

1 (Published in the Topeka Metro News April 4, 2011)

2
3 **ORDINANCE NO. 19543**

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5 AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending
6 City of Topeka Code § 3.30.020 and creating section § 3.30.035,
7 concerning competitive bids and negotiation procurement and
8 specifically repealing said original section.
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10 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA:

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12 Section 1. That section 3.30.020, Competitive bids – Supplies, materials,
13 equipment and services, of The Code of the City of Topeka, Kansas, is hereby
14 amended to read as follows:

15 **Competitive bids – Supplies, materials, equipment, and services.**

16 In the manner as provided in this chapter and the rules and regulations
17 established hereunder:

18 (a) If the amount of the purchase or sale is estimated to exceed
19 approximately \$50,000, sealed bids shall be solicited by notice published once in the
20 official city newspaper not less than 10 days before the date stated therein for the
21 opening of such bids. Additional newspapers or journals may be designated for such
22 publication. Notices shall be sent to all active prospective bidders. All bids shall be
23 sealed when received and shall be opened in public at the hour stated in the notice.

24 (b) All purchases or sales estimated to exceed \$25,000, but not more than
25 \$50,000, shall be made after receipt of sealed bids following at least three days' notice
26 posted on a public bulletin board in City Hall and the city's website. Sealed bids may
27 also be solicited as provided in subsection (a) of this section.

28 (c) All purchases or sales estimated to be more than \$5,000 but less than
29 \$25,000 may be made after receipt of three or more bid solicitations by telephone,

30 telephone facsimile or sealed bid following at least three days' notice posted in a public
31 bulletin board in City Hall and the city's website.

32 (d) All purchases or sales estimated to be less than \$5,000 shall be made in
33 accordance with written rules promulgated by the director of administration and financial
34 services.

35 (e) Notwithstanding any provision to the contrary, sealed competitive bids
36 shall not be required:

37 (1) For contractual services where no competition exists;

38 (2) For sales in an established market;

39 (3) When an emergency requires immediate delivery of supplies,
40 materials or equipment, or immediate performance of services; or

41 (4) When, in connection with the sale of property, it would be more
42 advantageous to sell the property at a public auction;

43 (5) When a contract for supplies, services, or equipment was executed
44 by a vendor with a state agency, municipality, or political subdivision whose
45 procurement practices include competitive bidding; or

46 (6) When the director of contracts and procurement determines that
47 negotiated procurement, pursuant to TMC 3.30.035, is appropriate for the
48 purchase of services or products.

49 (f) Contracts and purchases shall in all cases be based on city specifications.
50 When deemed applicable and feasible such specifications shall include either energy
51 efficiency standards or appropriate life cycle cost formulas, or both. A contract or
52 purchase may be rejected on the basis that a product is manufactured or assembled

53 outside the United States. No such specification shall be fixed in a manner to effectively
54 exclude any responsible bidder offering comparable supplies, materials, equipment or
55 contractual services.

56 (g) Notwithstanding anything in this section to the contrary, the director of the
57 department of administrative and financial services may authorize city departments to
58 contract for services and materials with other city departments, or with state agencies,
59 federal agencies, or other political subdivisions of the state without competitive bids if:

60 (1) The obligations and duties imposed on, and the benefits and
61 privileges to be received by, each city department which is a proposed party to
62 the contract do not exceed the authority and powers delegated to such city
63 department by the city council, including the authority to enter into the contract;

64 (2) The obligations and duties imposed on the city department required
65 to perform services or supply materials are within the normal scope of duties of
66 the city department and the competence of the city department to perform the
67 contracted services and to deliver the prescribed materials is demonstrated to
68 the satisfaction of the purchasing officer; and

69 (3) Where the contract or service is financed entirely from money
70 derived exclusively from the city general fund, the director of administrative and
71 financial services must first determine that comparable materials or services are
72 not reasonably available at a lower cost from responsible sources other than
73 governmental agencies.

74 (h) Except as otherwise specifically provided by law, no city department shall
75 enter into any lease of real property without the prior approval of the director of the

76 department of administrative and financial services. Such city department shall submit
77 to the director of the department of administrative and financial services such
78 information relating to any such proposed lease as the director may require. The
79 director shall either approve, modify and approve or reject any such proposed lease.

80 (i) Notwithstanding anything in this section to the contrary, sales of retired
81 motor vehicles, mowers, graders and other construction machinery and equipment from
82 any department of the city shall be to the highest responsible bidder at either an
83 advertised public auction or by sealed competitive bids or as otherwise authorized by
84 this section. Nothing in this subsection shall preclude a city department from trading in
85 such vehicles and equipment when authorized.

86 Section 2. That the Code of the City of Topeka, Kansas, is hereby amended
87 by adding a section, to be numbered 3.30.035, which said section reads as follows:

88 (a) The director of contracts and procurement may convene a procurement
89 negotiating committee to obtain services or products for a city department. Each
90 procurement negotiating committee shall be comprised of the financial services director,
91 the director of contracts and procurement , and the director of the requesting agency or
92 their designees.

93 (b) The procurement negotiating committee shall negotiate contracts with
94 qualified parties to provide services or products for city departments. The director of
95 contracts and procurement shall publicize requests for proposals and shall evaluate
96 such proposals according to the following criteria:

97 (1) Adequacy and completeness of proposal,

98 (2) Compliance with terms and conditions of the request,

- (3) Experience in providing like services or products,
- (4) Qualified staff,
- (5) Methodology in accomplishing objectives, and
- (6) Price; and
- (7) Any other requirements specific to the service or product.

Section 3. That original § 3.30.020 of The Code of the City of Topeka, Kansas, hereby specifically repealed.

Section 4. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 5. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 6. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the City Council March 29, 2011.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk