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Amending Title 17 of The Philadelphia Code, entitled “Contracts and Procurement,” by adding provisions requiring certain disclosures by persons seeking or awarded competitively bid contracts or concessions, and prohibiting persons from entering into such contracts or concessions if they or certain related parties have made certain contributions to elected City officers or candidates for City offices, all under certain terms and condition.

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THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 17 of The Philadelphia Code is hereby amended to read as follows:

TITLE 17. CONTRACTS AND PROCUREMENT

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CHAPTER 17-1300. COMPETITIVELY BID CONTRACTS

§17-1301. Definitions.

(1) *The definitions set forth in Chapter 17-1200 shall apply to this Chapter, except that for purposes of this Chapter, a “contractor” means a person who has entered into a competitively bid contract.*

(2) *Bidder. A person who submits a bid on a competitively bid contract.*

(2) *Competitively bid contract. Any contract or concession that is subject to the competitive bidding requirements of Section 8-200 or Section 8-201 of the Philadelphia Home Rule Charter.*

§17-1302. Disclosures Required From Bidders on Competitively Bid Contracts.

(1) *A person who submits a bid on a competitively bid contract must disclose all information required by §17-1202(1)(b), as if the person were an “Applicant” under that subsection. All such disclosures must be submitted with the bid using the same forms that are used to satisfy the requirements of §17-1202(1)(b).*

(2) *The City agency awarding the competitively bid contract shall forward a copy of all disclosure forms it receives to the Mayor, Finance Director, Procurement Department, and the Department of Records.*

(3) No competitively bid contract shall be awarded unless all required disclosure forms are completed, signed and attached to the bid for such contract and on file with the Mayor, Finance Director, Procurement Department, and the Department of Records.

§17-1303. Mandatory Contract Provisions.

(1) Every competitively bid contract shall include all the contract provisions that are required by §17-1202(1)(e), and the representation and covenant required by §17-1202(1)(f), as if the person awarded the competitively bid contract were a “Contractor” under those subsections.

§17-1304. Consultant Contributions.

(1) The provisions of §§17-1202(2), relating to failure to disclose Consultant contributions, shall apply to the disclosures required by §17-1302 and the contract provisions required by §17-1303.

§17-1305. Public Information; Reporting.

(1) After a competitively bid contract has been executed, all information required by this Chapter to be submitted with all bids for such contract shall become public information, provided that the exception set forth in §17-1203(1) concerning proprietary information shall apply to this section as well.

§17-1306. Eligibility for Competitively Bid Contracts.

(1) No person may bid on or be awarded a competitively bid contract if such person is not eligible to apply for or be awarded a Non-Competitively Bid Contract under the provisions of §17-1204.

§17-1307. Exceptions.

(1) Any provision of this Chapter may be waived if the Finance Director certifies in writing that compliance with such provision may lead to the loss of federal, state or

similar grant funds, or if the City Solicitor certifies in writing that application of such provision would violate federal or state law. Any such written certifications shall set forth the basis for such certification, and shall be filed with the Department of Records.

§17-1308. Prohibited Conduct; Penalties; Remedies.

(1) A contract made in violation of this Chapter shall be voidable at the City's option.

(2) No bidder shall make a material misstatement or omission in the disclosures required by this Chapter, and no contractor shall make a material misstatement or omission in the disclosures required by this Chapter. If an bidder makes material misstatements or omissions in the disclosures required by this Chapter, or if a contractor makes material misstatements or omissions in the disclosures required by this Chapter, such bidder or contractor shall be prohibited from entering into any competitively bid contract for a period of from one to three years, and such act shall be subject to a fine of the Maximum Fine Amount, as defined in §17-1207(2). The provisions of §17-1207(3) shall apply with respect to any debarment determinations under this subsection.

§17-1309. City-related Agencies.

(1) Any contract, lease, grant or other agreement ("City agreement") entered into by the City with any City-related Agency shall contain a provision requiring that the City-related Agency abide by the provisions of this Chapter in awarding any contracts pursuant to its City agreement, as though such contracts were directly subject to the provisions of this Chapter. Each City agreement shall also include a provision detailing how the City-related Agency is to carry out its duties under this Section, including, but not limited to, specifying who at the City-related Agency is responsible for carrying out duties that this Chapter assigns to City officers and employees.

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SECTION 2. Effective Date; Applicability.

(a) This ordinance shall take effect February 1, 2006, but only if the amendment to Section 8-200 of the Philadelphia Home Rule Charter proposed by Resolution No. 050428 is approved by the voters, and only with respect to contracts executed on and after February 1, 2006 for which the City had not issued a request for proposals prior to February 1, 2006.

(b) The provisions of Chapter 17-1300 of The Philadelphia Code added by Section 1 of this ordinance prohibiting the award of competitively bid contracts to persons who made certain contributions to candidates and incumbents, shall apply only with respect to contributions made on and after January 1, 2006. However, contributions made prior to January 1, 2006 shall be subject to the disclosure requirements of that Chapter.

Explanation:

Italics indicate new matter added.

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