

ORDINANCE # 42H

AN ORDINANCE AMENDING SECTION 2-700
OF THE CITY OF BELVIDERE MUNICIPAL CODE

NOW, THEREFORE BE IT ORDAINED by the Mayor and City Council of the City of Belvidere, Boone County, Illinois, as follows:

SECTION 1: Section 2-700 of the City of Belvidere Municipal Code is amended to read as follows:

Sec. 2-700. Purchasing Guidelines and Bidding Procedures.

(a) *Formal contract procedure.* All construction or other public improvements and all purchases, orders or contracts for supplies, commodities, equipment or services, except as otherwise provided herein, when the estimated cost thereof shall exceed \$10,000.00, shall be purchased from the lowest responsive and responsible bidder or proposer after due notice inviting bids, unless the city waives the competitive bidding process by a vote of two-thirds of the city council then holding office.

(b) *Public notice.* Public notice of a bid request shall be published at least ten days in advance of the date announced for the receiving of bids, in a newspaper of general circulation throughout the city. Additional announcements may also be placed in recognized trade journals and other publications, and/or sent directly to known providers. The public notice shall describe the character of the proposed contract or agreement in sufficient detail to enable the bidders thereon to know what their obligations will be, either in the advertisement itself, or by reference to detailed bid/ for proposal packages on file at the time of the public notice. Such advertisement shall also state the date, time and place assigned for the opening of bids, and no bids shall be received at any time subsequent to the time indicated in the announcement. The city shall inform all parties that have received bid/proposal packages of any specification changes or bid opening extensions by written addendum thereof via mail or fax transmission as appropriate. The notice of bid, and contract documents, shall also provide that all contractors and subcontractors shall pay not less than the prevailing rate of wages, shall comply with the Illinois Prevailing Wage Act and shall comply will all other relevant statutes, regulations and ordinances.

(c) *Bid security.* Unless otherwise required by law, a cashier's check, a certified check or a bid bond issued by a surety company, which is listed and approved by the U.S. Department of the Treasury, in an amount of ten percent of the contract may be required of each bidder by the city. The bid security shall be returned to the unsuccessful bidders within such time as specified in the bid package. A successful bidder shall forfeit its bid security upon failure on its part to enter into a contract within 15 days after the award. In its sole discretion, the city may return the bid security when it is determined that such successful bidder's failure to enter a contract did not cause any damage to the city. The city shall retain the right to hold such successful bidder liable for any excess damage or costs incurred by reason of the failure to execute contracts over and above the bid security retained by the city.

(d) *Bids opening.* Competitive sealed bids shall be opened in the presence of one or more witnesses at the time and place designated in the public notice. The amount of each bid and name of each bidder shall be publicly read for competitive sealed bids. All information

contained within the bids/proposals is the property of the city, and as such is not subject to public inspection until such time as the city council awards a contract, rejects all bids or abandons the project.

(e) *Award of contract.* Contracts shall be awarded to the lowest responsive and responsible bidder on the basis of the bid that is in the best interest of the city to accept. As a part of the evaluation process, and in addition to price, the city shall evaluate the responsiveness and responsibility of each bidder. To be judged responsible, a bidder must have the following capabilities in all respects to fully perform the contract requirements and will be judged against the following standards, at a minimum:

- (1) Ability, capacity and skill to fulfill the contract as specified;
- (2) Ability to supply the commodities, provide the services or complete the construction promptly, or within the time specified, without delay or interference;
- (3) Character, integrity, reputation, judgment, experience and efficient;
- (4) Quality of performance on previous contracts;
- (5) Previous and existing compliance with laws and ordinance relating to the contract;
- (6) Sufficiency of financial resources;
- (7) Quality, availability and adaptability of the commodities, services or construction, the relation to the city's requirements;
- (8) Ability to provide future maintenance and service under the contract;
- (9) Number and scope of conditions attached to the bid/proposal;
- (10) Record of payments for taxes, licenses or other monies due the city.

(f) *Award of Construction Contracts over \$20,000.* In addition to the criteria set forth in section (e) above, to be judged responsible on a construction contract estimated to cost in excess of \$20,000, a bidder must comply with the following requirements and submit evidence of such compliance, verified under oath on a form designated by the city:

- (1) Documents evidencing compliance with all applicable laws pre-requisite to doing business in Illinois;
- (2) A valid federal employer tax identification number or, if an individual, a valid social security number;
- (3) A statement of compliance with the Illinois Prevailing Wage Act (820 ILCS 130/1 et seq.), and all rules and regulations therein for the past five (5) years.

A contractor who has been found by the Illinois Department of Labor to be in violation of the Prevailing Wage Act twice within a three (3) year period may be

deemed not to be a Responsible Bidder/Proposer for two (2) years from the date of the latest finding.

- (4) Evidence of participation in apprenticeship and training programs applicable to the work to be performed on the project which are approved by and registered with the United States Department of Labor's Office of Apprenticeship, or its successor organization.
- (5) Evidence of compliance with the Substance Abuse Prevention on Public Works Projects Act (820 ILCS 265/1 et seq.)
- (6) A statement listing individuals who will perform work on the project on behalf of the contractor and evidence that:
 - (a) Individuals are properly classified as an employee or independent contractor under applicable state and federal laws; and
 - (b) Employees are covered under a workers' compensation insurance policy and properly classified under such policy.
- (7) A list of sub-contractors from whom the contractor has accepted a bid and/or intends to hire on the project, if applicable.
- (8) A statement as to past performance of the last three (3) public works projects completed by the contractor. Such statements shall include the name of the public body and the project, original contract price, final contract price, the name of all sub-contractors used, if applicable, and a statement as to compliance with completion deadlines.

All contractors, including sub-contractors, must comply with the above requirements. The primary contractor shall submit: (1) all evidence of its compliance at the time it submits its bid to the county; and (2) evidence of all sub-contractors' compliance no later than the date and time of the contract award.

(g) *Lowest Bidder Not Chosen.* When the award is not awarded to the lowest bidder, the city council shall state specific reasons for awarding the bid to other than the lowest bidder.

(h) *Multiple Low Bids.* When two or more responsible bidders submit the same low bid, the contract award shall be determined by drawing lots at a public meeting of the City Council, unless one bidder is a local contractor and one is a non-local contractor, in which event the local contractor shall be awarded the contract. For purposes of this sub-section, an entity with offices within Boone County shall be deemed a local contractor.

(i) *Insurance and Indemnification.* All contractors performing construction shall be required to indemnify, defend and hold harmless the city and to carry such insurance as reasonably required by the city attorney.

(j) *Contract bond.* Contractors performing construction activities shall provide the city with a performance and payment bond. Certain other non-construction contractors, in cases where the city might be put at risk, may also be required to submit a contract bond to the city, as determined by the city. Contract bonds shall be issued by a surety company which is listed and approved by the U.S. Department of Treasury, and which shall guarantee the performance of

the work by the contractor, the payment at the prevailing rate of hourly wages and the payment for all labor, materials, apparatus, fixtures and machinery necessary to complete the project. The city may allow bidders to provide a non-diminishing irrevocable bank letter of credit, in lieu of the bond, provided that any such bank letter of credit shall contain all the provisions required for bonds.

SECTION 2: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4: This Ordinance shall be in full force and effect on January 1, 2010, after its passage and publication in pamphlet form as required by law which publication is hereby authorized and as set forth under the Illinois Municipal Code.

Voting Aye: Bowley, Chamberlain, Crawford, Fabish, Marks, Morris, Pendzinski, Racz, Sanderson, and Schultz.

Voting Nay: None

APPROVED:



Mayor Frederic C. Brereton

ATTEST:



City Clerk Shauna Arco

(SEAL)

Passed: December 21, 2009
Approved: December 22, 2009
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