

ORDINANCE NO. 051, 2019
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING SECTION 8-161 OF THE CODE OF THE CITY OF FORT COLLINS
TO ADD AN EXCEPTION TO THE COMPETITIVE PURCHASING PROCESS FOR
PURCHASES OF VIDEO CONTENT LICENSING

WHEREAS, the Charter of the City of Fort Collins contains provisions concerning purchasing practices in Article V, Part IV; and

WHEREAS, Chapter 8, Article IV of the Code of the City of Fort Collins prescribes particular methods for competitive purchasing for the construction of improvements and the procurement of services and materials; and

WHEREAS, on November 7, 2017, a majority of the City's electorate approved an amendment to the City Charter to authorize the City to operate and maintain telecommunications utility facilities, including Internet facilities and services using technology having the capacity to transmit data to enable users to originate and receive high-quality voice, data, graphics and video; and

WHEREAS, on January 16, 2018, City Council adopted Ordinance No. 011, 2018, establishing a telecommunications division within the City's electric utility ("Fort Collins Connexion") and authorizing the Electric Utility Enterprise to exercise powers, consistent with the City Charter at Art. XII, §7(b), regarding funding for the provision of telecommunication facilities and services; and

WHEREAS, pursuant to authorities granted in the City Charter and City Code, the City has begun acquisition and construction of telecommunications utility facilities in preparation for Fort Collins Connexion to deliver Internet, telecommunication, and video services; and

WHEREAS, City staff has reviewed the competitive purchasing requirements in the City Code and identified various issues that inhibit efficient procurement of video content licensing rights by Fort Collins Connexion, due to the nature and practices of the video content rights market, including uniqueness and limited availability of comparable content, consolidation of supply, and proprietary content restrictions imposed by content developers on bundling and duration of licensing; and

WHEREAS, based on the uniqueness of the video content market and the need of Fort Collins Connexion to acquire such rights in order to effectively deliver telecommunication utility services, staff has recommended that City Council exempt the acquisitions of video content licensing rights from the City's standard competitive purchasing practices; and

WHEREAS, City staff has recommended to City Council amendments to the City's competitive purchasing process in Chapter 8, Article IV of the City Code to specifically increase flexibility in the Purchasing Agent's exercise of authority to procure video content licensing rights for the operation of Fort Collins Connexion telecommunication facilities and services; and

WHEREAS, City Council has determined the amendments described in this Ordinance are in the best interests of the City and its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

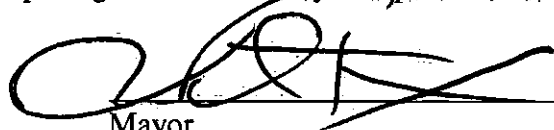
Section 2. That Section 8-161 of the Code of the City of Fort Collins is amended by the addition of a new subsection (g) which reads in its entirety as follows:

Sec. 8-161. Exemptions to use of competitive bid or proposal.

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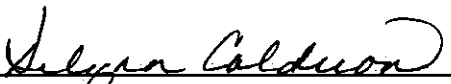
(g) *Purchase of content for City-delivered video programming and streaming services.* The Purchasing Agent shall have the authority to negotiate without formal competition the purchase of video content licensing rights for the City's delivery of cable or other subscriber video content, programming, and streaming services. The Purchasing Agent is authorized to procure such licensing from local channels, individual channels and channel families, and video content aggregation companies when he or she determines i) viable market demand supports obtaining rights to deliver the specific content, and ii) the anticipated cost to acquire such rights is reasonable based on the uniqueness of the content, region, and market. The Purchasing Agent shall submit a summary of such transactions and determinations to the City Manager's Office for each purchase under this Subsection. The Purchasing Agent and the City Manager designee with direct responsibility to manage City telecommunication facilities and services, as defined in Section 7(f) of Charter Article XII, shall jointly advise City Council regarding any purchase under this Subsection that exceeds an annual cost of one million dollars (\$1,000,000).

Introduced, considered favorably on first reading, and ordered published this 19th day of March, A.D. 2019, and to be presented for final passage on the 16th day of April, A.D. 2019.



Mayor

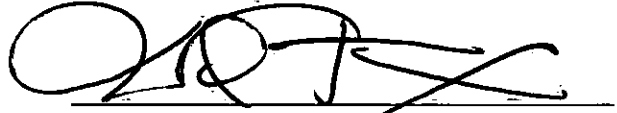
ATTEST:



City Clerk



Passed and adopted on final reading on the 16th day of April, A.D. 2019.



Mayor

ATTEST:



City Clerk

