

To: **Chair VanMoorlehem and Members of the Charter Commission**
Through: **Nate Burkett, City Administrator**
From: **Kori Land, City Attorney**
Date: **September 28, 2021**

Potential Charter Amendments

BACKGROUND INFORMATION:

The responsibility of the Charter Commission is to constantly review the Charter for good governance and offer suggested amendments to the Council when appropriate. With the new City Manager taking the helm in May of 2021, a few questions have been raised for consideration by the Commission.

1. Section 3.07

This Section requires an audible reading of council resolution prior to a vote. While most council actions have a resolution attached to confirm the action taken by the Council, the oral reading of the resolution rarely happens, nor does an action to dispense with the reading. The Charter provision states as follows:

Section 3.07. Procedure on Resolutions. Every resolution shall be read in full before a vote is taken thereon, unless the reading is dispensed with by unanimous consent.

2. Section 6.05

This Section limits the City Manager's spending to \$25,000, without requiring Council approval and the Mayor/Manager signature.

Section 6.05. Purchases and Contracts. The City Manager shall be the chief purchasing agent of the City. All City purchases and contracts shall be made and signed by the City Manager when the amount of the purchase or contract does not exceed \$25,000. All purchases and contracts that exceed \$25,000 shall be approved by the Council, after the recommendation of the City Manager has first been obtained, and shall be signed by the Mayor and the City Manager on behalf of the City.

Knowing that the City Manager cannot spend any funds outside of the City's authorized budget, sometimes this requirement can delay purchasing goods or services or signing contracts until a Council meeting can occur. This spending limit has been stagnant for many years.

3. Section 6.06

This section intercepts the public bidding statute and requires the City to bid all contracts for supplies, materials and equipment if the contract price will be more than \$50,000. State Statute (Minn. Stat. §471.345) has a threshold of \$175,000 before public bidding is required.

Section 6.06. Contracts How Let.

Subdivision 1. General Rule. For the sale or purchase of supplies, materials, equipment or the rental thereof, or the construction, alteration, repair or maintenance of real or personal property, where the amount involved is more than \$50,000.00, unless the Council shall by emergency ordinance other-wise provide, the City Manager shall advertise for bids in such manner as may be required by law. Contracts of this magnitude shall be let only by the Council to the lowest responsible bidder after consideration of the recommendation of the City Manager. The Council shall require every bid to be accompanied by a bond or certified check in such sums and with such surety and conditioned as the Council may prescribe. The Council may however, reject any and all bids. Subject to the provisions of this Charter, the Council may by ordinance adopt further regulations for the making of bids and the letting of contracts.

Subdivision 2. Exceptions. It is not necessary for the Council to advertise for bids for the following contracts:

- (a) Professional services such as, but not limited to, engineers, attorneys, architects, or accountants;
- (b) The purchase or lease of real estate;
- (c) Insurance contracts;
- (d) When the City is using a reverse auction or electronic purchasing process in which vendors compete to provide the supplies, materials, or equipment at the lowest selling price in an open and interactive environment;
- (e) When the City is using an electronic sale of surplus supplies, materials, and equipment in which purchasers compete to purchase the surplus supplies, materials, or equipment at the highest purchase price in an open and interactive environment.

Requiring all contracts over \$50,000 to be bid through the official public bidding process causes delay and additional expense by City Staff and consultants. State statute requires the City to obtain at least 2 quotes for all contracts that range between \$25,000 and \$175,000. Any contracts less than \$25,000 may be purchased on the open market without getting quotes. There is ample protection in the law for obtaining competitive quotes without requiring the extra layer of delay and expense that is often the result of the public bidding law.

4. Section 7.09

This Section has some limiting language that seems to state no bills can be paid without prior Council approval. The City is obligated to pay all bills within a certain period of time, however, there are times that invoices must be paid in order to receive the goods and services and a Council meeting has not yet occurred.

Section 7.09. Disbursements: How Made.

Subdivision 1. All disbursements shall be made only upon the order of the City Manager or designees, who have been duly authorized by a resolution or motion of the Council, in accordance with federal or state law, ordinances, or City Council resolutions and regulations. The City Treasurer shall issue no check upon any city funds except upon such order. In the discretion of the Council the order and check may be a single instrument. No claim against the City shall be allowed unless accompanied by either an itemized bill, or a payroll, or time sheet, each of which shall be approved and signed by the appropriate Department Head and the Finance Director who vouches for the correctness and reasonableness thereof. The Council may by ordinance or resolution, make additional regulations for the safekeeping and disbursement of the City funds and shall annually adopt a resolution that authorizes an appropriate expenditure amount by designees. The Council may provide for the regular payment without specific individual authorization by the Council of salaries and wages of regular employees, laborers, and fixed charges which have previously duly and regularly incurred.

It would be helpful to have some flexibility in the language to pay claims in advance, which can then be ratified by the Council.

ATTACHMENTS:

None

STAFF RECOMMENDATIONS:

1. Section 3.07: It is recommended that this language be repealed in its entirety.
2. Section 6.05: It is recommended that this section be revisited to increase the authorized spending of the City Manager to a number that is more realistic with inflation.
3. Section 6.06: It is recommended that this language be repealed in its entirety.
4. Section 7.09: It is recommended that this language be reviewed and modified, pursuant to direction from the City Manager.

Review and discuss potential Charter amendments and provide direction on which sections the Commission would like amendments prepared for consideration at a future meeting.