

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING CHAPTER 38 OF THE CODE OF ORDINANCES ENTITLED "PURCHASING" REPEALING SECTION 38.39(B)(3)(S); AMENDING SECTION 38.40, COMPETITIVE BIDDING OR COMPETITIVE PROPOSALS REQUIRED; AMENDING SECTION 38.42, FORMAL CONTRACT PROCEDURE; AMENDING SECTION 38.43, OPEN MARKET PROCEDURE; AMENDING SECTION 38.48, TERMINATION, EXTENSION, AND RENEWAL OF CONTRACTS.

WHEREAS, the City of Hollywood has an established procurement process to provide and ensure transparency and integrity for City wide purchases of goods and services; and

WHEREAS, the City of Hollywood, is a active member in good standing with the National Institute of Government Purchasing at both regional and national level; and

WHEREAS, the National Institute of Government Purchasing (NIGP) is the leading national non-profit organization for public sector purchasing professional and provides its members with many services, including education, professional development, networking, research and technical assistance; and

WHEREAS, in August 2014, the NIGP completed a review of the City's procurement policies, procedures, ordinances, as well as impacting legislation; and

WHEREAS, the four (4) month review supported the City's procurement policies and procedures as following the American Bar Association (ABA) Model Procurement Code (MPC,) while providing recommend areas for process enhancement; and

WHEREAS, the City of Hollywood desires to maintain a procurement process which follows best practices as recommend by the NIGP;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That Chapter 38 of the Hollywood Code of Ordinances entitled "Finance" is hereby amended as follows:

(Coding: Words underscored are additions to existing law; words ~~struck through~~ are deletions.)

TITLE III: ADMINISTRATION

CHAPTER 38: FINANCE

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PURCHASING

* * *

§ 38.39 DIRECTOR; POWERS AND DUTIES.

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(B)(3) *Other powers and duties.* In addition to the purchasing authority conferred in division (B)(1) above, and in addition to any other powers and duties conferred by this subchapter, the Director shall:

* * *

~~(s) Have the authority to delegate to the using agencies the authority to purchase, under the open market procedure described in § 38.43 below, supplies and contractual services of less than the estimated value of \$500, excluding those items which are inventoried or have been contracted for by the Division.~~

§ 38.40 COMPETITIVE BIDDING OR COMPETITIVE PROPOSALS REQUIRED; EXCEPTIONS.

(A) All purchases of, and contracts for, supplies and contractual services, when the estimated annual cost thereof shall exceed ~~\$25,000~~ \$50,000, shall, except as specifically provided herein, be based, wherever possible, on competitive bids.

(B) When the Director determines that the use of competitive bidding is not practicable for a purchase of, or contract for, supplies and/or contractual services with an estimated annual cost in excess of ~~\$25,000~~ \$50,000, such supplies and/or contractual services shall be purchased by competitive proposals. A request for proposals shall be issued. To assure full understanding of and responsiveness to the solicitation requirements and full understanding of proposals, discussions may be conducted with qualified offerors who submit proposals. The offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted through negotiations prior to award for the purpose of obtaining best and final offers. The award shall be made to the

responsible offeror whose proposal is determined to be the most advantageous to the city.

(C) Only the following situations are exempt from the competitive bid and competitive proposal requirements of this subchapter:

* * *

(8) *Best interest of the city.* Purchases of, and contracts for, supplies or contractual services, when the Commission declares by a ~~unanimous vote~~ five-sevenths (5/7ths) affirmative vote that competitive bidding and competitive proposals are not in the best interest of the city, are exempt from this subchapter. The Commission shall not use this exemption in an arbitrary or capricious manner but shall use it only in rare situations after making specific factual findings that support its determination that competitive bidding and competitive proposals are not in the best interest of the city. In the event that competitive bidding and competitive proposals are waived under this paragraph, the open market procedure set forth in § 38.43 shall be utilized. For those contracts which the City Manager is otherwise authorized to award, he/she may waive competitive bidding and competitive proposals under this paragraph.

(9) *Insurance.* Purchases of insurance through the city's agent of record are exempt from the competitive bid and competitive proposal requirements of this subchapter; however, such purchases with estimated annual cost in excess of \$50,000 require prior approval of the governing body.

(10) Other contractual services not subject to competitive procurement requirements.

(a) Software licensing and maintenance with the company from which the software was purchased as set forth in § 38.42 or § 38.43 or its authorized representative;

(b) Servicing or warranty work of equipment by the authorized dealer or manufacturer representative when required to maintain a warranty in full force and effect or when considered to be in the best interest of the city and recommended by the using department and the services to be performed are by the equipment manufacturer, manufacturer's service representative or a distributor of the manufacturer's equipment;

(c) Advertising in newspapers, periodicals, television, radio, billboards or other formal advertising media;

(d) Educational books, technical publications or other type trade journals;

(e) Utilities, including but not limited to electric, water, storm water, sewer and;

(f) Governmental, Professional or organizational membership dues or fees;

(g) Shipping, freight and postage charges.

(h) Artistic, academic and entertainment performances, including entertainment, lectures, seminars, speeches, cultural and artistic presentations; excluding production companies.

(D) Any other provision of Chapter 38 to the contrary notwithstanding, city purchasing shall be conducted in accordance with applicable provisions of F.S. §§ 180.24 and 255.20.

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§ 38.42 FORMAL CONTRACT PROCEDURE.

All supplies and contractual services, except as otherwise provided herein, when the estimated annual cost thereof shall exceed ~~\$25,000~~ \$50,000, shall be purchased by formal written contract after due public notice, as provided herein, inviting bids or proposals.

(A) *Advertisement for bids required, amount.* When any goods, supplies, materials or contractual services for city purposes or uses shall be purchased and when the estimated annual amount to be paid by the city shall be more than ~~\$25,000~~ \$50,000, notice thereof shall be advertised at least one time in a newspaper of general circulation published in the city, calling for sealed bids upon the work to be done under the proposed contract, to be received not earlier than ten days from the first publication of notice. At the option of the Director, unless any provision of law provides to the contrary, the city may satisfy any city requirement of public advertisement, public notice and public mailing of invitations to bid requests for proposals, requests for letters of interest and other solicitations electronically. Electronic notice shall specify that receipt of bids, proposals or other offers shall be received not earlier than ten days from the first announcement or posting of such electronic notice.

* * *

(E) *Award of contract.*

(1) When any goods, supplies, materials or contractual services other than professional services shall be purchased and the estimated annual amount to be paid therefor by the city shall be more than \$25,000 but not more than \$50,000, the

Director shall have the authority to recommend the award of a contract to the Manager. When any goods, supplies, materials or contractual services shall be purchased and the estimated annual amount to be paid therefor by the city shall be more than \$50,000, and when professional services shall be purchased and the estimated annual amount to be paid therefor by the city shall be more than ~~\$25,000~~ \$50,000, the Director shall have the authority to recommend the award of a contract to the Manager for Commission action.

* * *

§ 38.43 OPEN MARKET PROCEDURE.

All purchases of supplies and contractual services of less than the estimated annual value of ~~\$25,000~~ \$50,000 shall be purchased either in the open market, without newspaper advertisement and without observing the procedures prescribed by § 38.40 (A) and (B) above, or in accordance with the procedures prescribed by §38.40 (A) and (B) above, as deemed appropriate by the Director, for the awards of formal contracts. All sales of personal property which has become obsolete and unusable, of not more than the estimated value of \$25,000, shall be sold in the open market, without newspaper advertisement and without observing the procedures prescribed by § 38.40 (A) and (B) above.

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§ 38.48 TERMINATION, EXTENSION AND RENEWAL OF CONTRACTS.

* * *

(C) *Renewals.*

(1) *General.* When a contract entered into by the city pursuant to City Commission approval provides for one or more renewals by affirmative action of the city and the estimated annual cost of a renewal exceeds ~~\$50,000~~ \$250,000, only the City Commission is authorized to approve such renewals. When a contract entered into by the city pursuant to City Commission approval provides for one or more renewals by affirmative action of the city and the estimated annual cost of a renewal of the contract does not exceed ~~\$50,000~~ \$250,000, the Director shall have the authority to recommend to the City Manager approval or rejection of the renewal if it is the first, second, or third renewal of the contract, but only the City Commission is authorized to approve any subsequent renewal.

* * *

Section 2: That it is the intention of the City Commission that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of

Hollywood, Florida, and the provisions of this ordinance may be renumbered to accomplish such intention.

Section 3: That if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 4: That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 5: That this ordinance shall be in full force and effect immediately upon its passage and adoption.

ADVERTISED on _____, 2015.

PASSED on first reading this _____ day of _____, 2015.

PASSED AND ADOPTED on second reading this _____ day of _____, 2015.

PETER BOBER, MAYOR

ATTEST:

PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM & LEGALITY
for the use and reliance of the
City of Hollywood, Florida only:

JEFFREY P. SHEFFEL
CITY ATTORNEY