

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AMENDING CHAPTER 2 OF THE NIXA CITY CODE BY REPEALING SECTION 2-150 AND ADDING A NEW ARTICLE THERETO TO ESTABLISH REGULATIONS RELATED TO THE CITY'S PROCUREMENT PROCEDURES AND CONTRACT PROCEDURES.**

**Background:**

Generally, the term procurement process, when discussing government contracting, refers to utilizing a competitive bid process, a request for proposal process, or a request for qualification process. Under Missouri Law, there is no general requirement that cities employ a competitive procurement process when contracting. Despite the lack of State mandate most cities, including Nixa, adopt policies and procedures to mandate the use of competitive procurement.

Competitive procurement serves several public policy objectives. Such requirements help ensure that City funds are used as efficiently as possible, that the way in which the City seeks goods and services is conducted in a transparent fashion, that transactions involving the City are fair, avoid cronyism, and avoid graft, and that goods and services are obtained at a fair and reasonable price.

The City's current procurement policy achieves a number of these stated objectives, but the current policy is unclear and difficult to interpret. As a result, the current policy hinders the achievement of these policy goals.

To address the deficiencies of the current purchasing policy, City staff, after several months of research and discussion, have prepared the regulations contained within Council Bill 2023-27.

**Analysis:**

The provisions of Council Bill 2023-27 make several changes to the City's competitive procurement and contracting process.

First, the Bill adopts the City's procurement regulations by ordinance and places them within the City Code (Chapter 2, Article V). This will give the provisions the force and effect of law. Currently, the City's purchasing provisions are adopted by resolution. This is an important change for several reasons. First, it makes the provisions more accessible to the public as they will now be published within the City Code.

Second, adopting the provisions by ordinance gives these provisions more formality and authority. This is important as the proposed provisions delegate authority to the City Administrator. When delegating durable authority to make decisions or implement a policy, it is recommended to enshrine such authority in an ordinance rather than a resolution or motion of the City Council.

Perhaps the most substantive change made by this Bill is the clearer delegation of authority to the City Administrator to make contracting decisions. The City's current purchasing provisions are ambiguous as to which arm of the City has the power to make a contracting decision. This has led to an interpretation where every contract, regardless of the subject matter or amount, is brought to the City Council for formal approval. One of the main objectives of this Bill is to provide crystal clear direction on this question.

Under the provisions of the Bill, the City Administrator is delegated with the authority to make contracting decisions upon the occurrence of certain conditions. The Administrator's ability to enter into contracts can only be exercised if: (1) the City Council has appropriated funds in the current budget which covers the proposed contract; (2) a competitive procurement process has been conducted; (3) and the selected contractor is the most qualified contractor.

Any contracts which do not meet these conditions will require formal action from the City Council.

Those contracts which do meet the criteria for City Administrator approval can be approved without Council action. Authorizing the City Administrator to execute certain contracts without a specific vote from Council provides a more efficient contract approval process. This will help ensure that projects stay on track. Currently projects cannot begin until the item is presented and approved by Council.

The provisions of the Bill establish a tiered system of formality when it comes to the required competitive procurement process. The level of formality for each competitive procurement process depends on the amount of the contract in question. The Bill establishes three levels of formality.

Contracts which will total \$20,000 or more can only be made after a sealed and publicly advertised competitive procurement process has been utilized. Contracts which total \$5,000 or more and less than \$20,000 may be made after the City Administrator acquires at least 3 sealed bids from qualified firms. A formal public advertisement is not required. If three firms cannot be found, a formal

public advertisement would then be required. Contracts totaling less than \$5,000 may be made without acquiring any bids or proposals.

Additionally, the contracts that can be entered into under the provisions of the Bill are limited to five-year terms. The City Administrator must report to Council on all purchases made under the authority of the provisions of the Bill which exceed \$5,000.

Importantly, this Bill makes no changes to the City's budget process nor the Capital Improvements Program, leaving intact Council authorizations which are needed for the City Administrator to enter into a contract.

Outside of the competitive procurement piece, this Bill adds additional authorization to the City Code that is worth mentioning. First, this Bill codifies two requirements contained in the City's current procurement regulations but broadens their applicability. These requirements being that the Finance Director must certify an unencumbered balance in the budget to cover a charge and that the City Attorney must approve all contracts as to form. Adopting these requirements by ordinance adds an additional layer of scrutiny to City expenditures. If the Bill is approved, these requirements will be an ordinance requirement meaning it will be a violation of the law for a charge or expenditure to be authorized without these approvals.

Also, this Bill contains authority for the City Administrator to apply for non-matching grants of up to \$5,000 without specific Council authorization.

### **Recommendation:**

Staff recommends approval of this Bill.

MEMO SUBMITTED BY:

**Nick Woodman** | City Attorney

1 AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AMENDING CHAPTER 2  
2 OF THE NIXA CITY CODE BY REPEALING SECTION 2-150 AND ADDING A NEW  
3 ARTICLE THERETO TO ESTABLISH REGULATIONS RELATED TO THE CITY’S  
4 PROCUREMENT PROCEDURES AND CONTRACT PROCEDURES.  
5  
6

7 WHEREAS the City’s current competitive procurement regulations are enshrined  
8 by a Resolution of the Council; and  
9

10 WHEREAS the City’s current competitive procurement regulations are unclear and  
11 difficult to interpret; and  
12

13 WHEREAS the City Council desires to adopt the City’s competitive procurement  
14 regulations by ordinance and to codify said ordinance into the City Code; and  
15

16 WHEREAS the Council also desires to update the City’s competitive procurement  
17 regulations in an attempt establish a more efficient and clear process; and  
18

19 WHEREAS as part of these updates and amendments, the Council also desires  
20 to codify certain requirements and authorities related to City’s contract procedures  
21 generally.  
22

23 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF  
24 NIXA, AS FOLLOWS, THAT:  
25

26 SECTION 1: Chapter 2, Article IV, Section 2-150 of the Nixa City Code is hereby  
27 amended by repealing said Section in its entirety.  
28

29 SECTION 2: Chapter 2 of the Nixa City Code is hereby amended by adding thereto  
30 a new Article, Article V, which said Article shall read as follows:  
31

32 (Note: Language to be added is indicated by being underlined. Language to be removed  
33 is indicated by being ~~stricken~~.)  
34

35 Article V. – Procurement and contract regulations.  
36

37 Division 1 – Procurement regulations.  
38

39 Sec. 2-160. – Definitions.  
40

41 As used in this Division the following terms and phrases shall have the meaning ascribed  
42 to them unless the context indicates otherwise:  
43

44 (1) “Competitive bid” is a competitive procurement process in which the specifications or  
45 description of the purchase is definite and specific and where the evaluation of  
46 submitted bids and the award of a contract is primarily based on the bidder providing

47 the lowest-priced bid and being the most responsive and qualified amongst the  
48 bidders.

49  
50 (2) “Competitive procurement process” means competitive bid, request for proposals, and  
51 request for qualifications.

52  
53 (3) “Emergency purchases” are purchases necessitated by nonrecurring emergencies  
54 posing a substantial danger to the health, safety, and welfare of the public or of a risk  
55 of substantial financial loss to the city or of a risk of the interruption of public services  
56 unless the required supplies, materials, equipment, or services are not obtained as  
57 expeditiously as possible.

58  
59 (4) “Public improvements” are those fixed works constructed for public use or benefit or  
60 improvements upon the property of the city which serve to further the operations of  
61 the city.

62  
63 (5) “Request for proposals” is a competitive procurement process in which the  
64 specifications or description of the purchase are not definite or specific and the nature  
65 of the purchase is such that subjective evaluation criteria other than cost is necessary  
66 to determine the best approach for the city’s needs.

67  
68 (6) “Request for qualifications” is a qualification-based competitive procurement process  
69 in which firms submit their qualifications to be considered for providing a service  
70 requested by the city.

71  
72 (7) “Sole-source suppliers” are suppliers of supplies, materials, equipment, or services  
73 that are unique, or which are not available from more than one competitive source in  
74 the normal course of business.

75  
76 Sec. 2-161. – Purpose.

77  
78 This Division has been adopted to ensure that the procurement of supplies, materials,  
79 equipment, and services on behalf of the city is timely, cost-effective, and allows for the  
80 most open, competitive purchasing process practicable, while also treating all vendors  
81 equitably; to ensure that the public has confidence in the city’s procurement processes;  
82 to ensure that the highest quality goods and services are secured at the lowest possible  
83 price; and to clearly define the authority for exercising purchasing functions on behalf of  
84 the city. The provisions of this Division shall be interpreted consistent with the purposes  
85 articulated herein.

86  
87 Sec. 2-162. – Scope of division; rules and procedures; delegation authorized.

88  
89 (a) This Division delegates authority to the city administrator to contract for the purchase  
90 of supplies, materials, equipment, and services on behalf of the city. This Division  
91 does not impose procedural limitations on the city council or otherwise limit the power

92 of the city council to contract for the purchase of supplies, materials, equipment, and  
93 services.

94  
95 (b) The city administrator is authorized to establish additional rules and procedures to  
96 implement the provisions of this Division. Such additional rules and procedures shall  
97 be in writing and filed with the city clerk and be made available for public inspection.

98  
99 (c) The city administrator is authorized to delegate the authority granted in this Division  
100 to other city officials or employees provided that such delegation is made in writing  
101 and filed with the city clerk who shall maintain a copy of such delegation in their office.

102  
103 Sec. 2-163. – Authority of city administrator to contract on behalf of the city – General  
104 provisions.

105  
106 (a) Subject to the requirements of this Division, the city administrator is authorized to  
107 contract for the purchase of supplies, materials, equipment, and services when funds  
108 for such purpose have been appropriated by the city council and a competitive  
109 procurement process is utilized.

110  
111 (b) The city administrator is authorized to execute change orders and contract  
112 amendments in connection with any contract entered into under the authority of this  
113 Division, provided that the total amount of all such change orders or contract  
114 amendments shall not exceed fifteen percent of the original contract price.

115  
116 (c) The city administrator is authorized, when utilizing a competitive procurement process,  
117 to award a contract to a contractor that is, in the judgment of the city administrator,  
118 provides the lowest cost and the best, most responsive, and is the most responsible  
119 contractor. The city administrator may split the award between two or more contractors  
120 if, in the judgment of the city administrator, it is in the best interest of the city to split  
121 the award.

122  
123 (d) The city administrator is authorized to accept or reject all bids, proposals, or other  
124 responses submitted as part of a competitive procurement process and to waive any  
125 technical deficiencies in any submitted bid, proposal, or other response. Nothing in  
126 this Division shall be construed as requiring the city administrator to accept the lowest  
127 priced bid, proposal, or response or to accept any bid, proposal, or response.

128  
129 (e) The city administrator, when utilizing a competitive procurement process, shall keep  
130 all bids, proposals, or responses submitted to the city closed and confidential to  
131 preserve the competitive nature of the competitive procurement process undertaken.  
132 Such bids, proposals, or responses shall be open and available for public inspection  
133 once the need to close the documents is no longer present. This subsection shall be  
134 construed subject to sections 610.010 through 610.035 of the Revised Statutes of  
135 Missouri.

136

- 137 (f) The city administrator shall not enter into any contracts pursuant to the authority  
138 granted by this Division which have a term exceeding five years. This subsection shall  
139 not apply to contracts for the purchase or maintenance of software.  
140
- 141 (g) The city administrator may utilize an electronic solicitation system if the system is  
142 secure and allows for bids or proposals to be opened only at the time designated for  
143 opening.  
144
- 145 (h) The purchase of supplies, materials, equipment and services shall not be split into  
146 multiple contracts or transactions to avoid the requirements of this Division.  
147
- 148 (i) The city administrator shall report to the City Council on all purchases made utilizing  
149 the authority of this Division which exceed \$5,000.00. Said report shall be provided to  
150 the City Council at regular meetings of the Council. The city administrator shall be  
151 required to provide the procurement method, the contract amount, the total number of  
152 qualified responses received, the Contractor, and other information that the city  
153 administrator desires to report. The reporting term of this subsection shall cover  
154 contracts entered into in the 30 days prior to the regular City Council meeting in which  
155 the report is offered.  
156
- 157 Sec. 2-164. – Competitive procurement process required; exceptions.  
158
- 159 (a) Except as otherwise provided by ordinance, all contracts for the purchase of supplies,  
160 materials, equipment, and services shall be entered into only after a competitive  
161 procurement process has been utilized.  
162
- 163 (b) The city administrator may enter into contracts for emergency purchases without  
164 following a competitive procurement process. The city administrator shall certify in  
165 writing that the purchase is an emergency within the meaning of this Division by a  
166 memorandum that sets forth the nature of the emergency.  
167
- 168 (c) The city administrator may enter into contracts with sole-source suppliers without  
169 following a competitive procurement process. The city administrator shall certify in  
170 writing that each purchase from a sole source supplier under this subsection meets  
171 the requirements of this Division.  
172
- 173 (d) The city administrator may enter into contracts for professional services without  
174 following a competitive procurement process when factors such as prior experience,  
175 skills, education, local knowledge, or unique knowledge are considerations in  
176 selecting the contractor. This subsection shall not apply to contracts for architectural,  
177 engineering, and land surveying services.  
178
- 179 (e) The city administrator may enter into contracts for insurance without following a  
180 competitive procurement process when said insurance has a standard premium set  
181 by the State of Missouri, or which is exempted from competitive procurement by  
182 section 537.620 RSMo.

183  
184 (f) The city administrator may enter into contracts for the purchase of items or services  
185 for data processing, software, or electronic databases without following a competitive  
186 procurement process when the city administrator has determined that the item,  
187 service, or software is convenient for the continuing operations of the city or a city  
188 department.

189  
190 (g) The city administrator shall, when time and business conditions permit, and to the  
191 greatest extent possible, utilize the procurement process established in section 2-166  
192 when a purchase falls within the above categories.

193  
194 Sec. 2-165. – Contracts of twenty thousand dollars or more

195  
196 (a) The city administrator shall not contract for the purchase of any supplies, materials,  
197 equipment, or services costing \$20,000.00 or more unless a competitive procurement  
198 process has been utilized and the provisions of this section have been followed.

199  
200 (b) The city administrator shall advertise for sealed competitive bids or proposals in a  
201 manner reasonably calculated to provide notice of the purchase at least five days  
202 before the time set for the opening of bids or proposals.

203  
204 (c) All bids or proposals must be sealed and addressed to the city and must be received  
205 at the designated location, by the designated time for receipt, and on the day specified  
206 in the solicitation issued by the city.

207  
208 (d) The bids or proposals shall be opened by the city administrator at a location specified  
209 in the solicitation issued by the city during normal city business hours on the day  
210 specified in the solicitation, if practicable. If not practicable, then the bids or proposals  
211 shall be opened on the earliest day thereafter.

212  
213 Sec. 2-166. – Contracts of five thousand dollars or more but less than twenty thousand  
214 dollars.

215  
216 (a) The city administrator shall not contract for the purchase of any supplies, materials,  
217 equipment, or services costing \$5,000.00 or more but less than \$20,000.00 unless a  
218 competitive procurement process has been utilized and the provisions of this section  
219 or the procurement process of section 2-165 have been followed.

220  
221 (b) The city administrator shall solicit by telephone, written notice, or other reasonable  
222 means, at least three competitive written bids or proposals, if three independent  
223 vendors are available.

224  
225 (c) All bids or proposals must be sealed and addressed to the city.

226  
227 Sec. 2-167. – Records related to procurement processes and contracts.

228



229 The city administrator shall maintain records related to and documenting the procurement  
230 processes authorized herein and contracts entered into by the city pursuant to the  
231 authority granted by this Division. The records to be maintained pursuant to this section  
232 shall include the reason for the specific procurement process utilized, the basis for the  
233 award and contract pricing, as well as documentation evidencing the basis for other  
234 significant decisions that were part of the procurement process. These records shall be  
235 maintained pursuant to the State of Missouri’s records retention schedules or for the  
236 duration of time required by the federal government if required due to the utilization of  
237 federal funds.

238  
239 Sec. 2-168. – Request for proposals – authorized when.  
240

241 (a) The city administrator may utilize a request for proposals procurement process for the  
242 purchase of supplies, materials, equipment, or services, subject to the requirements  
243 of this section.  
244

245 (b) The city administrator may utilize a request for proposal procurement process when a  
246 combination of the following factors indicate that said process is the most  
247 advantageous procurement process for the purchase:  
248

249 (1) Definite specifications for the purchase cannot be reasonably determined in  
250 advance.  
251

252 (2) Several methods of performance related to the purchase may satisfy the city’s  
253 requirements.  
254

255 (3) The qualifications of firms and the quality of their service are more motivating  
256 factors than price.  
257

258 (4) The nature of the purchase is such that subjective evaluation criteria other than  
259 cost are necessary to determine the best method of performance.  
260

261 (c) When utilizing a request for proposal procurement process, subjective criteria may be  
262 used in the evaluation of competing proposals, however the criteria in which proposals  
263 are to be evaluated and the relative value of such evaluation criteria shall be  
264 established in the invitation for proposals issued by the city.  
265

266 (d) All qualifications must be sealed and addressed to the city.  
267

268 Sec. 2-169. – Request for qualifications – authorized when.  
269

270 (a) The city administrator may authorize a request for qualification process for consulting  
271 services and whenever the city administrator has determined that such a process is  
272 advantageous to the city.  
273

274 (b) The most qualified firm shall be selected based on their qualifications alone. The fee  
275 for services may be negotiated but it shall not be the sole determining factor in the  
276 selection of the most qualified firm.

277  
278 (c) If terms cannot be negotiated between the city and the most qualified firm, the city  
279 administrator may then proceed to negotiate with the next qualified firm and so on,  
280 until a final contract is negotiated.

281  
282 (d) This method shall be utilized when contracting for professional architectural,  
283 engineering, and land surveying services and shall comply with sections 8.285 and  
284 8.291 of the Revised Statutes of Missouri, and other applicable provisions of state law.

285  
286 Sec. 2-170. – Cooperative purchasing.

287  
288 The city administrator is authorized to participate in cooperative purchasing programs  
289 with the United States or any agency of the United States, with the State of Missouri or  
290 any agency, municipality, or political subdivision of the State of Missouri, with other states  
291 or any agency, municipality or political subdivision of any of the state, or with any  
292 association of municipalities or political subdivisions, provided that the cooperative  
293 purchasing program of the other entity or agency followed is substantially similar to a  
294 competitive procurement process.

295  
296 Sec. 2-171. – Sale of surplus material.

297  
298 (a) A department head having charge of any surplus, obsolete, or unused supplies,  
299 materials, or equipment may request that the city administrator dispose of the  
300 property. The city administrator is authorized to sell the property in any form of open  
301 market competition to the highest bidder. The city administrator may set a minimum  
302 sale price and reject any bid that, in the city administrator’s judgment, is not a fair sale  
303 price.

304  
305 (b) The city administrator is authorized to sell or dispose of any surplus, obsolete or  
306 unused supplies, materials, or equipment to any governmental entity without open  
307 market competition.

308  
309 Sec. 2-172. – Debarment.

310  
311 (a) The city administrator is authorized to debar a person, firm, business, or organization  
312 from consideration for award of contracts issued pursuant to this Division for any of  
313 the following reasons:

- 314  
315 (1) Conviction of a criminal offense as an incident to obtaining or attempting to obtain  
316 a public or private contract or subcontract, or in the performance of such contract  
317 or subcontract.

318

319 (2) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery,  
 320 falsification or destruction of records, receiving stolen property, or any other  
 321 offense indicating a lack of integrity or honesty or negatively affects responsibility  
 322 as a city contractor or vendor.

323  
 324 (3) Conviction under state or federal antitrust statutes arising out of the submission of  
 325 bids or proposals.

326  
 327 (4) Deliberate failure without good cause to perform in accordance with contract  
 328 specifications or within the time limit provided in the contract.

329  
 330 (5) A recent record of failure to perform or of unsatisfactory performance in  
 331 accordance with the terms of one or more contracts; provided that failure to  
 332 perform or unsatisfactory performance caused by acts beyond the control of the  
 333 contractor or vendor shall not be considered as a basis for debarment.

334  
 335 (6) The person is in arrears on any debt owed to the city or has a history of being in  
 336 arrears on debts owed to the city.

337  
 338 (7) Any other cause so serious and compelling as to affect responsibility as a city  
 339 contractor or vendor, including debarment by another governmental entity for any  
 340 reason.

341  
 342 (b) A person debarred pursuant to this section shall be ineligible to bid or submit proposals  
 343 for a city contract while debarred. The debarred person may request reinstatement  
 344 with the city administrator and the city administrator may lift the debarment status upon  
 345 a showing that the debarred person is not a risk regarding their ability to faithfully and  
 346 adequately perform under a city contract. Such determinations may be appealed in  
 347 the same manner as set forth herein.

348  
 349 (c) The city administrator shall initiate a debarment by serving written notice of the  
 350 debarment to the person the city administrator intends to debar. The notice shall set  
 351 forth the specific grounds for the debarment. The notice shall be served by regular or  
 352 certified mail or by hand delivering a copy of the notice to the person subject to the  
 353 debarment or the person’s agent or employee. The debarment shall take effect ten  
 354 days from the service of the notice unless an appeal is taken. If an appeal is taken,  
 355 the debarment shall take effect unless a final order overturning the debarment is  
 356 entered by the hearing officer.

357  
 358 (d) Within 10 days after service of a written notice of debarment, the person affected by  
 359 the notice may file a written request with the city clerk for a hearing.

360  
 361 (e) The city clerk shall inform the hearing officer of the notice for a hearing and shall set  
 362 the matter for a hearing as soon as practicable. At least 10 days’ notice of the hearing  
 363 date shall be given to the affected person and the city administrator.

364

365 (f) At the hearing, each party shall have the right to call and examine witnesses, introduce  
366 exhibits, cross-examine opposing witnesses, and impeach any witness. Oral evidence  
367 shall be taken on oath or affirmation. All evidence shall be suitably recorded and  
368 preserved. The technical rules of evidence shall not apply, but the hearing officer may  
369 exclude evidence that is irrelevant or repetitious. Each party shall be entitled to  
370 present oral arguments or written briefs at or after the hearing.

371  
372 (g) Within 10 working days after the hearing is concluded, the hearing officer shall make  
373 written findings of fact and conclusions of law and issue a final order. Findings of fact  
374 shall be based upon competent evidence. The final order shall be delivered or mailed  
375 to the city administrator and the affected person.

376  
377 (h) An appeal from the hearing officer's order shall be to the circuit court pursuant to  
378 chapter 536, RSMo.

379  
380 (i) Nothing in this section shall limit the authority of the city administrator to accept a bid  
381 or proposal which in the judgment of the city administrator is the lowest and best, or  
382 to reject any and all bids or proposals or to reject a bid or proposal on grounds which  
383 could have been used to debar the person, firm, or business.

384  
385 (j) The city administrator is authorized to appoint a hearing officer for the purposes of this  
386 section.

387  
388 Sec. 2-173. – Public improvement contracting process.

389  
390 (a) The city administrator is authorized to contract for the construction or improvement of  
391 public improvements in accordance with the procedures established in this section.

392  
393 (b) The authority granted to the city administrator herein shall only apply to those public  
394 improvements included in the city's most recently adopted Capital Improvement  
395 Program and for which appropriated funds for such public improvement have been  
396 provided by city council.

397  
398 (c) The city administrator is authorized to contract for the construction or improvement of  
399 public improvements utilizing a competitive procurement process authorized in this  
400 Division.

401  
402 (d) The city administrator is authorized to accept the public improvement on behalf of the  
403 city when the improvement has been completed and is in substantial conformance  
404 with the plans and specifications for the improvement.

405  
406 Division 2 – General contract provisions.

407  
408 Sec. 2-180. – General contracting authority of the city administrator.

409

410 In addition to any other authority that may be granted to the city administrator by the city  
411 council or by specific ordinance, including Division 1 of this Article, the city administrator  
412 is authorized to enter into contracts on behalf of the city in an amount not exceeding  
413 \$5,000, provided that such contract is within the scope of an appropriation in the currently  
414 adopted city budget, if applicable. Any contract entered into under authority of this section  
415 shall not have a term in excess of five years.

416  
417 Sec. 2-181. – Authority to apply for certain grants by the city administrator.

418  
419 The city administrator is authorized to apply for and accept grant funding on behalf of the  
420 city provided that no matching funding or other expenditure is required of the City in an  
421 amount greater than \$5,000 as part of the grant award.

422  
423 Sec. 2-182. – City attorney shall approve all contracts as to form.

424  
425 The city attorney, before the execution of any contract by the appropriate city official, shall  
426 approve the contract as to form. No contract shall be valid and binding on the city unless  
427 the city attorney’s approval as to form has been obtained. The city attorney is authorized  
428 to promulgate rules, regulations, and procedures to implement the provisions of this  
429 section.

430  
431 Sec. 2-183. – Finance director certification.

432  
433 No contract or order purporting to impose any financial obligation on the city shall be  
434 executed, nor shall the same be binding and valid upon the city, unless the director of  
435 finance shall first certify in writing that such contract or order is within the purpose of the  
436 appropriation to which it is to be charged and that there is an unencumbered balance to  
437 the credit of such appropriation sufficient to pay therefor. The director of finance is  
438 authorized to promulgate rules, regulations, and procedures to implement the provisions  
439 of this section. Such rules, regulations, and procedures may include the establishment of  
440 certain classes or categories of purchases which may be made by designated city  
441 personnel and officials without obtaining the certification required by this section prior to  
442 the purchase. However, city personnel and officials shall be personally liable and subject  
443 to disciplinary action as set forth in the city’s Personnel Code for any purchases made  
444 which are not within the scope of the appropriation to which it is to be charged or where  
445 there is no unencumbered balance to the credit of such appropriation sufficient to pay  
446 therefor.

447  
448 **SECTION 3:** The City Attorney, when codifying this Ordinance, is authorized to  
449 provide for different section numbers, subsection numbers, and different internal citation  
450 references than those provided herein when such section numbers, subsection numbers,  
451 or internal citation references are in error or are contrary to the intent of this Ordinance.

452  
453 **SECTION 4:** Savings Clause. Nothing in this Ordinance shall be construed to  
454 affect any suit or proceeding now pending in any court or any rights acquired, or liability

455 incurred nor any cause or causes of action occurred or existing, under any act or  
456 ordinance repealed or modified hereby.

457  
458 **SECTION 5:** Severability Clause. If any section, subsection, sentence, clause, or  
459 phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect  
460 the validity of the remaining portions of this Ordinance. The Council hereby declares that  
461 it would have adopted the Ordinance and each section, subsection, sentence, clause, or  
462 phrase thereof, irrespective of the fact that any one or more sections, subsections,  
463 sentences, clause, or phrases be declared invalid.

464  
465 **SECTION 6:** This Ordinance shall be in full force and effect from and after its final  
466 passage by the City Council and after its approval by the Mayor, subject to the provisions  
467 of section 3.11(g) of the City Charter.

468  
469 **ADOPTED BY THE COUNCIL THIS \_\_\_ DAY OF \_\_\_\_\_, 2023.**

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ATTEST:

\_\_\_\_\_  
PRESIDING OFFICER

\_\_\_\_\_  
CITY CLERK

**APPROVED BY THE MAYOR THIS \_\_\_ DAY OF \_\_\_\_\_, 2023.**

ATTEST:

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY