



# City of Norman, OK

Municipal Building  
Council Chambers  
201 West Gray  
Norman, OK 73069

## Master

**File Number: O-2021-28**

**File ID:** O-2021-28

**Type:** Ordinance

**Status:** Non-Consent Items

**Version:** 1

**Reference:** Item 50

**In Control:** City Council

**Department:** Legal Department

**Cost:**

**File Created:** 12/02/2020

**File Name:** Performance Based Efficiency Contract

**Final Action:**

**Title:** CONSIDERATION OF ORDINANCE O-2021-28 UPON SECOND AND FINAL READING: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING CHAPTER 8, SECTION 204 OF THE CODE OF THE CITY OF NORMAN TO ALLOW PERFORMANCE BASED EFFICIENCY CONTRACTS, AS AUTHORIZED BY STATE LAW, AS AN EXCEPTION TO COMPETITIVE BIDDING; AND PROVIDING FOR THE SEVERABILITY THEREOF.

**Notes:** ACTION NEEDED: Motion to adopt or reject Ordinance O-2021-28 upon Second Reading section by section.

ACTION TAKEN: \_\_\_\_\_

ACTION NEEDED: Motion to adopt or reject Ordinance O-2021-28 upon Final Reading as a whole.

ACTION TAKEN: \_\_\_\_\_

**Agenda Date:** 01/12/2021

**Agenda Number:** 50

**Attachments:** O-2021-28 Clean, O-2021-28 Annotated

**Project Manager:** Kathryn Walker, City Attorney

**Entered by:** kathryn.walker@normanok.gov

**Effective Date:**

### History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	12/08/2020	Introduced and adopted on First Reading by title only				Pass
<b>Action Text:</b> That this Ordinance be Introduced and adopted on First Reading by title only. by consent roll call							

## Text of Legislative File O-2021-28

Body

**BACKGROUND:** Under Section 8-204 of the City Code, competitive bidding is generally required for any purchase of, or contract for, supplies, materials, equipment, or contractual services, subject to a few exceptions. Although performance based efficiency contracts are allowed by state law, they are not allowed under our Code as an exception to competitive bidding. A performance-based efficiency contract is defined under state law as a:

“contract for the design, development, financing, installation and service of any improvement, repair, alteration or betterment of any building or facility owned, operated or planned by a public entity; or any equipment, fixture or furnishing to be added to or used in any such building or facility; or any maintenance or operational strategy that is designed and implemented that will reduce utility consumption or lower operating costs, result in annual operating cost savings, generate additional revenues or avoid capital cost incurrence..” 62 O.S. § 318.

They typically include projects related to utility services, HVAC systems, lighting fixtures, water-metering devices, and other operational improvements that could result in a savings to the City. These projects are designed to capture cost savings to offset the annual cost of the contract. State law requires that such contracts must provide for reimbursement to the City annually for any shortfall of guaranteed savings. Because this method of contract delivery operates as an exception to the City’s requirement for competitive bidding, an amendment to the code is required in order for the City to take advantage of such opportunities.

**DISCUSSION:** Ordinance O-2021-28 adds performance-based efficiency contracts to the list of exceptions under the general competitive bidding requirement found in Section 8-204 of the Code. The amendment references the applicable state law, which sets forth the general requirements for these types of contracts. With adoption of this ordinance, the City will be able to move forward with some pending projects that would capitalize on energy savings in the performance-based contract delivery method.

**RECOMMENDATION:** Staff recommends adoption of Ordinance O-2021-28 on Second and Final Reading.