



## ORDINANCE

### DEFINING THE AUTHORITY OF THE FINANCE COMMITTEE CONCERNING AWARD OF CONTRACTS

### *CITY OF NASHUA*

*In the Year Two Thousand and Seven*

*The City of Nashua ordains* that Chapter 2 “Administration,” Article IV “Officers And Employees,” Division 5 “Purchasing Manager,” Section 2-249 “Special Purchase Procedures”, Section 2-255 “Authority of the finance committee” and Section 2-256 “Amendment to contracts”, and Article X “Taxation And Finance”, Division 3 “Finance Committee”, Section 2-766 “Composition; duties”, and Division 6 “Contracts And Loans”, Section 2-817 “Contracts”, of the Nashua Revised Ordinances, as amended, be hereby further amended by adding the new underlined language and deleting the struck-through language as follows:

**“Sec. 2-249. Special purchase procedures.**

(a) The competitive bidding process shall not apply to the following special purchases:

- (1) Purchases required in the event of any emergency as defined in Section 2-255 which necessitates the immediate purchase of goods or services;

...

- ~~(9) Purchases required in the event of public exigency. Use of this exception to the formal bidding process shall be authorized in writing by the respective division director (or equivalent organizational authority) and the mayor. The need must be compelling and of unusual urgency, e.g., if the city will be seriously injured, financially or otherwise, if the required supplies or services are not received by a certain date. This exception may be used regardless of whether the urgency could or should have been foreseen.~~

**Sec. 2-255. Authority of the finance committee.**

(a) The requirements of this division are intended to benefit the city and not to vest in any individual or enterprise any right to do business with the city or create any cause of action based thereon. The finance committee, for contracts that do not exceed one million dollars (\$1,000,000), and the board of aldermen, for contracts that exceed one million dollars (\$1,000,000), may waive compliance with any of the provisions of this division when the best interests of the city would be served thereby. The approval of any contract or payment by the finance committee or the board of aldermen shall constitute a waiver as herein provided.

...

(c) Finance committee approval ~~normally~~ shall be obtained prior to the award of contracts exceeding ten thousand dollars (\$10,000.00). This does not preclude the purchasing manager from seeking finance committee approval or providing advisement to the committee for purchase ~~actions~~ awards less than ten thousand dollars (\$10,000.00) when considered appropriate. Approval of a bid or contract award by the finance committee or board of aldermen generally shall be complete and final.

(d) Approval by the finance committee of a contract award in excess of one million dollars (\$1,000,000.00) shall be submitted to the full board of aldermen at its the next regularly scheduled meeting for final approval prior to award of the contract.

(e) Unless specifically directed by the finance committee to withhold issuance until ~~the meeting and~~ passage by the full board of aldermen, the purchase order or other such contractual agreement ~~to affect the bid award in an amount not exceeding one million dollars (\$1,000,000)~~ may be issued immediately following the approval of award by the finance committee. ~~The purchase order or other such contractual agreement in an amount exceeding one million dollars (\$1,000,000) may be issued following the period for reconsideration under the board of aldermen's rules.~~

(f) The mayor may determine that an immediate contract award is necessary to protect the public health or safety or to avoid substantial financial loss to the city and that the circumstances do not permit the convening of a special meeting of the finance committee or the board of aldermen in time to deal with the emergency. The written finding, specifying in detail the reason for the contract, the need for immediate action, and the contract terms and amounts, shall be addressed to the board of aldermen and filed with the city clerk, in which event

award of the contract may be made immediately by the mayor without aldermanic approval, and shall be presented to the finance committee at its next meeting for review.

**Sec. 2-256. Amendment to contracts.**

No contract ~~having been approved by the finance committee~~ may be amended as to its scope of work or so as to increase sums payable to the contractor, without finance committee approval for amendment amounts exceeding ten thousand dollars (\$10,000), and without the board of aldermen approval for amendment amounts exceeding one million dollars (\$1,000,000), except that the mayor, ~~as chair of the finance committee,~~ may approve changes in the scope of work and/or sums payable to a contractor if all of the following conditions are met:

- (1) ~~The contract is for the demolition, construction, reconstruction, alteration, or repair of real property or purchase, installation, or repair of other tangible property;~~ The mayor determines an emergency exists as defined in Section 2-255 (f) that requires immediate award of an amendment to an existing contract, and follows the notification procedure prescribed in that section; and
- (2) The increased sums authorized are available from existing appropriations and do not exceed one hundred thousand (\$100,000) dollars. ~~twenty five thousand dollars (\$25,000.00), or ten (10) percent of the original amount of the contract, whichever is less, and;~~
- (3) The mayor makes a written finding that an immediate contract amendment is required to protect the public health or safety or to avoid substantial financial loss to the city and that the circumstances do not permit the convening of a special meeting of the finance committee in time to deal with the crisis. The written finding, specifying in detail the reason for the change, the need for immediate action, and the changed contract terms and amounts, shall be immediately filed with the city clerk, and shall be presented to the finance committee at its next meeting for review.

**Sec. 2-766. Composition; duties.**

...

(d) The finance committee shall function as a standing committee of the board of aldermen, and shall be subject to the same rules of procedure as the board of aldermen for its administrative review and approval of all purchases and contracts, as designated by the board of aldermen.

(e) The finance committee shall function as an independent body and adopt its own rules of procedure for supervising the finances and accounts of the city, as provided for under the city charter.

**Sec. 2-817. Contracts.**

All contracts and amendments to contracts, regardless of value, in which the city becomes involved or engaged shall be reviewed by the ~~finance committee~~ with the assistance of the city corporation counsel, all contracts and amendments in excess of \$10,000 shall be reviewed and approved by the finance committee prior to award, and all contracts and amendments in excess of \$1,000,000 shall be reviewed and approved by the finance committee and approved by the board of aldermen prior to award, with the assistance of the city corporation counsel prior to signing by the parties concerned except for emergency situations as defined in Sections 2-255 and 2-256.”