

Supplemental Memorandum Regarding Substitute Council Bill No. 2023-27.

Background:

At the City Council's June 26, 2023, regular meeting, Council Bill No. 2023-27 (the "Bill") was postponed by the Council. During the public hearings for the Bill, members of the City Council expressed some concerns about the delegation of authority granted to staff by the Bill. The Bill was postponed, allowing City staff time to address the Council's concerns.

In the interim period, staff have prepared Substitute Council Bill No. 2023-27 (the "Substitute Bill").

Analysis:

The Substitute Bill provides several substantive modifications to the original text of the Bill.

The first modification made by the Substitute Bill is to change the purchasing thresholds originally presented. The original Bill contained three levels of purchasing thresholds: 1.) purchases under \$5,000, 2.) purchases between \$5,000 and \$20,000, and 3.) purchases over \$20,000. The Substitute Bill proposes to change the thresholds to: 1.) purchases under \$5,000, 2.) purchases between \$5,000 and \$10,000, and 3.) purchases over \$10,000. This modification will keep the new provisions in line with current practice. This is a recommended approach as it eases the implementation of the Ordinance by keeping new standards consistent with current standards.

To that end, the Substitute Bill also contains a delayed effective date. If approved by the Council, the provisions of the Ordinance would not go into effect until 30 days after its passage. This will allow staff time to adjust to the changes made to the City's procurement methods.

Another substantial modification is found in Section 2-165 (beginning on line 194 of the Substitute Bill). A new subsection (b) has been included in the Substitute Bill and this new subsection provides additional provisions to address concerns regarding the delegation question.

The new subsection (b) requires staff to obtain Council's authorization (by seeking a Resolution from the Council) before utilizing a request for bid, proposal, or

qualification process. This requirement only applies to purchases which would total \$10,000 or more.

The intent is to include the Council on important purchasing decisions early in the purchasing process. By seeking authority from the Council in this way, the Council can make its policy preferences known at the beginning of the procurement process instead of at the end. Under the City's current procurement regulations, the Council approval occurs after the purchase has been solicited by City staff. This is inefficient and puts the Council in the position of either accepting the solicitation requirements drafted by staff or restarting the process from the beginning. The new approach brings the Council into the discussion earlier and should allow the City to avoid unnecessary delays.

The next substantive modification made by the Substitute Bill is found at section 2-170 (beginning on line 293 of the Substitute Bill). This language has been edited because of the additions made to Section 2-165(b). In short, cooperative purchases totaling \$10,000.00 or more will require express approval from the City Council. Because cooperative purchases are not solicited by the City, this Section needed to be amended to accommodate the modifications made to Section 2-165(b). Seeking Council approval for each cooperative purchase of \$10,000.00 or more will not cause any undue delay for the City since the cooperative purchasing exception does not require the City to solicit these purchases in the first place.

Finally, the last substantive modification is found in Section 2-181 (beginning on line 427 of the substitute bill). Section 2-181 of the original Bill addresses when City staff may apply for grant funding without Council approval. The new language added by the Substitute Bill increases the City Administrator's authority from \$5,000 to \$10,000. In addition, a new paragraph has been added to the Section which authorizes City staff to apply for any amount of non-matching grant funding when the notice of application and the deadline for submission for the grant is no longer than 30 days apart.

Recommendation:

Staff have prepared a motion to substitute Council Bill No. 2023-27 with Substitute Council Bill No. 2023-27. The effect of this motion will be to replace the original Council Bill with the Council Bill designated as Substitute Council Bill No. 2023-27.

Staff believes that the addition of the requirement for Council to authorize the solicitation for Contracts of \$10,000 or more creates a more transparent and efficient procurement process. Additionally, the additional authorization applicable to grant funding establishes a more efficient process. For these

reasons, staff recommends that Council adopt the motion to substitute and then approve the substitute Council Bill.

MEMO SUBMITTED BY:

Nick Woodman | City Attorney

Attachments:

Amendment No. 1 (Motion to amend by substitution); and
Substitute Council Bill No. 2023-27.

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.
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6

7 WHEREAS the City’s current competitive procurement regulations are enshrined
8 by a Resolution of the Council; and
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10 WHEREAS the City’s current competitive procurement regulations are unclear and
11 difficult to interpret; and
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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, in the judgment of the city administrator,
118 provides the lowest cost and is the best, most responsive, and 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
124 qualifications submitted as part of a competitive procurement process and to waive
125 any technical deficiencies in any submitted bid, proposal, or other response. Nothing
126 in this Division shall be construed as requiring the city administrator to accept the
127 lowest 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, qualifications, or responses submitted to the city closed and
131 confidential to preserve the competitive nature of the competitive procurement
132 process undertaken. Such bids, proposals, or responses shall be open and available
133 for public inspection once the need to close the documents is no longer present. This
134 subsection shall be construed subject to sections 610.010 through 610.035 of the
135 Revised Statutes of 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 of items or services for data processing,
140 software, or electronic databases.
- 141
- 142 (g) The city administrator may utilize an electronic solicitation system if the system is
143 secure and allows for bids or proposals to be opened only at the time designated for
144 opening.
- 145
- 146 (h) The purchase of supplies, materials, equipment and services shall not be split into
147 multiple contracts or transactions to avoid the requirements of this Division.
- 148
- 149 (i) The city administrator shall report to the City Council on all purchases made utilizing
150 the authority of this Division which exceed \$5,000.00. Said report shall be provided to
151 the City Council at regular meetings of the Council. The city administrator shall be
152 required to provide the procurement method, the contract amount, the total number of
153 qualified responses received, the Contractor, and other information that the city
154 administrator desires to report. The reporting term of this subsection shall cover
155 contracts entered into in the 30 days prior to the regular City Council meeting in which
156 the report is offered.

157

158 Sec. 2-164. – Competitive procurement process required; exceptions.

159

- 160 (a) All contracts for the purchase of supplies, materials, equipment, and services shall be
161 entered into only after a competitive 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.

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

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

Sec. 2-165. – Contracts of ten thousand dollars or more.

(a) The city administrator shall not contract for the purchase of any supplies, materials, equipment, or services costing \$10,000.00 or more unless a competitive procurement process has been utilized and the provisions of this section have been followed.

(b) Prior to advertising for sealed competitive bids, proposals, or qualifications the city administrator shall obtain an authorizing resolution from the city council for purchases totaling \$10,000.00 or more. When seeking an authorizing resolution from the city council the city administrator shall present the proposed solicitation to the council for review. The requirements of this subsection shall not apply to the purchase of supplies, materials, or equipment.

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

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

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

Sec. 2-166. – Contracts of five thousand dollars or more but less than ten thousand dollars.

(a) The city administrator shall not contract for the purchase of any supplies, materials, equipment, or services costing \$5,000.00 or more but less than \$10,000.00 unless a competitive procurement process has been utilized and the provisions of this section or the procurement process of section 2-165 have been followed.

228 (b) The city administrator shall solicit by telephone, written notice, or other reasonable
229 means, at least three competitive written bids, proposals, or qualifications if three
230 independent vendors are available.

231

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

233

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

243

244 Sec. 2-168. – Request for proposals – authorized when.

245

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

249

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

253

254 (1) Definite specifications for the purchase cannot be reasonably determined in
255 advance.

256

257 (2) Several methods of performance related to the purchase may satisfy the city’s
258 requirements.

259

260 (3) The qualifications of firms and the quality of their service are more motivating
261 factors than price.

262

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

265

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

270

271 (d) All proposals must be sealed and addressed to the city.

272

273 Sec. 2-169. – Request for qualifications – authorized when.

274
275 (a) The city administrator may authorize a request for qualification process for consulting
276 services and whenever the city administrator has determined that such a process is
277 advantageous to the city.

278
279 (b) The most qualified firm shall be selected based on their qualifications alone. The fee
280 for services may be negotiated but it shall not be the sole determining factor in the
281 selection of the most qualified firm.

282
283 (c) If terms cannot be negotiated between the city and the most qualified firm, the city
284 administrator may then proceed to negotiate with the next qualified firm and so on,
285 until a final contract is negotiated.

286
287 (d) This method shall be utilized when contracting for professional architectural,
288 engineering, and land surveying services and shall comply with sections 8.285 and
289 8.291 of the Revised Statutes of Missouri, and other applicable provisions of state law.

290
291 Sec. 2-170. – Cooperative purchasing.

292
293 The city administrator is authorized to participate in cooperative purchasing programs
294 with the United States or any agency of the United States, with the State of Missouri or
295 any agency, municipality, or political subdivision of the State of Missouri, with other states
296 or any agency, municipality or political subdivision of any of the state, or with any
297 association of municipalities or political subdivisions, provided that the cooperative
298 purchasing program of the other entity or agency followed is substantially similar to a
299 competitive procurement process. Notwithstanding the foregoing, if a cooperative
300 purchase totals \$10,000.00 or more, such contract must be submitted to the city council
301 for approval.

302
303 Sec. 2-171. – Sale of surplus material.

304
305 (a) A department head having charge of any surplus, obsolete, or unused supplies,
306 materials, or equipment may request that the city administrator dispose of the
307 property. The city administrator is authorized to sell the property in any form of open
308 market competition to the highest bidder. The city administrator may set a minimum
309 sale price and reject any bid that, in the city administrator’s judgment, is not a fair sale
310 price.

311
312 (b) The city administrator is authorized to sell or dispose of any surplus, obsolete or
313 unused supplies, materials, or equipment to any governmental entity without open
314 market competition.

315
316 Sec. 2-172. – Debarment.

317

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

321
322 (1) Conviction of a criminal offense as an incident to obtaining or attempting to obtain
323 a public or private contract or subcontract, or in the performance of such contract
324 or subcontract.

325
326 (2) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery,
327 falsification or destruction of records, receiving stolen property, or any other
328 offense indicating a lack of integrity or honesty or negatively affects responsibility
329 as a city contractor or vendor.

330
331 (3) Conviction under state or federal antitrust statutes arising out of the submission of
332 bids or proposals.

333
334 (4) Deliberate failure without good cause to perform in accordance with contract
335 specifications or within the time limit provided in the contract.

336
337 (5) A recent record of failure to perform or of unsatisfactory performance in
338 accordance with the terms of one or more contracts; provided that failure to
339 perform or unsatisfactory performance caused by acts beyond the control of the
340 contractor or vendor shall not be considered as a basis for debarment.

341
342 (6) The person is in arrears on any debt owed to the city or has a history of being in
343 arrears on debts owed to the city.

344
345 (7) Any other cause so serious and compelling as to affect responsibility as a city
346 contractor or vendor, including debarment by another governmental entity for any
347 reason.

348
349 (b) A person debarred pursuant to this section shall be ineligible to bid or submit proposals
350 for a city contract while debarred. The debarred person may request reinstatement
351 with the city administrator and the city administrator may lift the debarment status upon
352 a showing that the debarred person is not a risk regarding their ability to faithfully and
353 adequately perform under a city contract. Such determinations may be appealed in
354 the same manner as set forth herein.

355
356 (c) The city administrator shall initiate a debarment by serving written notice of the
357 debarment to the person the city administrator intends to debar. The notice shall set
358 forth the specific grounds for the debarment. The notice shall be served by regular or
359 certified mail or by hand delivering a copy of the notice to the person subject to the
360 debarment or the person's agent or employee. The debarment shall take effect ten
361 days from the service of the notice unless an appeal is taken. If an appeal is taken,
362 the debarment shall take effect unless a final order overturning the debarment is
363 entered by the hearing officer.

364
365 (d) Within 10 days after service of a written notice of debarment, the person affected by
366 the notice may file a written request with the city clerk for a hearing.
367

368 (e) The city clerk shall inform the hearing officer of the notice for a hearing and shall set
369 the matter for a hearing as soon as practicable. At least 10 days' notice of the hearing
370 date shall be given to the affected person and the city administrator.
371

372 (f) At the hearing, each party shall have the right to call and examine witnesses, introduce
373 exhibits, cross-examine opposing witnesses, and impeach any witness. Oral evidence
374 shall be taken on oath or affirmation. All evidence shall be suitably recorded and
375 preserved. The technical rules of evidence shall not apply, but the hearing officer may
376 exclude evidence that is irrelevant or repetitious. Each party shall be entitled to
377 present oral arguments or written briefs at or after the hearing.
378

379 (g) Within 10 working days after the hearing is concluded, the hearing officer shall make
380 written findings of fact and conclusions of law and issue a final order. Findings of fact
381 shall be based upon competent evidence. The final order shall be delivered or mailed
382 to the city administrator and the affected person.
383

384 (h) An appeal from the hearing officer's order shall be to the circuit court pursuant to
385 chapter 536, RSMo.
386

387 (i) Nothing in this section shall limit the authority of the city administrator to accept a bid
388 or proposal which in the judgment of the city administrator is the lowest and best, or
389 to reject any and all bids or proposals or to reject a bid or proposal on grounds which
390 could have been used to debar the person, firm, or business.
391

392 (j) The city administrator is authorized to appoint a hearing officer for the purposes of this
393 section.
394

395 Sec. 2-173. – Public improvement contracting process.
396

397 (a) The city administrator is authorized to contract for the construction or improvement of
398 public improvements in accordance with the procedures established in this section.
399

400 (b) The authority granted to the city administrator herein shall only apply to those public
401 improvements included in the city's most recently adopted Capital Improvement
402 Program and for which appropriated funds for such public improvement have been
403 provided by city council.
404

405 (c) The city administrator is authorized to contract for the construction or improvement of
406 public improvements utilizing a competitive procurement process authorized in this
407 Division. The provisions of sections 2-165 and 2-166 shall apply to the authority
408 delegated by this section.
409

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

413
414 Division 2 – General contract provisions.

415
416 Sec. 2-180. – General contracting authority of the city administrator.

417
418 In addition to any other authority that may be granted to the city administrator by the city
419 council or by specific ordinance, including Division 1 of this Article, the city administrator
420 is authorized to enter into contracts on behalf of the city in an amount not exceeding
421 \$5,000, provided that such contract is within the scope of an appropriation in the currently
422 adopted city budget, if applicable. Any contract entered into under the authority of this
423 section shall not have a term in excess of five years.

424
425 Sec. 2-181. – Authority to apply for certain grants by the city administrator.

426
427 (a) The city administrator is authorized to apply for and accept grant funding on behalf of
428 the city provided that no matching funding or other expenditure is required of the city
429 in an amount greater than \$10,000.00 as part of the grant award.

430
431 (b) The city administrator is authorized to apply for and accept grant funding on behalf of
432 the city provided that no matching funding or other expenditure is required of the city
433 and the notice of application and deadline for submission of said grant application is
434 no longer than 30 days apart.

435
436 Sec. 2-182. – City attorney shall approve all contracts as to form.

437
438 The city attorney, before the execution of any contract by the appropriate city official, shall
439 approve the contract as to form. No contract shall be valid and binding on the city unless
440 the city attorney’s approval as to form has been obtained. The city attorney is authorized
441 to promulgate rules, regulations, and procedures to implement the provisions of this
442 section.

443
444 Sec. 2-183. – Finance director certification.

445
446 No contract or order purporting to impose any financial obligation on the city shall be
447 executed, nor shall the same be binding and valid upon the city, unless the director of
448 finance shall first certify in writing that such contract or order is within the purpose of the
449 appropriation to which it is to be charged and that there is an unencumbered balance to
450 the credit of such appropriation sufficient to pay therefor. The director of finance is
451 authorized to promulgate rules, regulations, and procedures to implement the provisions
452 of this section. Such rules, regulations, and procedures may include the establishment of
453 certain classes or categories of purchases which may be made by designated city
454 personnel and officials without obtaining the certification required by this section prior to
455 the purchase. However, city personnel and officials shall be personally liable and subject

456 to disciplinary action as set forth in the city’s Personnel Code for any purchases made
457 which are not within the scope of the appropriation to which it is to be charged or where
458 there is no unencumbered balance to the credit of such appropriation sufficient to pay
459 therefor.

460
461 **SECTION 3:** The City Attorney, when codifying this Ordinance, is authorized to
462 provide for different section numbers, subsection numbers, and different internal citation
463 references than those provided herein when such section numbers, subsection numbers,
464 or internal citation references are in error or are contrary to the intent of this Ordinance.
465

466 **SECTION 4:** Savings Clause. Nothing in this Ordinance shall be construed to
467 affect any suit or proceeding now pending in any court or any rights acquired, or liability
468 incurred nor any cause or causes of action occurred or existing, under any act or
469 ordinance repealed or modified hereby.
470

471 **SECTION 5:** Severability Clause. If any section, subsection, sentence, clause, or
472 phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect
473 the validity of the remaining portions of this Ordinance. The Council hereby declares that
474 it would have adopted the Ordinance and each section, subsection, sentence, clause, or
475 phrase thereof, irrespective of the fact that any one or more sections, subsections,
476 sentences, clause, or phrases be declared invalid.
477

478 **SECTION 6:** This Ordinance shall be in full force and effect 30 days from and after
479 its final passage by the City Council and after its approval by the Mayor, subject to the
480 provisions of section 3.11(g) of the City Charter.
481

482
483 **ADOPTED BY THE COUNCIL THIS ___ DAY OF _____, 2023.**
484

485 ATTEST:
486
487 _____
488 PRESIDING OFFICER CITY CLERK

489
490
491 **APPROVED BY THE MAYOR THIS ___ DAY OF _____, 2023.**
492

493 ATTEST:
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495 _____
496 MAYOR CITY CLERK

497
498 APPROVED AS TO FORM:
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500 _____
501 CITY ATTORNEY

AMENDMENT NO. 1 TO COUNCIL BILL NO. 2023-27

A MOTION:

To amend by substitution Council Bill No. 2023-27 by substituting said Council Bill with Substitute Council Bill No. 2023-27, which said Substitute Bill is on file in the Office of the City Clerk, was provided to the City Council for review prior to the July 10, 2023 Council meeting, and was published as part of the agenda for the July 10, 2023 City Council meeting.

Said Motion was adopted by the required majority of City Council on the 10th day of July 2023 and said Council Bill was therefore amended and modified as set forth herein.

PRESIDING OFFICER

ATTEST:

CITY CLERK