



Legislation Text

File #: 60116, **Version:** 1

Fiscal Note

On March 23, 2020, the Mayor issued an Emergency Proclamation based on the increasing transmission of the COVID-19 virus within the City of Madison. To help mitigate the financial impacts of this emergency on the businesses and residents of Madison, the proposed resolution allows the Mayor and Finance Director, with consultation from the City Attorney, to enter into emergency contracts for the protection of the public health, safety and welfare of the general public. The change also allows authorizes extending or amending existing contracts.

This change does not have immediate impact; however, it may result in expenditures not currently assumed in the 2020 budget. These costs will be monitored by the Finance Director and reported to the Common Council with an budget amendment resolution for approval.

Title

Establishing procedures to negotiate and execute emergency leases, contracts and contract amendments during the emergency situation.

Body

WHEREAS, on March 23, 2020, pursuant to Madison General Ordinance Section 3.19, the Mayor issued an Emergency Proclamation, based on the increasing transmission of COVID-19 within the City of Madison; and

WHEREAS, on March 24, 2020, the Governor of Wisconsin issued Emergency Order #12 ordering individuals to remain home except for Essential Travel; and

WHEREAS, as part of the Governor's Order all Nonessential Businesses are required to close; and

WHEREAS, the closure of numerous businesses throughout the City has the potential to have significant financial impact on residents, necessitating changes to existing City contracts; and

WHEREAS, the impact of the Governor's Order and the circumstances of the pandemic will be widespread upon businesses, community organizations, their employees and the communities they serve, as well as the City's ability to provide essential services; and

WHEREAS, this includes nonprofit and community organizations that currently contract with the City of Madison to provide a variety of services to the residents of Madison; and

WHEREAS, the emergency may also require the City to enter into emergency leases for buildings or land, which would otherwise require individual Common Council approval; and

WHEREAS, to expedite other purchases and contract negotiations in face of the pandemic it is necessary to waive several ordinance and policy requirements; and

WHEREAS, the emergency may also require the City to quickly and efficiently modify existing contracts of all kinds, to extend deadlines or make other changes in response to the emergency, such contracts include but are not limited to purchase contracts, grants to or from the City, and contracts for purchase of services from community service providers, and some of these amendments would normally require Common Council approval and the Mayor and City Clerk's signature;

NOW, THEREFORE, BE IT RESOLVED, the Mayor and Finance Director, upon approval of the City Attorney, may enter into and execute emergency contracts for the possession of real estate, including but not limited to leases of buildings, land, real property and related agreements if necessitated by the public emergency for the protection of the public health, safety and welfare; and shall report the same to the Common Council as soon as practicable; and

BE IT FURTHER RESOLVED, this resolution does not impact or change the existing process for emergency contracts that can be made by department heads under the authority of MGO 4.26(4)(c), or those authorized as a public works emergency, or any other existing legal authority for emergency contracting. Such contracts can continue to be made under their respective authority and process; and

BE IT FURTHER RESOLVED, that authority is granted to Department Heads to negotiate and execute contract amendments without Common Council approval, subject to review by the City Attorney and Finance Director or their designees, and subject to the following criteria:

- (1) The contract amendment is needed to:
 - (a) Extend or change a deadline for the contractor or the City, necessitated by the emergency, including extending the end date of the contract;
 - (b) Modify the scope of work or scope of services for reasons due to the emergency; including but not limited to CDD/OCS contracts where the nature of the work is changed in response to the emergency; or
 - (c) Change payment terms for the contractor for reasons due to the emergency; or
 - (d) Make such other changes as deemed necessary due to the emergency; and
- (2) The City Attorney and Finance Director or their designees have approved the form of the amendment and fiscal impact, and such approval may be given via email.

BE IT FURTHER RESOLVED, that the following procedure be used for emergency contracts or amendments executed by a Department Head pursuant to this resolution:

- (1) In addition to the Department Head, the Finance Director/designee shall sign any new contract or amendment that triggers additional expenditure as required by state statute, but need not sign other new contracts or amendments;
- (2) Any requirement for the City Clerk or Risk Manager to sign such amendments or contracts are waived;
- (3) Approval as to form by the City Attorney may be given via email; and
- (4) Department heads shall report all such contracts and contract amendments to the Common Council as soon as practicable.

BE IT FINALLY RESOVLED, that all of the above procedures are effective immediately and shall expire sixty (60) days after the time that the Director of Public Health Madison and Dane County and the Governor of Wisconsin determine to end the emergency actions that they have taken to combat the coronavirus pandemic.