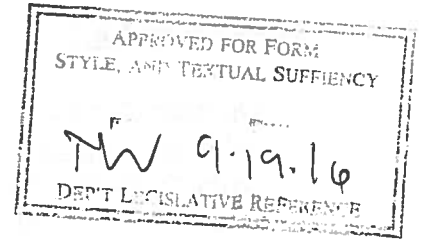


AMENDMENTS TO COUNCIL BILL 16-0723  
(Third Reader Copy)



By: Councilmember Holton  
{To be offered on the Council Floor}

**ADOPTED**

**Amendment No. 1**

On page 10, in line 28, after “Estimates” insert “AND DEPARTMENT OF FINANCE”; and, on that same page, in line 29, after “Board” insert “OF ESTIMATES”; and, on page 11, in line 1, after “Board” insert “OF ESTIMATES”; and, on that same page, after line 3, insert:

“(C) AUTHORITY OF DEPARTMENT OF FINANCE NOT ABROGATED.

“NOTHING IN THIS SUBTITLE ABROGATES THE AUTHORITY OF THE DEPARTMENT OF FINANCE TO INSURE THAT COMPETITIVE BIDDING IS USED, AND COMPETITIVE PRICES ARE OBTAINED, IN PURCHASING MATERIALS, SUPPLIES, EQUIPMENT AND SERVICES, TO THE FULLEST PRACTICABLE EXTENT, UNDER ARTICLE VII, § 17 OF THE CITY CHARTER.”.

**Amendment No. 2**

On page 34, strike lines 28 through 31 in their entireties; and, on page 35, in line 1, strike “(H)” and substitute “(G)”; and, on that same page, in line 6, strike “(I)” and substitute “(H)”; and, in line 7, before “PROFESSIONAL”, insert a new paragraph number “(1)”; and, after line 10, insert:

“(2) THE TERM “PROFESSIONAL SERVICES” AS USED IN THIS CHAPTER IS NOT INTENDED TO BE RESTRICTED TO THOSE PROFESSIONAL SERVICES WHICH ARE EXEMPTED FROM FORMAL ADVERTISING REQUIREMENTS PURSUANT TO ARTICLE VI, § 11 OF THE CITY CHARTER, OR COMPETITIVE BIDDING REQUIREMENTS PURSUANT TO ARTICLE VII, § 17 OF THE CITY CHARTER.”;

and, on that same page, before line 11, insert:

“(1) SERVICES.

“SERVICES” MEANS NON-CONSTRUCTION, NON-ARCHITECTURAL, AND NON-ENGINEERING SERVICES THAT ARE NOT PROFESSIONAL SERVICES AND DO NOT REQUIRE ANY LICENSE OR HIGHLY SPECIALIZED TRAINING OR CREDENTIALS TO PERFORM.”.

### **Amendment No. 3**

On page 35, in line 27, strike “NON-PROFESSIONAL SERVICES, AND COMMODITIES” and substitute “SERVICES, AND MATERIALS, SUPPLIES, AND EQUIPMENT”; and, on page 37, in line 19, strike “NON-PROFESSIONAL”; and, on that same page, in line 20, strike “COMMODITIES PROCUREMENT” and substitute “MATERIALS, SUPPLIES, AND EQUIPMENT”.

### **Amendment No. 4**

On page 36, strike from “IMPLEMENTATION” in line 18 through “SIZE” in line 24 and substitute “CITY’S CENTRALIZED PURCHASING SYSTEM, IN THE DEPARTMENT OF FINANCE, BUREAU OF PURCHASES, WHICH MAINTAINS A CENTRALIZED BIDDER REGISTRATION PROCESS CAPABLE OF IDENTIFYING WITH SPECIFICITY THE UNIVERSE OF FIRMS THAT ARE AVAILABLE AND INTERESTED IN BIDDING ON, OR PERFORMING ON, CITY CONTRACTS, AND OF PROVIDING THE MEANS OF TRACKING ACTUAL CITY BIDS, CONTRACT AWARDS, AND PRIME CONTRACT AND SUBCONTRACT PAYMENTS TO REGISTERED BIDDERS, ON THE BASIS OF CERTIFICATION STATUS, AND COMMODITY OR SERVICE CODE”.

### **Amendment No. 5**

On page 36, in line 33, strike “A” and substitute “THE”; and, in that same line, strike “TO BE”; and, on that same page, strike line 34 in its entirety; and, on page 37, in line 1, after “MINORITY-OWNED”, insert “, WOMEN-OWNED”.

### **Amendment No. 6**

On page 39, in line 1, strike “, AND ELIMINATING DISPARITIES IN,”; and, on that same page, in line 2, strike “AND” and substitute a comma; and, in line 3, after “ENTERPRISES”, insert “, AND SMALL LOCAL BUSINESS ENTERPRISES”.

### **Amendment No. 7**

On page 39, in lines 26 and 27, strike “WITHIN ITS LARGEST PRIMARY NAICS COMMODITY CODE”; and, on that same page, in line 30, strike “\$10” and substitute “\$5”; and, on that same page, in line 32, strike “\$5” and substitute “\$2.5”; and, in line 33, strike “\$3” and substitute “\$1.5”; and, on page 40, in line 1, strike “\$2.5” and substitute “\$1.25”; and, on that same page, strike from “\$2” in line 2 through “SERVICES)” in line 5 and substitute “\$1 MILLION FOR FIRMS PROVIDING OTHER SERVICES, MATERIALS, OR EQUIPMENT, EXCEPT FOR MANUFACTURING FIRMS”.

### **Amendment No. 8**

On page 43, in line 21, after “SLBE”, insert “OR EMERGING SLBE”; and, on that same page, in line 22, before “FIRM”, insert “, OR EMERGING SLBE,”; and, in that same line, strike the second instance of “SLBE”.

### **Amendment No. 9**

On page 44, after line 8, insert:

“(F) EFFECTS OF GRADUATION OR SUSPENSION.

- (1) THIS SECTION IS NOT INTENDED TO REQUIRE OR ALLOW THE CITY TO TERMINATE A CONTRACT, OR FAIL TO RENEW A CONTRACT, SOLELY DUE TO THE FINDING THAT A FIRM’S SLBE, OR EMERGING SLBE, STATUS IS PERMANENTLY GRADUATED OR TEMPORARILY SUSPENDED DURING THE CONTRACT TERM, INCLUDING ALL RENEWAL OPTIONS ORIGINALLY AVAILABLE.
- (2) BIDS OR PROPOSALS SUBMITTED BY AN SLBE, OR EMERGING SLBE, PRIOR TO GRADUATION OR SUSPENSION MAY BE AWARDED AS IF THE FIRM RETAINED ITS SLBE, OR EMERGING SLBE, STATUS.
- (3) AN SLBE, OR EMERGING SLBE, MAY NOT PARTICIPATE AS AN SLBE, OR EMERGING SLBE, ON NEW BIDS DURING A PERIOD IN WHICH IT HAS BEEN PERMANENTLY GRADUATED OR TEMPORARILY SUSPENDED, AND WILL NOT RECEIVE ANY PREFERENCE FOR WHICH IT MAY HAVE PREVIOUSLY BEEN QUALIFIED.
- (4) IF SLBE, OR EMERGING SLBE, STATUS IS REVOKED UNDER SUBSECTION (C) OF THIS SECTION, THE BOARD OF ESTIMATES MAY, UPON RECOMMENDATION BY THE CONTRACTING AGENCY, TERMINATE OR FAIL TO RENEW AN IMPACTED CONTRACT, IF THE BOARD OF ESTIMATES DETERMINES THAT TERMINATION OR NON-RENEWAL IS IN THE BEST INTERESTS OF THE CITY.

(G) WHEN EFFECTIVE

PERMANENT GRADUATION AND TEMPORARY SUSPENSION IS ONLY EFFECTIVE UPON RECEIPT OF WRITTEN NOTICE, AS AN ADVERSE CERTIFICATION OR ELIGIBILITY DETERMINATION.”.

### **Amendment No. 10**

On page 45, strike lines 12 through 17 in their entirety, and substitute:

“(A) PUBLIC WORKS CONTRACTS.

(1) SUBJECT TO APPLICABLE FEDERAL AND STATE LAW, AS WELL AS THE CITY CHARTER AND APPLICABLE REGULATIONS, POLICIES, AND PROCEDURES, THE BOARD OF ESTIMATES, ON THE RECOMMENDATION OF THE CONTRACTING AGENCY, MAY WAIVE OR REDUCE THE BONDING OR INSURANCE REQUIREMENTS FOR PUBLIC WORKS CONTRACTS, DEPENDING ON THE TYPE OF CONTRACT AND WHETHER THE CONTRACTING AGENCY DETERMINES THAT THE BONDING OR INSURANCE REQUIREMENTS WOULD DENY AN SLBE, OR EMERGING SLBE, AN OPPORTUNITY TO PERFORM A CONTRACT WHICH THE SLBE, OR EMERGING SLBE, HAS SHOWN ITSELF OTHERWISE CAPABLE OF PERFORMING.

(2) FROM TIME TO TIME THE CHIEF SHALL MAKE WRITTEN SUGGESTIONS TO A CONTRACTING AGENCY RELATING TO CONCERNS ABOUT BIDDING RESTRICTIONS CAUSED BY BONDING OR INSURANCE REQUIREMENTS ON SOLICITATIONS ISSUED BY THAT AGENCY.

(B) ALL OTHER CONTRACTS.

(1) SUBJECT TO APPLICABLE FEDERAL AND STATE LAW, AS WELL AS THE CITY CHARTER AND APPLICABLE REGULATIONS, POLICIES, AND PROCEDURES, THE BOARD OF ESTIMATES, ON THE RECOMMENDATION OF THE DEPARTMENT OF FINANCE, MAY WAIVE OR REDUCE THE BONDING OR INSURANCE REQUIREMENTS, DEPENDING ON THE TYPE OF CONTRACT AND WHETHER THE DEPARTMENT DETERMINES THAT THE BONDING OR INSURANCE REQUIREMENTS WOULD DENY AN SLBE, OR EMERGING SLBE, AN OPPORTUNITY TO PERFORM A CONTRACT WHICH THE SLBE, OR EMERGING SLBE, HAS SHOWN ITSELF OTHERWISE CAPABLE OF PERFORMING.

(2) FROM TIME TO TIME THE CHIEF SHALL MAKE WRITTEN SUGGESTIONS TO THE DIRECTOR OF FINANCE RELATING TO CONCERNS ABOUT BIDDING RESTRICTIONS CAUSED BY BONDING OR INSURANCE REQUIREMENTS ON SOLICITATIONS ISSUED BY THE DEPARTMENT OF FINANCE.”.

**Amendment No. 11**

On page 45, in line 26, strike “OR”; and, on that same page, in line 28, after “CONTRACT” insert “; OR

(3) THE TOTAL CONTRACT COST IS DETERMINED BY THE CONTRACTING AGENCY, WITH CONCURRENCE FROM THE AGENCY RECEIVING THE PRIMARY BENEFIT OF THE CONTRACT, TO BE SO HIGH IN PRICE AS TO BE NOT REASONABLE”.

### **Amendment No. 12**

On page 45, in line 31, strike “20%” and substitute “10%”; and, on page 46, after line 7, insert:

“(C) LIMITATION.

AN EVALUATION PREFERENCE MAY NOT BE APPLIED IF THE RESULTING TOTAL CONTRACT COST:

(1) WOULD EXCEED THE CITY’S BUDGETED FUNDING FOR THE CONTRACT; OR

(2) IS DETERMINED BY THE CONTRACTING AGENCY, WITH CONCURRENCE FROM THE AGENCY RECEIVING THE PRIMARY BENEFIT OF THE CONTRACT, TO BE SO HIGH IN PRICE AS TO BE NOT REASONABLE.”.

### **Amendment No. 13**

On page 46, in line 19, strike “TO A NON-SLBE”; and, on that same page, after line 19, insert:

“(3) AN SLBE OR EMERGING SLBE SUBCONTRACTOR MAY NOT FURTHER SUBCONTRACT MORE THAN 10% OF ITS PORTION OF THE CONTRACT VALUE TO A VENDOR WHO IS NOT AN SLBE OR EMERGING SLBE.”;

and, on page 47, after line 24, insert:

“(F) SOLE SOURCE AND EMERGENCY CONTRACTS EXEMPT.

SOLE SOURCE AND EMERGENCY CONTRACTS ARE EXEMPT FROM SUBCONTRACTING GOAL REQUIREMENTS UNDER THIS SECTION.”.

### **Amendment No. 14**

On page 48, in line 13, strike “CHIEF TO BE TOO HIGH IN PRICE” and substitute “CONTRACTING AGENCY, WITH CONCURRENCE FROM THE AGENCY RECEIVING THE PRIMARY BENEFIT OF THE CONTRACT, TO BE SO HIGH IN PRICE AS TO BE NOT REASONABLE, OR NOT WITHIN THE CITY’S BUDGETED FUNDING FOR THE CONTRACT”.

### **Amendment No. 15**

On page 48, after line 13, insert:

“(D) EFFECT OF DETERMINATIONS.

(1) A FINDING MADE REGARDING THE NUMBER OF AVAILABLE CERTIFIED SLBE'S OR EMERGING SLBE'S IN DETERMINING WHETHER A CONTRACT SHOULD BE BID THROUGH THE SHELTERED MARKET PROGRAM FOR PURPOSES OF SUBSECTION (B) {"CONTRACT SELECTION FOR THE SHELTERED MARKET PROGRAM"} OF THIS SECTION DOES NOT CREATE A PRESUMPTION THAT ANY BIDDER IS A RESPONSIBLE BIDDER FOR PURPOSES OF SUBSECTION (C) {"REMOVAL OF CONTRACTS FROM THE SHELTERED MARKET PROGRAM"} OF THIS SECTION.

(2) THE DETERMINATION OF A CONTRACTING AGENCY, OR THE CITY'S PREQUALIFICATION PROCESS, THAT A BIDDER IS NOT A RESPONSIBLE BIDDER FOR PURPOSES OF SUBSECTION (C) {"REMOVAL OF CONTRACTS FROM THE SHELTERED MARKET PROGRAM"} OF THIS SECTION IS FINAL AND CONCLUSIVE."