



**City Of Richmond, Virginia  
Office of the City Clerk**

**Request to Withdraw Legislation**

Paper Number: Ord. No. 2019-341

Chief Patron: Mayor Levar Stoney

Introduction Date: December 9, 2019

Chief Patron Signature: 

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*For Office Use Only*

Attestation: 

Effective Date: January 14, 2020

INTRODUCED: December 9, 2019

AN ORDINANCE No. 2019-341

To amend section 21-4 of the City Code, concerning public procurement, for the purpose of revising the definition of emerging small business.

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Patron – Mayor Stoney  
\_\_\_\_\_

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

PUBLIC HEARING: JAN 13 2020 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That section 21-4 of the Code of the City of Richmond (2015) be and is hereby **amended** and reordained as follows:

**Sec. 21-4. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Best value*, as predetermined in the solicitation, means the overall combination of quality, price, and various elements of required services that in total are optimal relative to the City’s needs.

AYES: \_\_\_\_\_ NOES: \_\_\_\_\_ ABSTAIN: \_\_\_\_\_

ADOPTED: \_\_\_\_\_ REJECTED: \_\_\_\_\_ STRICKEN: \_\_\_\_\_

*Business* means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or any other private legal entity.

*Competitive negotiation* means a method of contractor selection set forth in Section 21-67 or Section 21-68.

*Competitive sealed bidding* means a method of contractor selection set forth in Sections 21-47, 21-52, 21-54, and 21-55.

*Construction* means building, altering, repairing, improving or demolishing any structure, building, road, street or highway, and any draining, dredging, excavation, grading or similar work upon real property.

*Construction management contract* means a contract in which a party is retained by the City to coordinate and administer contracts for construction services for the benefit of the City, and may also include, if provided in the contract, the furnishing of construction services to the City.

*Contract* means all types of City agreements, regardless of what they may be called, for the procurement of goods, services, insurance or construction.

*Contract modification/supplement* means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity or other provision of any contract accomplished by mutual action of the parties to the contract.

*Contractor* means any person, company, corporation, or partnership having a contract with the City or a using agency thereof.

*Cost analysis* means the evaluation of cost data for the purpose of arriving at costs actually incurred or estimates of costs to be incurred, prices to be paid, and costs to be reimbursed.

*Cost data* means factual information concerning the cost of labor, material, overhead, and other cost elements, which are expected to be incurred or which have been actually incurred by the contractor in performing the contract.

*Cost reimbursement contract* means a contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and this chapter and a fee or profit, if any.

*Design-build contract* means a contract between the City and another party in which the party contracting with the City agrees to both design and build the structure, or other item specified in the contract.

*Direct or indirect participation* means involvement through decision, approval, disapproval, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or any other advisory capacity.

*Director* means the Director of Procurement Services of the City.

*Disadvantaged business* means a business meeting the definitions set forth in the Code of Federal Regulations pertaining to the applicable Federal grant program.

*Emerging small business* means a business that:

(1) Has been certified by the Office of Minority Business Development for a period of ~~up to~~ not more than seven years;

(2) Has annual gross receipts of [~~\$500,000.00~~] \$750,000.00 or less for each of its three fiscal years preceding application for such certification if engaged primarily in the construction business or of [~~\$250,000.00~~] \$500,000.00 or less if engaged primarily in a nonconstruction business;

(3) Has fewer than ten full-time, permanent employees; and

(4) Is not a subsidiary of another business and does not belong to a group of businesses owned and controlled by the same individuals[;

~~(5) — Has its principal place of business entirely within the boundaries of a City enterprise zone;~~

~~(6) — Possesses a City business license; and~~

~~(7) — Pays personal property, real estate, and business taxes, as applicable, to the City].~~

*Good faith minority business enterprise and emerging small business participation efforts* means the sum total of efforts by a particular business to provide for the equitable participation of minority business enterprises or emerging small business subcontractors. For past efforts, this sum total shall be comprised of the record of participation by minority business enterprises and emerging small businesses through subcontracting or joint ventures. For future efforts, it shall be comprised of such efforts which are proposed to allow equitable participation of minority business enterprises or emerging small business subcontractors.

*Goods* means all material, equipment, supplies, printing and automated data processing hardware and software.

*Informality* means a minor defect or variation of a bid or proposal from the exact requirements of the invitation for bids or the request for proposals which does not affect the quality, quantity or delivery schedule for the goods, services or construction being procured.

*Insurance* means a contract whereby, for a stipulated consideration, one party undertakes to compensate the other for loss on a specified subject by specified perils.

*Intent to award* means an intent by the City to accept a bid or proposal.

*Invitation for bids* means all documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.

*Job order contracting* means a method of procuring construction by establishing a book of unit prices and then obtaining a contractor to perform work as needed using the prices, quantities, and specifications in the book as the basis of its pricing, in which the contractor is selected through either competitive sealed bidding or competitive negotiation depending on the needs of the City, a minimum amount of work may be specified in the contract, and the contract term and the project amount do not exceed the limitations specified in Section 21-73.

*Minority business enterprise* means a business, at least 51 percent of which is owned and controlled or 51 percent minority-owned and operated by minority group members or, for a stock corporation, at least 51 percent of the stock which is owned and controlled by minority group members.

*Minority group members* means citizens of the United States who are Blacks, Hispanics, Asians, Indians, Eskimos or Aleuts.

*Nominal value* means a value so small, slight, or the like, in comparison to what might properly be expected, as scarcely to be entitled to the same, but in no case to be more than \$30.00.

*Nonprofessional services* means any services not specifically identified as professional services in the definition of professional services.

*Professional services* means work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy or professional engineering.

*Public body* means any legislative, executive or judicial body, agency, office, department, authority, post, commission, committee, institution, board or political subdivision created by law

to exercise some sovereign power or to perform some governmental duty, and empowered by law to undertake the activities described in this chapter.

*Public contract* means an agreement between a public body and a nongovernmental source that is enforceable in a court of law.

*Qualified products list* means an approved list of goods, services or construction items described by model or catalog number that, prior to competitive solicitation, the City has determined will meet the applicable specification requirements.

*Recycled paper* means any paper having a total weight consisting of not less than 50 percent recovered materials, as that term is defined for purposes of purchasing paper and paper products in 40 CFR 247.3 (2001), as amended.

*Request for proposals* means all documents, whether attached or incorporated by reference, utilized for soliciting proposals.

*Request for qualifications* means all documents, whether attached or incorporated by reference, utilized for soliciting qualification statements.

*Responsible bidder* and *responsible offeror* mean a person who has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability which will ensure good faith performance, and who has been prequalified, if required.

*Responsive bidder* means a person who has submitted a bid which conforms in all material respects to the invitation for bids.

*Services* means any work performed by an independent contractor which does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

*Specification* means any written description of the physical or functional characteristics or of the nature of a good, service or construction item. It may include a description of any requirement for inspecting, testing, or preparing a good, service or construction item for delivery.

*Using agency* means any department, agency, bureau, board, commission, court, City jail or jail forum or other unit in the City government requiring goods, services, insurance or construction as provided for in this chapter.

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





CITY OF RICHMOND
INTRACITY CORRESPONDENCE

O & R REQUEST

4-9390

NOV 12 2019

Office of the Chief Administrative Officer

O&R REQUEST

DATE:

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor

Handwritten signature and date 12/2/19

THROUGH: Lenora G. Reid, Acting-Chief Administrative Officer

THROUGH: Sharon L. Ebert, Deputy CAO for Economic Development and Planning

Handwritten initials and signature

FROM: Patricia R. Foster, Director of the Office of Minority Business Development

RE: Amendment to the City's Code to Amend the Definition of "Emerging Small Business"

ORD. OR RES. No.

PURPOSE: To amend the City Code's definition of Emerging Small Business.

REASON: The current definition contains unlawful requirements and needs to be updated to reflect current average gross receipts for small businesses.

RECOMMENDATION: The administration is recommending removing enterprise zones as well as all other requirements that make the ordinance conflict with local preference laws. The new language would be:

Emerging Small Business (ESB) - A certification issued by the City of Richmond's Minority Business Development to a business for up to seven years that meets the following eligibility requirements:

- Annual gross receipts of \$750,000 or less averaged over the last three fiscal years preceding application for the certification if engaged primarily in the construction business or of \$500,000 or less if engaged primarily in a non-construction business;
Fewer than ten full-time employees; and
Not a subsidiary of another business and does not belong to a group of businesses owned and controlled by the same individuals.

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OFFICE OF THE CITY ATTORNEY

**BACKGROUND:** The Emerging Small Business (ESB) was created as a race-neutral program designed to have the legal ability to set procurement goals to grow Richmond based small businesses.

**FISCAL IMPACT / COST:** There is only a nominal cost to implement this change. The cost will include updating current forms and website data describing the emerging small business certification and informational activities to inform the public of the change.

**FISCAL IMPLICATIONS:** Possible increase in revenue as a result of growth by the small businesses.

**BUDGET AMENDMENT NECESSARY:** None

**REVENUE TO CITY:** possible increased revenue depending on the growth of businesses

**DESIRED EFFECTIVE DATE:** Upon approval

**REQUESTED INTRODUCTION DATE:** December 9, 2019

**CITY COUNCIL PUBLIC HEARING DATE:**

**REQUESTED AGENDA:** Consent agenda

**RECOMMENDED COUNCIL COMMITTEE:** Finance and Economic Development

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:**

**AFFECTED AGENCIES:** OMBD, Procurement

**RELATIONSHIP TO EXISTING ORD. OR RES.:** 21-4

**REQUIRED CHANGES TO WORK PROGRAM(S):** none

**ATTACHMENTS:** yes: Sec 21.4

**STAFF:**