

Exhibit B
[City Council Resolution No. _____]

Existing Section 1310 of the City Charter reads as follows:

§ 1310. Contracts on public works.

Every contract involving an expenditure of more than one thousand dollars (\$1,000.00) for the construction or improvement, (excluding maintenance and repair), of public buildings, works, streets, drains, sewers, utilities, parks and playgrounds shall be let to the lowest responsible bidder after notice by publication in an official newspaper by one or more insertions, the first of which shall be at least ten days before the time for opening bids.

The City Council may reject any and all bids presented and may re-advertise in its discretion.

The City Council, without advertising for bids, or after rejecting bids, or if no bids are received, may declare and determine that, in its opinion, the work in question may be performed better or more economically by the City with its own employees, and after the adoption of a resolution to this effect by at least four affirmative votes, it may proceed to have said work done in the manner stated, without further observance of the provisions of this section. Such contracts likewise may be let without advertising for bids, if such work shall be deemed by the City Council to be of urgent necessity for the preservation of life, health or property, and shall be authorized by motion passed by at least four affirmative votes and containing a declaration of the facts constituting such urgency.

It is proposed that existing Section 1310 of the City Charter be amended and restated to read, in its entirety, as follows:

802.2 Public Works

a. **Rules to be Implemented by Ordinance.** The City Council shall, by ordinance, adopt specific policies and procedures for the award of contracts for the construction, reconstruction, renovation, alteration, improvement or demolition of public buildings, streets, drains, sewers, utilities, parks, playgrounds and similar public facilities (each a “Public Work” and collectively, “Public Works”).

b. **Required Provisions.** The City’s implementing Public Works ordinance (“Implementing Ordinance”) shall, at a minimum, contain provisions for the following:

1. City Council to retain approval rights over what it defines as “major project” contracts (based on factors such as contract cost, project value, or other relevant considerations), with “minor project” contracts approved by the City Manager
2. Competitive bid processes for all contracts, with formal advertisement for bids and sealed bids required for all “major” contracts.
3. In general, except as provided below, the award of contracts to the lowest responsive and responsible bidder.
4. The ability to reject any and all bids, to re-advertise for bids, or to waive minor defects in any bid if determined by the designated contract-approving authority that such action is necessary or appropriate for the benefit of the public;
5. Emergency authority to waive the applicable competitive bid process requirements if the approving authority determines that the work required is of urgent necessity for the preservation of life, health or property.
6. The ability of the City to implement Public Works using City employees upon a

determination by the approving authority (the City Council for major projects, the City Manager for minor projects) that the work can be performed better or more economically by City employees;

7. Defined terms, including definitions for what types of maintenance, repair, restoration, minor improvements, and equipment installation and equipment acquisition, which shall not be considered "Public Works" for purposes of this Section, but shall remain subject to City's general competitive procurement standards.
8. Such other provisions consistent with this Section as may be necessary or appropriate to implement the City's Public Works procurement process.

c. **Procurement Alternatives.** The City's Implementing Ordinance may also provide for one or more alternative Public Works procurement processes to those described in Subsection b, above. Such alternatives may include, without limitation: (1) sole source or limited bid contracts where it is determined by the approving authority that the work required can only be performed by one contractor, or a limited group of contractors; (2) "best value" or other alternative procurement mechanisms, including but not limited to: progressive design-build, construction manager at risk, fixed-price design-build, and design-build-operate contracts; and/or (3) such other alternative procurement mechanisms currently provided under State Law, or that may be provided under State Law in the future. The City's Implementing Ordinance for any such procurement alternatives shall include standards for solicitation, evaluation and selection of qualified proponents. No such exception or alternative process shall be applied to a Public Work unless it is part of a City-wide policy or program approved by the City Council by ordinance and the approving authority has determined that its application to that Public Works is in the best overall interests of the City.

d. **Relationship with Other Laws.** To the maximum extent allowed by law, the provisions of this Charter Section, and any Implementing Ordinance or policy consistent with the terms of this Section, shall supersede all inconsistent State Laws or regulations that may otherwise be applicable to the City's Public Works procurement processes.