

EXHIBIT NO.

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12

10-28-08

October 24, 2008

City Council:


The City Attorney's Office has requested deferral of item #12, the introduction of the ordinance to amend the Purchasing Code. It will be placed on the docket in December for introduction.

City of Alexandria, Virginia

MEMORANDUM

DATE: OCTOBER 20, 2008

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER 

SUBJECT: ORDINANCE TO REVISE CITY CODE SECTIONS RELATED TO PURCHASING AND CONTRACTUAL SERVICES TO IMPLEMENT 2008 GENERAL ASSEMBLY CHANGES TO THE VIRGINIA PUBLIC PROCUREMENT ACT

ISSUE: Consideration of an ordinance to implement changes to the City Code due to amendments to the Virginia Public Procurement Act.

RECOMMENDATION: That City Council approve the proposed ordinance on first reading on October 28, 2008, and set it for public hearing, second reading and final passage on November 15, 2008.

DISCUSSION: During its 2008 legislative session, the Virginia General Assembly passed legislation to amend §2.2-4301 and §2.2-4303 of the Code of Virginia. The changes made to the Virginia Public Procurement Act (VPPA) would allow the City to make the following amendments to the City Code:

- 1) The amendment to Virginia Code § 2.2-4301, increases monetary limits for architectural and professional engineering services obtained by a multiple project contract. The amendment raises the annual limit for this type of contract from \$1 million to \$5 million, and increases the annual project fee limit for one project under this type of contract from \$200,000 to \$1 million.

The City Code currently includes the two lower monetary limits for architectural and engineering services. The proposed amendment to City Code Section 3-3-69(d), would adopt higher annual monetary limits now allowed under the VPPA for the one-project category from \$200,000 to \$500,000. Increasing that limit to the \$1 million state cap is not recommended. Adopting the increased monetary limits would allow for the use of multiple project contracts for architectural and professional engineering services for larger-scale projects, for any project within the annual contract amount. It is not proposed to raise the multi-project limit, as \$1 million is sufficient to cover the City's needs.

- 2) The amendment to Virginia Code § 2.2-4303, permits the use of competitive negotiation for the construction, alteration, repair, renovation or demolition of structures, in addition to buildings.

Under the current City Code, construction projects may be procured only by competitive sealed bidding, except competitive negotiation may be used upon a determination by the purchasing agent that competitive sealed bidding is not practicable or fiscally advantageous, for the construction, alteration, repair, renovation or demolition of buildings when the contract is equal to or less than \$500,000. It also can be used for design-build, construction management; construction of highways, streets and alleys; as well as a few other types of construction categories. For this group of contract activities, the cap for competitive negotiation is \$1.0 million.

Pursuant to VPPA section 2.2-4303-D4, at the City's request, the City has received a one-time determination from the Design-Build Construction Management Review Board that "the City has the personnel, procedures, and expertise to enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis..." and thus is exempt from the requirement in VPPA sections 2.2-4303-D2 and 2.2-4308 to obtain advance approval for the issuance of each RFP it wishes to issue for "construction, alteration, repair, renovation, or demolition of buildings" on a design-build or construction management basis. As a result of the one-time determination, the \$1 million authorization cap in 2.2-4303-D2 no longer applies to the City for design-build or construction management projects. The new DASH facility is being constructed under a design-build contract.

The proposed amendment to City Code Section 3-3-62(a)(1), would permit the City to use the competitive negotiation process for the construction, alteration, repair, renovation, or demolition of structures, as well as buildings. This will enable the City to use more detailed specifications for constructing, altering, repairing, renovating or demolishing structures. Further, the use of the competitive negotiation process for these projects will alert contractors that the selection process will be weighed according to additional criteria, other than pricing, as contained in the solicitation documents; which in turn will encourage them to make their best effort to be awarded a contract.

FISCAL IMPACT: There is no estimated direct fiscal impact from these changes; however, there should be an indirect fiscal impact through obtaining better value in City contracts, as well as efficiencies in procurement administration.

ATTACHMENT: Proposed changes to Title 3, Chapter 3, Sections -62 and -69 of the City Code.

STAFF:

Mark Jinks, Deputy City Manager

Laura B. Triggs, Director of Finance

Stephen B. Gordon, Director of Procurement

Christina Zechman Brown, Assistant City Attorney

**THE ORDINANCE WILL BE
SENT SEPARATELY**