

## MOTION TO AMEND NO. 1

ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE creating Sections 2.06.120, 2.06.130, 2.06.140, 2.06.150,  
2 2.06.160, 2.06.170 and 2.06.180 of the Lincoln Municipal Code relating to the Mayor's authority  
3 to execute contracts.

4 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

5 Section 1. That Section 2.06.120 of the Lincoln Municipal Code shall read as  
6 follows:

7 **2.06.120 Limitation on Authority of Mayor to Execute Contracts.**

8 (1) The City Council shall review and approve all purchases and contracts in excess of fifty  
9 thousand dollars (\$50,000) that are not produced through: (i) a qualification based selection as  
10 provided under 2.06.130 et seq. below; (ii) a competitive bidding process conducted by the City  
11 Purchasing Department; (iii) a competitive bidding process conducted by the State of Nebraska or  
12 the United States of America; or (iv) purchased through a inter-governmental cooperative  
13 purchasing agreement, conducted in cooperation with the City Purchasing Department, according  
14 to Lincoln Municipal Code 2.18.030(o).

15 (2) The Purchasing Department, Mayor, and Directors shall not unreasonably divide  
16 purchases and contracts.

17 (3) Change orders authorized by Executive Order (EO) or Director's Order (DO) that are less  
18 than the greater of (a) ten thousand dollars (\$10,000) or (b) twenty-five percent (25%) of the original  
19 contract shall be exempt from Council review.

20 Section 2. That Section 2.06.130 of the Lincoln Municipal Code shall read as  
21 follows:

1 **2.06.130 Uniform Procedure for Selecting Professional Service Providers.**

2 All city departments shall follow Section 2.06.150 selection policies and procedures to  
3 select firms to provide professional consulting services to the City.

4 Section 3. That Section 2.06.140 of the Lincoln Municipal Code shall read as  
5 follows:

6 **2.06.140 Definitions.**

7 (a) **Compensation** shall mean the total amount to be paid by the City for professional  
8 consulting services.

9 (b) **Director** shall mean the person designated as director by the Mayor of the City of  
10 Lincoln for each department sponsoring a project.

11 (c) **Firm** shall include any individual, partnership, corporation, company, or consortium  
12 offering professional consulting services.

13 (d) **Negotiating Committee** shall be the group created for the purposes of negotiating for  
14 professional consulting services. The committee shall consist of members from the Selection  
15 Committee who have been designated by the Mayor to be on this committee and the Purchasing  
16 Agent who shall serve as the chairperson.

17 (e) **Professional consulting services** shall include only those services within the scope of  
18 the practice of architecture, professional engineering, construction management inspection,  
19 landscape architecture, and consulting services related to land use planning, parks, and urban  
20 development, including facilitation and public process services.

21 (f) **Project** shall mean the issue and/or focus of the professional consulting services.

22 (g) **Selection Committee** shall be the group created for the purpose of selecting a firm to  
23 provide professional consulting services for a particular project. The committee shall consist of five

1 or more individuals to include the director of the department directly related to the project or  
2 designated representative, who shall serve as the chairperson; the City's Purchasing Agent or  
3 designated representative; a member of the City Council; and at least two other individuals  
4 appointed by the Mayor who may be either city employees or Lincoln residents who are not  
5 involved in city projects that may create a conflict of interest.

6 Section 4. That Section 2.06.150 of the Lincoln Municipal Code shall read as  
7 follows:

8 **2.06.150 Selection Policies and Procedures.**

9 Procedures for professional consulting services shall be dependent on the estimated  
10 compensation. The director shall be responsible to ensure that a reasonable estimate is made and  
11 that the services are not unreasonably divided to avoid any provisions of this dection. These  
12 selection policies and procedures shall be used by all city departments.

13 (a) **Under \$50,000.** For professional consulting services within this range, the required  
14 procedure is for the director or designee, and at least one staff person directly related to the project  
15 to select a firm from the list of pre-qualified firms on file with the City of Lincoln pursuant to  
16 Section 2.06.136. These individuals shall negotiate terms, conditions, and compensation for  
17 professional consulting services.

18 (b) **\$50,000 to \$250,000.** For professional consulting services within this range, the required  
19 procedure is for the director or designee, and at least one staff person directly related to the project  
20 to:

21 (1) Secure a minimum of three written proposals for professional consulting services  
22 from the list of pre-qualified firms on file with the City;

1                   (2) Rank the firms by first, second, third, etc. based on the firm’s proposal.

2                   Consideration for ranking shall include, but not be limited to, the following:

3                   i. Sufficient professional staff to meet project schedules.

4                   ii. Performance record for timeliness.

5                   iii. Reputation for, and examples of, quality workmanship and project  
6                   management ability.

7                   iv. Current workload with the City.

8                   v. Any other specialized qualifications which a firm might possess which  
9                   would be of benefit to the project, such as familiarity with local conditions  
10                  and design criteria.

11                  (3) Negotiate the scope of work and compensation with the firm ranked first. If an  
12                  agreement with the firm ranked first cannot be reached, the negotiations with that firm shall be  
13                  terminated. The negotiations procedure shall be repeated with each ranked firm in order of ranking,  
14                  as long as factors for ranking have not changed until an agreement is reached or until negotiations  
15                  with all firms fail. If an agreement cannot be reached with any of the firms, the director or designee  
16                  and at least one staff person directly involved in the project may start the selection process again by  
17                  requesting new written proposals.

18                  (c) Over \$250,000. For professional consulting services within this range, the required  
19                  procedure is to be conducted as follows:

20                  (1) The Purchasing Agent shall issue a Request for Proposals (RFP) to be advertised  
21                  at least once in a daily newspaper having general circulation in the City of Lincoln. The  
22                  advertisement shall provide the location where a copy of the written specifications for the RFP may  
23                  be obtained.

1                   (2) Responses to the RFP shall be made to the Purchasing Agent in the manner  
2 required in the RFP. All responses to the RFP shall include the proposal and, at minimum, the  
3 following information about the firm:

4                   i. Firm name, address, and telephone number;

5                   ii. Years established and all former names of the firm;

6                   iii. Type of services the firm is particularly qualified to perform;

7                   iv. Names of principals and all states where the firm is registered;

8                   v. Names of key personnel to be used for proposed work, experience of  
9 each, and length of service with the firm;

10                  vi. Average number of staff employed;

11                  vii. Whether the firm is:

12                    a.     Nebraska or locally based;

13                    b.     Veteran owned;

14                    c.     Minority owned; or

15                    d.     Female owned;

16                  viii. Outside consultants and associates usually and currently employed;

17                  ix. List of completed projects of a similar nature for which the firm was  
18 the principal professional;

19                  x. Current projects and estimated construction costs of each;

20                  xi. Willingness and capability to meet the time requirements expressed in  
21 the scope of services; and

22                  xii. Other additional materials with the exclusion of proposed fees, as may  
23

1                   be required in the scope of services.

2                   (3) The Selection Committee shall review the responses to the RFP. By using the  
3 criteria provided below, the Selection Committee shall select at least two, but not more than four,  
4 of the responses and do an initial ranking for each of the four responses selected by first, second,  
5 etc.:

6                   i. Considerations provided above in subsection (b)(2) of this section; and

7                   ii. Review of proposal and firm information required in (c)(2) above.

8                   (4) The Selection Committee shall provide a time and place for an interview for at  
9 least two of the best qualified firms. After review of the submitted materials and the interview, the  
10 Selection Committee shall do a final ranking of the best qualified firms. Any firm not receiving an  
11 interview shall be ranked below those receiving an interview.

12                   (5) The Negotiating Committee shall meet with the firm ranked as first to develop  
13 the final scope of services and negotiate terms, conditions, and compensation. If an agreement with  
14 the firm ranked as first cannot be reached, the negotiations with that firm shall be terminated. The  
15 negotiations procedure shall be repeated with each firm in order of ranking, as long as factors for  
16 ranking have not changed, until an agreement is reached or until negotiations with all firms fail. A  
17 personal interview shall be conducted with all ranked firms prior to the negotiating process. In all  
18 cases where the negotiations were terminated, the reasons and facts surrounding those negotiations  
19 shall be recorded in writing by the Negotiations Committee and submitted to the Mayor and the  
20 director directly related to the project. If an agreement cannot be reached with any of the firms, the  
21 Purchasing Agent may start the selection process again by issuing a new RFP.

22                   Section 5. That Section 2.06.160 of the Lincoln Municipal Code shall read as  
23 follows:

1 **2.06.160 Pre-qualification and Reporting Requirements.**

2 (a) The Purchasing Agent shall maintain a list of pre-qualified firms. This list will be  
3 maintained on an on-going basis and the information shall be updated throughout the year.  
4 Information shall include whether the firm is Nebraska locally owned, veteran owned, minority  
5 owned, or female owned.

6 (b) The process for pre-qualification is as follows:

7 (1) Any firm wishing to be listed as a pre-qualified firm and to participate in projects  
8 under \$250,000 shall submit an application to the Purchasing Agent. Any firm may up-date its  
9 application with the Purchasing Agent at any time.

10 (2) The Purchasing Agent shall review and enter into the list the relevant information  
11 from each application received and shall contact the business references listed in the application.  
12 Based upon the information provided by the firm and any other pertinent information, the  
13 Purchasing Agent shall make a recommendation as to whether or not the firm shall be pre-qualified.  
14 The Purchasing Agent shall advise the Mayor, the City Council, and the firm of the recommendation  
15 and, in the case of a recommendation not to pre-qualify, shall list the specific reasons for the  
16 decision. The Mayor and the City Council shall make the final decision.

17 Section 6. That Section 2.06.170 of the Lincoln Municipal Code shall read as  
18 follows:

19 **2.06.170 Reporting Requirement.**

20 **(a) Weekly Reports to the City Council.**

21 Any Director of a city department shall provide weekly reports to the City Council on (1)  
22 all proposed contracts for professional services or purchases of materials and major projects under

1 consideration that may result in future Executive Orders or Director's Orders, and (2) executed  
2 Executive Orders and Directors' Orders. The following information shall be included:

3 (1) Identification of the project and services or materials to be provided;

4 (2) Name of firms under consideration;

5 (3) Estimate of cost of the project and/or services;

6 (4) Anticipated time line to review and reach a decision on the firm or vendor; and

7 (5) Cumulative dollar amount awarded to firms or vendors being considered during  
8 the current City of Lincoln biennium.

9 **(b) Annual Reports to the Mayor and City Council.**

10 Any director of a city department which has contracted for professional consulting services  
11 shall be required to provide an annual written report to the Mayor and the City Council detailing the  
12 professional services contracts. The report shall include all projects for which the department has  
13 negotiated and concluded contracts in the preceding calendar year and shall be due on or before  
14 January 31<sup>st</sup> of the following year. For each project, the report shall contain the following  
15 information:

16 (1) Name of the project;

17 (2) Project time period;

18 (3) Total compensation for the vendor;

19 (4) If the contract is under \$250,000, the names of all firms which  
20 submitted proposals for the project;

21 (5) Name of the chosen firm; and

1           (6) Identify the business classification, if applicable, which shall include whether  
2           the firm is Nebraska/locally owned, veteran owned, minority owned, or female  
3           owned.

4           Section 7. That Section 2.06.180 of the Lincoln Municipal Code shall read as  
5 follows:

6           **2.06.180 Exemptions.**

7           The procedure established above for the selection of firms to provide professional consulting  
8           services need not be utilized in the following instances:

9           (a) Selection of appraisers in anticipation of property acquisition;

10           (b) In any case where previous preliminary or final design work performed by a firm  
11           warrants utilizing or continuing the utilizing or continuing the utilization of that firm on a project  
12           so as to avoid delay, inefficiency, lack of coordination, or duplication of effort, based upon the  
13           recommendation of the director of the department directly related to the project. Conceptual design  
14           work is not included in this exemption.

15           (c) In the case of structural, electrical, mechanical, or other design professional services  
16           related to a declared national, state, or local emergency caused by a natural disaster, terrorist attack,  
17           or other similar disaster or catastrophic event, where the Mayor determines that the best interests  
18           of the City warrant immediate selection of a firm to provide professional consulting services.

19           (d) In cases involving an exemption to the usual selection procedure, the scope and  
20           compensation for such services shall be negotiated by the director of the department directly related  
21           to the project. Professional consulting services contracts that are exempt under Section 2.06.130  
22           must still be reported under the requirements detailed in Section 2.06.170.

1                   Section 8. That this ordinance shall take effect and be in force from and after passage  
2 and publication in one issue of a daily or weekly newspaper of general circulation in the City,  
3 according to law.

Introduced by:

\_\_\_\_\_

Approved as to Form & Legality:

\_\_\_\_\_  
City Attorney

Approved this \_\_\_ day of \_\_\_\_\_, 2015:

\_\_\_\_\_  
Mayor