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Title: AN ORDINANCE relating to bidding for financial services contracts; and amending Ordinance 12076, Section 40, as amended, and K.C.C. 4.14.020 and Ordinance 17756, Section 7, and K.C.C. 4.14.070.

Sponsors: Pete von Reichbauer

Indexes: Financial Policies, Financial Systems

Code sections: 4.14.020 -, 4.14.070 - .

Attachments: 1. Ordinance 19297, 2. 2021-0108 Transmittal Letter, 3. 2021-0108 Fiscal Note, 4. 2021-0108 Legislative Review Form, 5. 2021-0108_SR_Bidding_Fin_Svcs_Contract.docx, 6. ATT2. 2021-0108.1_Striking_Amendment_S1_TechnicalEdits_bar.docx, 7. ATT5. KCC 4.14.048 Certification 2021.docx.pdf, 8. 2021-0108_REVISED_SR_Bidding_Fin_Svcs_Contract.docx

| Date | Ver. | Action By | Action | Result |
|-----------|------|---|--|--------|
| 6/15/2021 | 2 | Metropolitan King County Council | Passed | Pass |
| 6/8/2021 | 1 | Government Accountability and Oversight Committee | Recommended Do Pass Substitute Consent | Pass |
| 3/2/2021 | 1 | Metropolitan King County Council | Introduced and Referred | |

AN ORDINANCE relating to bidding for financial services contracts; and amending Ordinance 12076, Section 40, as amended, and K.C.C. 4.14.020 and Ordinance 17756, Section 7, and K.C.C. 4.14.070.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings:

- A. On February 29, 2020, the Governor of Washington state declared a state of emergency in all counties in Washington as a result of coronavirus disease 2019 ("COVID-19").
- B. On March 1, 2020, King County executive Dow Constantine signed a proclamation of emergency enabling "extraordinary measures" to respond to the COVID-19 pandemic. On March 3, 2020, the council passed Motion 15610 affirming the executive's proclamation of emergency.
- C. The COVID-19 pandemic has impacted nearly all business operations of King County agencies and

King County special districts.

D. The King County finance and business operations division, through its treasury operations section, acts as the de facto treasurer for all King County agencies and over one hundred twenty King County special districts.

E. King County's banking services contract serves all King County agencies and King County special purpose districts for whom the treasury operations section provides treasury services.

F. The current King County banking services contract was entered into on January 1, 2015, is set to expire on December 31, 2021.

G. The procurement process for banking services is governed by K.C.C. chapter 4.14. The process as prescribed by the King County Code is lengthy, extensive, requires feedback from King County agency and special district finance managers and can take up to a year to complete under normal circumstances.

H. K.C.C. 4.14.070 prevents the finance and business operations division manager from waiving the requirements of K.C.C. chapter 4.14, including the seven-year limit on the length of the banking services contract as stated in K.C.C. 4.14.020.

I. Based on the past and continuing COVID-19 impacts to King County operations, it would be extremely challenging to complete a competitive procurement process for the county's banking services agreement in 2021 while still implementing critical COVID-19 response/recovery activities, completing the replacement of a legacy property tax administration system in collaboration with the department of assessments and carrying out other mandated treasury operations.

J. If King County were to change banking vendors as the result of a competitive proposal process, this will further stress limited staff resources in the treasury operations section and in county agencies and special districts, given the extensive lead time required to reprogram complex system integrations and to make banking account changes.

K. It is in the best interests of the county and the special districts served by the county to allow an

extension of the existing banking services agreement for up to two additional years so that staff in the treasury operations section can adequately complete the contracting process including the development of requirements, the solicitation of proposals from qualified banks, the evaluation of proposals and the execution of a new agreement.

SECTION 2. Ordinance 12076, Section 40, as amended, and K.C.C. 4.14.020 are hereby amended as follows:

Competitive procurement processes by banking institutions to provide those services shall occur at least once every seven years ~~((though there is an))~~ ~~except((ion))~~ for banks serving the needs of special districts as set forth in K.C.C. 4.14.080 and during a state of emergency declared under chapter K.C.C. 12.52.030. Any extension of a banking services agreement due to a state of emergency shall be no longer than two years unless approved by ordinance.

SECTION 3. Ordinance 17756, Section 7, and K.C.C. 4.14.070 are hereby amended as follows:

Except for banking services contracts authorized by ~~((section 8 of this ordinance))~~ K.C.C. 4.14.080 or as otherwise provided by this chapter, the manager of the finance and business operations division may not waive the requirements in this chapter for the county banking contract. In administering the program, the manager shall:

A. Have the option to extend existing banking contracts by up to one calendar year should no banks meet the county's requirements through the request for proposals process. In this instance, the manager shall notify the council immediately, identify any recommended changes to these requirements and seek council approval of the changes, which approval shall be made by ordinance. The notice shall be ~~((made to the council in the form of a paper original and an electronic copy))~~ electronically filed with the clerk of the council, who shall retain the ~~((paper original))~~ electronic copy and ~~((forward))~~ provide an electronic ~~((copies))~~ copy to all councilmembers, the council chief of staff and the lead staff of the budget and fiscal management committee, or its successor;

B. Include a clause in all banking contracts allowing the county to terminate the contract with one hundred eighty days' notice should the bank, at any time during the contract, lose its outstanding Community Reinvestment Act rating under K.C.C. 4.14.040.C;

C. Exercise the county's option to terminate under subsection B. of this section if the bank fails to cure as specified in the contract or subsection D. of this section, and notify the council within seven days of sending the notice should any banking institution under contract with the county lose its outstanding Community Reinvestment Act rating under K.C.C. 4.14.040.C. during the course of the contract;

D. If the bank does not comply with any provision of the banking contract:

1. Upon finding a first breach of the banking contract, immediately inform the bank of the breach and offer the bank ninety days to cure the breach; provided that, if the bank receives a Community Reinvestment Act rating from a federal regulator agency that is below outstanding for the assessment area that includes the geographical boundaries of King County, the manager of the finance and business operations division has the discretion to allow the bank to cure this problem by requesting that the bank immediately update its community reinvestment plan to address specific deficiencies noted in the rating process; and provided further that, the outstanding Community Reinvestment Act rating must be reinstated by a federal regulator agency within two years from the date of the rating downgrade;

2. After ninety days after a first breach, if the bank has not corrected the breach, issue a one-hundred-eighty-day termination notice;

3. If the bank breaches the contract a second time during the term, immediately inform the bank of a second breach and require of the bank a payment to the county equal to five percent of the previous year's total commercial banking fees incurred by the county. The bank then has ninety days to correct the breach. The county may then use the penalty funds to contract with a nonprofit organization or organizations to provide services increasing access to consumer credit, subject to appropriation;

4. If, after ninety days of a second breach, the bank has not corrected the breach, issue a one-hundred-

eighty-day termination notice;

5. If a bank breaches the contract a third time during the term, immediately inform the bank of a second breach and require from the bank a payment equal to ten percent of the previous year's total commercial banking fees incurred by the county. The county may then use the penalty funds to contract with a nonprofit organization or organizations increasing access to consumer credit. The bank then has ninety days to correct the breach;

6. If, after ninety days of a third breach, the bank has not corrected the problem that led to the breach, issue a one-hundred-eighty-day termination notice;

7. If a bank breaches the contract for a fourth time during the term, immediately issue a one-hundred-eighty-day termination notice; and

8. Issue any notices required under this section shall be (~~in the form of a paper original and an electronic copy~~) electronically filed with the clerk of the council, who shall retain the (~~paper original and forward~~) electronic copy and provide an electronic (~~copies~~) copy to all councilmembers, the chief of staff and the lead staff of the budget and fiscal management committee or its successor; and

E. Arrange for the bank to make a presentation to the county's executive finance

committee, at least once a year that includes an update of the community reinvestment plan and a report on the progress of fulfilling commitments in the plan.