulation, ordinance, or standards developed pursuant to Code of Virginia, § 2.2-1132, until after the qualified offerors are ranked for negotiations. At the discussion stage, the Director may discuss nonbinding estimates of total project costs, including, but not limited to, life cycle costing and, where appropriate, nonbinding estimates of price for services. In accordance with Section 21-5 of this Code, proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this subsection, on the basis of evaluation factors published in the request for proposals and all information developed in the selection process to this point, the Director shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the City can be negotiated at a price considered fair and reasonable and pursuant to contractual terms and conditions acceptable to the City, the award shall be made to that offeror.

Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Notwithstanding the foregoing, if the terms and conditions for multiple awards are included in the request for proposals, the Director may award contracts to more than one offeror. Should the Director determine in writing and in the director's sole discretion that only one offeror is fully qualified or that one offeror is clearly more highly qualified and suitable than any others under consideration, a contract may be negotiated and awarded to that offeror.

(c) *Architectural or professional engineering services for multiple projects.* A contract for architectural or professional engineering services relating to construction projects may be negotiated by the City for multiple projects, provided:

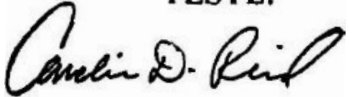
- (1) The projects require similar experience and expertise;
  - (2) The nature of the projects is clearly identified in the request for proposals;
- and
- (3) The contract term is limited to one year or when the cumulative total project fees reach the maximum cost authorized in this subsection, whichever occurs first.

Such contract may be renewable for four additional one-year terms at the option of the City. Under such contract, (a) the fair and reasonable prices, as negotiated, shall be used in determining the cost of each project performed, (b) the sum of all projects performed in one contract term shall not exceed \$8,000,000.00, and (c) the project fee of any single project shall not exceed \$2,500,000.00. Any unused amounts from the first contract term shall not be carried forward to the additional term. Competitive negotiations for such contracts may result in awards to more than one offeror provided (1) the request for proposals so states and (2) the Director has established procedures for distributing multiple projects among the selected contractors during the contract term. Such

procedures shall prohibit requiring the selected contractors to compete for individual projects based on price.

(d) *Multiphase professional services contracts.* Multiphase professional services contracts satisfactory and advantageous to the completion of large, phased or long term projects may be negotiated and awarded based on qualifications at a fair and reasonable price for the first phase only, where completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to the procurement of any such contract, the Director shall state the anticipated total scope of the project and determine in writing that the nature of the work is such that the best interests of the City require awarding the contract. For purposes of this subsection, “multiphase professional service contract” means a contract for the providing of professional services where the total scope of work of the second or subsequent phase of the contract cannot be specified without the results of the first or prior phase of the contract.

§ 2. This ordinance shall be in force and effect upon adoption.

**A TRUE COPY:**  
**TESTE:**  
  
**Carolin D. Reed**  
**City Clerk**



# CITY OF RICHMOND

## INTRACITY CORRESPONDENCE

**O&R REQUEST**

**DATE:** February 1, 2021 **EDITION:** 1

**TO:** The Honorable Members of City Council

**THROUGH:** The Honorable Levar M. Stoney, Mayor 

**THROUGH:** J.E. Lincoln Saunders, Acting Chief Administrative Officer 

**FROM:** Betty J. Burrell, Director of Procurement Services 

**RE:** Amendments to City's Public Procurement Laws – Contracting for professional services (City Code § 21-68)

**ORD. OR RES. No.** \_\_\_\_\_

**PURPOSE:** To amend section 21-68 of the City Code, concerning contracting for professional services, for the purpose of reflecting amendments to Virginia Public Procurement Act, Va. Code §§ 2.2-4300—2.2-4377 (the "VPPA") in order to conform the City's practices to those of other governments in the Commonwealth and to increase efficiency of the City's procurement process.

**REASON:** The proposed ordinance would conform section 21-68(a) of the City Code to the VPPA by raising the threshold for competitive procurement of professional services from \$60,000.00 to \$80,000.00.

**RECOMMENDATION:** The City Administration recommends adoption of this ordinance.

**BACKGROUND:** Pursuant to Va. Code § 2.2-4343(A)(10), the City has "opted out" of the VPPA, by adopting alternative policies and procedures in the form of Chapter 21 ("Public Procurement") of the Code of the City of Richmond which are (i) based on competitive principles and (ii) generally applicable to the procurement of goods and services by the City. These alternative policies and procedures remain valid so long as they incorporate provisions of the VPAA, set forth in Va. Code § 2.2-4343(A)(12) and often referred to as "mandatory" provisions. In addition, over the years, the City has found it beneficial to include provisions similar to those in the VPPA even if those particular provisions are not mandatory.

Section 21-68(a) of the City Code is amended to conform with Va. Code §§ 2.2-4303(G) and 2.2-4343(A)(12). In 2018, the General Assembly (through 2018 Va. HB 97) modified Va. Code § 2.2-4303(G) to raise the threshold for competitive procurement of professional services from \$60,000.00 to \$80,000.00 while neglecting to make the same change in Va. Code § 2.2-4343(A)(12). In 2019, the General Assembly (through 2018 Va. HB 2198) made that same change in Va. Code § 2.2-4343(A)(12), so that the VPPA was consistent. The City is not required to raise this threshold from \$60,000.00 to \$80,000.00, but, as a result of the changes to Va. Code § 2.2-4343(A)(12), the City can amend City Code § 21-68(a) to raise the threshold to provide the City with the same flexibility for procuring professional services that the VPPA offers.

**FISCAL IMPACT / COST:** This proposed ordinance should not have any cost in the upcoming fiscal year or succeeding fiscal years.

**FISCAL IMPLICATIONS:** This proposed ordinance should not impose any costs on the City in the foreseeable future.

**BUDGET AMENDMENT NECESSARY:** No budget amendment is necessary if this proposed ordinance is adopted.

**REVENUE TO CITY:** None.

**DESIRED EFFECTIVE DATE:** Upon adoption.

**REQUESTED INTRODUCTION DATE:** February 22, 2021.

**CITY COUNCIL PUBLIC HEARING DATE:** March 8, 2021.

**REQUESTED AGENDA:** Consent.

**RECOMMENDED COUNCIL COMMITTEE:** Governmental Operations (February 24, 2021).

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** None.

**AFFECTED AGENCIES:** Department of Procurement Services, Office of the City Attorney.

**RELATIONSHIP TO EXISTING ORD. OR RES.:** Amends City Code § 21-68.

**REQUIRED CHANGES TO WORK PROGRAM(S):** No changes to work programs are required.

**ATTACHMENTS:** Draft Amendments to City Code § 21-68.

**STAFF:** Betty J. Burrell, Director of Procurement Services, 646-5798