

**ORDINANCE NO. O-2008-107**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 2, "FINANCE AND TAXATION", ARTICLE I, "IN GENERAL", RELATING TO THE THRESHOLD DOLLAR AMOUNT AT WHICH THE CITY OF TYLER IS REQUIRED TO ENGAGE IN COMPETITIVE BIDDING; INCREASING CITY MANAGER'S SPENDING AUTHORITY; INCREASING THE AMOUNT OF DONATIONS THE CITY MANAGER CAN ACCEPT; INCREASING THE AMOUNT FOR WHICH THE CITY MANAGER CAN SETTLE CLAIMS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, Tyler City Charter Section 31 requires that all City contracts calling for or requiring the expenditure or payment of three thousand dollars (\$3,000.00) or more must first be submitted for competitive bids; and

**WHEREAS**, State law, at Texas Local Government Code Section 252.002, provides that the governing body of a municipality may elect to have Texas Local Government Code Section Chapter 252 supersede the charter requirements relating to competitive bidding; and

**WHEREAS**, pursuant to State law, the City Council previously elected to have the competitive bidding requirements of Texas Local Government Code Chapter 252 supersede the Tyler Charter requirements by adopting City Code Section 2-6; and

**WHEREAS**, the Texas Legislature has now amended Texas Local Government Code Section 252.021 relating to competitive bidding by changing the threshold dollar amount at which municipalities are required to engage in competitive bidding from more than \$15,000.00 to more than \$50,000.00; and

**WHEREAS**, increasing the spending authority of the City Manager will allow for continued expeditious handling of various matters, take into account past inflationary changes, and keep that amount at an appropriate amount for current business activities;

**WHEREAS**, granting the City Manager the same financial amount authority in accepting donations on behalf of the City will simplify handling of all these type functions and take into account the inflationary increases of the past; and

**WHEREAS**, increasing the City Manager's settlement authority for claims to the same amount as granted to the City Manager for general spending authority will reduce confusion and provide for continued efficient handling of claims; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:**

**PART 1:** That Chapter 2, "Finance and Taxation", Article I, "In General", is hereby amended by amending City Code Sections 2-6 and 2-7 to read as follows:

**Sec. 2-6. Contracts and purchasing.**

- a. The City Council elects to have the provisions of Chapter 252 of the Texas Local Government Code supersede the Tyler Charter provisions relating to the notice of contracts, advertisement of the notice, requirements for the taking of sealed bids based on specifications for public improvements or purchases, the manner of publicly opening bids or reading them aloud or the manner of lettering contracts. Currently this means only expenditures of more than fifty thousand dollars (\$50,000.00) will require bidding. (Ord. No. 0-2008-107; 8/27/08)
- b. All expenditures over twenty-five thousand dollars (\$25,000.00) require City Council approval. (Ord. No. O-98-21; 3/18/98) (Ord. No. O-2001-47; 10/03/01) (Ord. No. 0-2008-107; 8/27/08)
- c. The City Council elects to allow the application of Chapter 271 of the Texas Local Government code supersede the Tyler Charter provisions relating to competitive bidding by allowing the alternatives set out in that chapter including competitive sealed proposals, design-build, use of a construction manager, and/or use of job order contracts. (Ord. No. 0-2005-63, 8/17/05).

**Sec. 2-7. Donations policy.**

- a. All proposed donations to the City must be reviewed by the City Manager prior to formal acceptance by either the City Manager or City Council in accordance with this section. The term "donation" includes, all monetary gifts, equipment, land, buildings, personal services, or any other item.
- b. All donations up to twenty-five thousand dollars (\$25,000.00) in value must be approved by the City Manager. All donations over that amount in value must be approved by the City Council. (Ord. No. 0-2008-107, 8/27/08)
- c. All donations accepted by the City will become the irrevocable property of the City to be used at its discretion. In cases where restrictions are placed upon the use of donations, the donor must specify in writing all such instructions as to the desired use of these donations prior to City acceptance. All donations other than monetary gifts must be accompanied by written instructions and/or restrictions as to their use and must include a statement of estimated value by the donor.
- d. Upon acceptance of any donations by the City, all information relating to those donations, including the amount involved and any restrictions or other instructions, shall be immediately submitted to Accounting for deposit and inclusion in the City's normal reporting and control systems. All such donations will be disbursed or used in accordance with all City ordinances and other administrative policies. Proceeds from proposed donations shall not be used by any City department until formal acceptance by the City and submission to Accounting for formal incorporation into the City's normal financial and other recordkeeping records. (Ord. No. 0-98-21; 3/18/98)

**PART 2:** That Chapter 2, "Finance and Taxation", Article I., "In General", is hereby amended by amending City Code Sections 2-60 to read as follows:

**Sec. 2-60. Claims for damage or injury.**

The City Manager or designee is hereby authorized to investigate all claims against the City. The City Manager, upon recommendation from the City Attorney, is hereby authorized to settle such claims, including those involving pending litigation, by denying or paying an amount up to and including twenty-five thousand dollars (\$25,000.00). Periodically, the City Manager shall notify the City Council of the status of all such claims including payments, denials, and those pending. (Ord. No. 0-98-21; 3/18/98) (Ord. No. 0-2008-107; 8/27/08)

**PART 3:** That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

**PART 4.** That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall become effective upon its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be August 29, 2008.

**PART 5:** This ordinance shall be effective on and after its date of passage and approval by the City Council.

**PASSED AND APPROVED** this 27<sup>th</sup> day of August, A. D., 2008.

  
BARBARA BASS, MAYOR OF  
THE CITY OF TYLER, TEXAS

ATTEST:

  
CASSANDRA BRAGER, CITY CLERK

APPROVED:

  
GARY C. LANDERS CITY ATTORNEY

