



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Councilmember Johnny Khamis  
District 10

**SUBJECT:** CONSTRUCTION CONTRACT DATE: August 6, 2018  
PROCUREMENT MODERN-  
IZATION BALLOT MEASURE

Approved by:

Date:

## RECOMMENDATION:

Modify the language in Exhibit A of the Resolution, section (c)(1), paragraph (ii) as follows:

The City will designate a panel to evaluate the qualifications of the bidders and to assign to each bidder a qualification score. The panel will base the qualification score on an evaluation of objective criteria that may include, but is not limited to, a bidder's safety record, past performance, labor compliance history of wage violations, apprenticeship program participation, demonstrated management competence, financial condition and relevant experience.

## ANALYSIS:

I am grateful to staff for addressing some of my concerns over "best value" contracting, such as by modifying the resolution to read "Prioritize selecting contractors on cost, but enable consideration of factors like experience and work quality," although I still have concerns around the use of the term "labor compliance" in the resolution.

The term "labor compliance" is far too broad and creates a situation where small and minority-owned businesses could be unnecessarily disadvantaged in the bidding process. "Labor compliance does not fit with an "evaluation of objective criteria" because it could be easily manipulated into a subjective evaluation tool, such as whether or not an employer hires through a union hall or contributes to the causes someone deems appropriate. My original objection to a change from "lowest responsible bidder" to "best value" in contracting was the subjectivity that could be introduced that might result in "best friend" or "most powerful constituency" bid awards and I am concerned that the current Resolution language leaves the door open to these sorts of shenanigans.

If my colleagues are willing to adopt this small revision to the Resolution to make it less subjective, I am willing to join them in support of placing this ballot measure before the voters.