



## Legislation Details (With Text)

**File #:** 47865      **Version:** 1      **Name:** EULA Software Click-Thru Agreements  
**Type:** Ordinance      **Status:** Passed  
**File created:** 6/30/2017      **In control:** FINANCE COMMITTEE  
**On agenda:** 9/19/2017      **Final action:** 9/19/2017  
**Enactment date:** 9/28/2017      **Enactment #:** ORD-17-00097

**Title:** Amending Section 39.02(9)(b) of the Madison General Ordinances to exempt certain small dollar software purchases made with a click-through EULA from the nondiscrimination language required for City contracts.

**Sponsors:** Samba Baldeh

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
9/19/2017	1	COMMON COUNCIL	Adopt	Pass
9/11/2017	1	FINANCE COMMITTEE	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
8/8/2017	1	AFFIRMATIVE ACTION COMMISSION	Return to Lead with the Recommendation for Approval	Pass
7/11/2017	1	FINANCE COMMITTEE	Refer	
7/11/2017	1	COMMON COUNCIL	Refer	Pass
6/30/2017	1	Attorney's Office/Approval Group	Referred for Introduction	

### Fiscal Note

No fiscal impact.

### Title

Amending Section 39.02(9)(b) of the Madison General Ordinances to exempt certain small dollar software purchases made with a click-through EULA from the nondiscrimination language required for City contracts.

### Body

DRAFTER'S ANALYSIS: This amendment is a companion to Resolution ID# 47764 which seeks Common Council permission for City of Madison IT staff to bind the City to a contract by clicking on an online "End User License Agreement" (EULA) when necessary to purchase certain software. Under the current ordinance, all contracts made by the City, regardless of dollar amount or the nature of the purchase, must include a specific nondiscrimination clause set forth in Sec. 39.02(9)(b), MGO. Only state or federal units of government and department head employment contracts are exempt. When purchasing software online using a "click-through" procedure, there is no mechanism for the City to add contract language to the purchase. This amendment would create a narrow exemption allowing such purchases to be made without the nondiscrimination language of Sec. 39.02(9)(b) shown in the text below. (See ID# 47764 for more information about such purchases.) This amendment also clarifies an inconsistency by removing the reference to "services" in the second paragraph. This ordinance amendment and the companion Resolution #47764 should be considered and adopted simultaneously.

\*\*\*\*\*

The Common Council of the City of Madison do hereby ordain as follows:

Subdivision (b) of Subsection (9) entitled "Contract Compliance Provisions" of Section 39.02 entitled "Affirmative Action Ordinance" of the Madison General Ordinances is amended to read as follows:

"(b) Notwithstanding the provisions of Sec. 39.02(9)(a)2., providing for certain exemptions from the provisions of this ordinance, every contract to which the City of Madison is a party shall contain the following language, except for contracts with the State of Wisconsin, another state government, the United States of America or individual agencies of the U.S. government, and written employment contracts between the City and City employees; and contracts authorized by Resolution No. RES-XX-XXXXX:

~~In the performance of the services under~~ During the term of this Agreement contract, the Contractor agrees not to discriminate against any employee or applicant because of race, religion, marital status, age, color, sex, handicap, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, gender identity, political beliefs, or student status. Contractor further agrees not to discriminate against any subcontractor or person who offers to subcontract on this contract because of race, religion, color, age, disability, sex, sexual orientation, gender identity or national origin."