

1 **Ordinance to Amend and Reenact Chapter 2 of the City Code of the City of**
2 **Hampton, Virginia, entitled “Administration” by Amending Article XIV, Division 1**
3 **to Add Section 2-336.1 Pertaining to the Use of Design-Build and Construction**
4 **Management Procurement Methods**

5
6 **BE IT ORDAINED** by the City Council of the City of Hampton, Virginia, that Chapter 2 of
7 the City Code of the City of Hampton, Virginia entitled “Administration” is amended and
8 reenacted to read as follows:

9
10 **CHAPTER 2 – ADMINISTRATION**

11 . . .

12
13 **ARTICLE XIV. - PROCUREMENT OFFICE**

14
15 **DIVISION 1. - GENERALLY**

16 . . .

17
18 ***Sec. 2-336.1. – Same-Design-Build and Construction Management Contracting.***

19
20
21 (a) *Pursuant to Code of Virginia chapter 43 § 2.2-4302, as it may be amended*
22 *from time to time, the provisions of Code of Virginia chapter 43.1 §§ 2.2-*
23 *4378, 2.2-4379, and 2.2-4382 related to governmental procurement of*
24 *construction utilizing the design-build and construction management*
25 *procurement methods, as those sections may be amended from time to*
26 *time, are incorporated herein by this reference.*

27
28 (b) *Notwithstanding subsection (a) of this section, whenever any provision of*
29 *those sections incorporated thereby are modified or amended by any*
30 *other section of the city code, or by any rule, regulation, policy, procedure,*
31 *or administrative directive, such provision shall be interpreted and*
32 *implemented as modified or amended.*

33
34 (c) *When design-build and construction management contracting methods*
35 *are authorized.*

36 (1) *The city may enter into a contract for construction on a fixed price*
37 *or not-to-exceed price construction management or design-build*
38 *basis, provided that the city complies with (i) the requirements of*
39 *Code of Virginia chapter 43.1 § 2.2-4382, as those sections may be*
40 *amended from time to time, and (ii) the director of finance or*
41 *designee shall have implemented procedures consistent therewith.*

42
43 (2) *Prior to making a determination as to the use of design-build or*
44 *construction management for a specific construction project, the*
45 *city shall have in its employ or under contract a licensed architect or*
46 *engineer with professional competence appropriate for the project*

47 who shall advise the city regarding the use of design-build or
48 construction management for that project and assist the city with
49 the preparation of the request for proposal and the evaluation of
50 such proposals.

51
52 (3) Prior to taking any action on the use of design-build or construction
53 management for a specific construction project, the department
54 making such request must receive formal approval to proceed from
55 the city manager. The request shall contain a written determination
56 justifying why competitive sealed bidding is not practicable or
57 fiscally advantageous, and such writing shall document the basis
58 for the determination to utilize design-build or construction
59 management. The determination shall be included in the request for
60 qualifications and be maintained in the procurement file.

61
62 (4) Design-build construction projects shall include a two-step
63 competitive negotiation process consistent with the standards
64 established by the Virginia division of engineering and buildings of
65 the department of general services for state agencies.

66
67 (5) Construction management contracts shall include a two-step
68 process and the selection criteria shall be included in the request
69 for qualifications and the request for proposals. The procedures
70 and required construction management terms shall be consistent
71 with the procedures as adopted by the Virginia Secretary of
72 Administration.

73
74 (6) Prior design-build or construction management experience or
75 previous experience with Virginia's Bureau of Capital Outlay
76 Management shall not be a prerequisite for award of a contract.
77 However, in the selection of a contractor, the city may consider the
78 experience of the contractor on comparable projects.

79
80 (7) The following additional requirements apply to construction
81 management contracts:

82
83 a. Construction management contracts may be utilized for
84 projects where the project cost is expected to be more than
85 \$10,000,000.00.

86
87 b. Construction management may be utilized on projects where
88 the project cost is expected to be less than \$10,000,000.00,
89 provided that (i) the project is a complex project and (ii) the
90 project procurement method is approved by the city council.
91 The written approval of the city council shall be maintained in
92 the procurement file.

93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116

- c. *The construction management contract shall be entered into no later than the completion of the schematic phase of design, unless prohibited by authorization of funding restrictions.*
- d. *Construction management contracts shall require that (i) no more than 10 percent of the construction work, as measured by the cost of the work, be performed by the construction manager with its own forces and (ii) the remaining 90 percent of the construction work, as measured by the cost of the work, be performed by subcontractors of the construction manager, which the construction manager shall procure by publicly advertised, competitive sealed bidding to the maximum extent practicable.*
- e. *Public notice of the request for qualifications shall be posted on electronic procurement website, known as eVA, at least 30 days prior to the date set for receipt of the request for qualifications.*
- f. *Price is a critical basis for award of the contract.*

.....