

INTRODUCED: February 22, 2021

AN ORDINANCE No. 2021-033

To amend City Code § 21-40, concerning cooperative procurement, for the purpose of modifying the procedures for joint and cooperative procurement.

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 21-40 of the Code of the City of Richmond (2020) be and is hereby **amended** and reordained as follows:

Sec. 21-40. [~~Cooperative~~] Joint and cooperative procurement.

(a) [~~Cooperative~~] Joint procurement agreements. The City may participate in, sponsor, conduct or administer a [~~cooperative~~] joint procurement agreement [~~on behalf of or~~] in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, the District of Columbia or the United States General Services Administration, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods [~~and~~], services, or construction.

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: MAR 8 2021 REJECTED: _____ STRICKEN: _____

(b) *Purchases off of other public bodies' contracts.*

(1) *By City.* ~~[The]~~ Except for contracts for architectural or engineering services or construction, the City may purchase from the contract of another public body ~~[or], from the contract~~ of any authority, department, agency or institution of the Commonwealth, ~~from the contract of the Metropolitan Washington Council of Governments, or from the Virginia Sheriffs' Association~~ even if it did not participate in the request for proposals or invitation for bids, if the request for proposals or invitation for bids specified that the procurement was being conducted on behalf of other public bodies. For purposes of this subsection (b)(1), "construction" shall not include the installation of artificial turf and track surfaces, stream restoration, or stormwater management practices, including all associated and necessary construction and maintenance.

(2) *By other public bodies.* A public body may purchase from the City's contract even if it did not participate in the request for proposals or invitation for bids, if the request for proposals or invitation for bids specified that the procurement was being conducted on behalf of other public bodies.

(3) *Exceptions.* The City may not purchase architectural or engineering services from the contract of any other public body or any authority, department, agency or institution of the Commonwealth. No other public body may purchase from the City's contracts for architectural or engineering services.

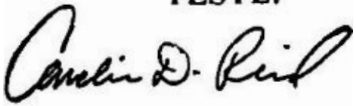
(c) *Policies and procedures to be followed.* If the City is the party conducting the procurement, the procurement shall comply with the policies and procedures set forth within this chapter and the rules and regulations promulgated to implement this chapter. If the City is not the party conducting the procurement, then the procurement shall comply with the policies and

procedures of the public body conducting the procurement. Prior to any City purchase under a contract entered by another public body, the Director shall find that the process pursuant to which the contract was entered generally complied with the policies and procedures established by this chapter and the rules and regulations promulgated to implement this chapter.

(d) *Purchases off of Federal contracts.* As authorized by the United States Congress and consistent with applicable Federal regulations, and provided the terms of the contract permit such purchases, the City may purchase goods and nonprofessional services from a United States General Services Administration contract or a contract awarded by any other agency of the United States government, upon approval of the Director.

(e) *Utility marking services.* The City, which is also a utility operator, may purchase services through or participate in contracts awarded by one or more utility operators which are not public bodies for utility marking services, as required by the Underground Utility Damage Prevention Act, Code of Virginia, § 56-265.14 et seq. A purchase of services under this subsection may deviate from the procurement procedures set forth in this chapter, upon a determination made in advance by the Director and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public and the contract is awarded based on competitive principles.

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

A TRUE COPY:
TESTE:

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 – Joint and cooperative procurement (City Code § 21-40)

ORD. OR RES. No. _____

PURPOSE: To amend section 21-40 of the City Code, concerning cooperative procurement and the conditions for its use, 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 21-40 of the City Code to Va. Code § 2.2-4304 to further clarify when the City may participate in, sponsor, conduct or administer "joint procurements" with other public agencies or public bodies, and to provide that the City may make purchases off of other public bodies' contracts (specifically adding the Metropolitan Washington Council of Governments and the Virginia Sheriffs' Association to the list of public bodies) and the conditions for such purchases.

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 ad-

dition, 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 21-40 of the City Code resembles Va. Code § 2.2-4304 of the VPPA. However, Va. Code § 2.2-4304 has been amended several times in recent years (2015, 2017, and 2018) to expand the authority of the Commonwealth and other localities to make purchases off of the contracts of other governmental organizations and to clarify the Commonwealth and other localities' abilities to participate in "joint procurements" with other public entities (previously termed "co-operative procurements" by the VPPA).

Va. Code § 2.2-4304 is not a mandatory provision of the VPPA under Va. Code § 2.2-4343(A)(12). However, adopting its language in City Code § 21-40 would be beneficial to the City's efforts to streamline its procurement processes and deliver goods and services to using agencies at a lower cost in money and time. And, the City's ability to utilize cooperative purchasing agreements of the Metropolitan Washington Council of Governments or the Virginia Sheriffs' Association will save both money and administrative costs.

FISCAL IMPACT / COST: This proposed ordinance should not have any cost in the upcoming fiscal year or succeeding fiscal years. The City Administration expects the City to enjoy cost savings a result of this proposed ordinance.

FISCAL IMPLICATIONS: This proposed ordinance should not impose any costs on the City in the foreseeable future. The City Administration expects the City to enjoy cost savings a result of this proposed ordinance.

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 § 21-40.

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

ATTACHMENTS: Draft Amendments to City Code § 21-40.

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