

CODE OF ORDINANCES
CITY OF SPRINGFIELD

ARTICLE III. SPECIFICATIONS COMMITTEE

§ 38.20. Committee on standardization and specifications.

(a) There is hereby established a committee on standardization and specifications which may be referred to as the "specifications committee."

(b) The specifications committee shall be composed of the purchasing agent, the director of the office of public works or his authorized representative, the director of the office of budget and management or his authorized representative, the general manager of the office of public utilities or his authorized representative, the director of the office of planning and economic development or his authorized representative and the manager of the office of community relations or his authorized representative.

(Ord. No. 431-6-93, § 1, 6-1-93; Ord. No. 670-9-95, § 1(Exh. G), 9-19-95; Ord. No. 855-12-96, § 1(Exh. A), 12-17-96; Ord. No. 585-10-03, § 1(Exh. 1), 10-21-03)

§ 38.21. Officers; meetings.

The purchasing agent shall be the chairman of the specifications committee. The city clerk or the clerk's authorized representative shall serve as secretary and keep a record of all resolutions, proceedings, and actions of the committee, which record shall be given to each committee member and be made available to the city council five working days after the meeting to which it pertains. Four members of the committee shall constitute a quorum for the transaction of its business. A majority vote of all of the committee members shall constitute approval of business before it. Regular meetings of the committee shall be held at least once each week. Special meetings may be called by the chairman or by no less than three members of the committee. Any person or his duly authorized representative shall be entitled to appear and be heard on any matter before the committee reaches a decision.

§ 38.22. Powers and duties.

The specifications committee shall have the authority to:

- (a) Prepare standardized written specifications.
- (b) Review specifications submitted by the various agencies of the city utilizing the standard written specifications to the greatest extent possible.
- (c) Approve specifications and authorize advertisements for bids.
- (d) Adopt rules of procedure for the committee.

§ 38.23. Requirements for specifications for public works contracts.

(a) The specifications committee shall include in all specifications for public works contracts a requirement that any person, firm, corporation, or other entity submitting a bid for a public works contract include in such bid:

- (1) A complete, accurate, and truthful listing and description of all citations, complaints, summons, decisions, determinations, judgments, or other allegations or findings relating to any violation of state or federal laws, which protect the health, safety, or welfare of

workers, including but not limited to the Occupational Health and Safety Act, the Family and Medical Leave Act, the Fair Labor Standards Act, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the National Labor Relations Act, the Federal Civil Rights Act, the Illinois Human Rights Act, the Illinois Wage and Hour Law, and the Prevailing Wage Act, filed against it or any entity with whom it is submitting the bid, including joint ventures and partners, and also including parent and subsidiary corporations or entities; and

(2) A statement that such bidder, and each subcontractor performing work under the public works contract for which such bid is submitted, if any, is a participant in applicable apprenticeship and training programs approved by and registered with the United States Department of Labor's Bureau of Apprenticeship and Training.

(b) Any bidder who willfully fails or refuses to include the information required in subsection (a) of this section, or whose report of such information is substantially incomplete, inaccurate, or untruthful, shall be disqualified and its bid shall be rejected.

(Ord. No. 55-02-05, § 1, 2-1-05; Ord. No. 251-05-07, § 1, 5-15-07; Ord. No. 339-06-09, § 1, 6-16-09)

ARTICLE IV. SOURCE SELECTION AND CONTRACT FORMATION**§ 38.30. Methods of source selection.**

All city contracts involving amounts in excess of \$15,000 shall be awarded by competitive sealed bidding, pursuant to section 38.31, except as provided in sections 38.38, 38.39, 38.40, 38.41 and 38.42.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96)

§ 38.31. Sealed competitive bidding.

City contracts shall be let by sealed competitive bidding after advertisement, to the lowest responsible bidder, or to the highest responsible bidder depending upon whether the city is to expend or to receive money.

§ 38.32. Advertisement for bids; deposits.

All proposals to award contracts involving amounts in excess of \$15,000 shall be published at least ten days, excluding Sundays and legal holidays, in advance of the date announced for the receiving of bids, in a secular English language daily newspaper of general circulation throughout the city and shall simultaneously be posted on readily accessible bulletin boards in the office of the purchasing agent. Nothing contained in this section shall be construed to prohibit the purchasing agent from placing additional announcements in recognized trade journals. Advertisements for bids 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 plans and specifications on file at the time of the publication of the first announcement. Such advertisements 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. However, an extension of time may be granted for the opening of such bids upon publication in a secular English language daily newspaper of general circulation throughout the city of the date to which the bid opening has been extended. The time of the bid extension opening shall not be less than five days after the publication thereof, Sundays and legal holidays excluded.

A cashier's check, a certified check or a bid bond, as a deposit of good faith, in a reasonable amount but not in excess of 10% of the contract amount may be required of each bidder by the purchasing agent in all bids involving amounts in excess of \$15,000 and, if so required, the advertisement for bids shall so specify.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96; Ord. No. 385-07-09, § 1(Exh. A), 7-7-09)

§ 38.33. Opening of bids.

All sealed bids must be publicly opened by the purchasing agent of the city, or by an officer or employee in the office of the purchasing agent duly authorized in writing by the purchasing agent to open such bids, and all such bids shall be open to public inspection.

(Ord. No. 385-07-09, § 1(Exh. A), 7-7-09)

§ 38.34. Awarding of contracts; filing of purchase order or contract; public inspection.

The award of any contract let by sealed competitive bidding shall be made to the lowest responsible bidder or the highest responsible bidder as provided in section 38.31. Each bid, with the name of the bidder, shall be entered on a record which record, with the name of the successful bidder indicated thereon, shall, after award of the contract, be open to public inspection in the office of the purchasing agent. An official copy of each awarded contract together with all necessary attachments, including assignments, shall be retained by the purchasing agent in an appropriate file open to public inspection. The city council shall award all such contracts in excess of \$100,000.00. The director of the office of budget and management may award contracts for \$100,000 or less.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96; Ord. No. 385-07-09, § 1(Exh. A), 7-7-09)

§ 38.35. Responsibility of bidders; determination.

(a) The director of the office of budget and management is empowered to award and execute contracts on behalf of the city within the purview of this article which are for \$100,000 or less, with the exception of professional services contracts determined by the purchasing agent to be exempt from sealed competitive bidding pursuant to section 38.42 of this article. The director of the office of budget and management is empowered to award and execute professional services contracts for \$25,000 or less. Professional services contracts in excess of \$25,000 shall be awarded by the city council. The corporation counsel is empowered to approve the settlement of claims which are for \$15,000 or less. The city council shall award all other contracts in excess of \$100,000 and approve the settlement of claims in excess of \$15,000.

(b) Contracts subject to bidding requirements shall be awarded to the lowest responsible bidder as determined at the sole discretion of the city council. In determining the lowest responsible bidder, the city council may consider the following as well as other criteria:

- (1) The ability, capacity and skill of the bidder to perform the contract or provide the service required;
- (2) The capacity of the bidder to perform the contract or provide the service promptly, or within the time specified, without delay or interference;
- (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder including but not limited to past performance record; default under previous contracts, whether or not such contract was with the city; competency; and failure to pay or satisfactorily settle all bills due for labor and material on former contracts;
- (4) The quality of performance of previous contracts or services;
- (5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
- (6) The sufficiency of the financial resources and financial ability of the bidder to perform the contract or service;
- (7) The quality, availability and adaptability of the supplies, machinery, plant or other equipment or contractual services to the particular use required;
- (8) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract, including guarantees;
- (9) Whether the bidder is entitled to local preference as set forth in this chapter;
- (10) Whether there has been a finding, determination, or judgment by an agency of the

state or federal government charged with the responsibility of enforcing laws and regulations which protect the health, safety, or welfare of workers, as set forth in section 38.23 of this Code, or otherwise, that the bidder has violated such statutes or regulations, and that such violation was (i) found to have been part of a pattern of similar violations, (ii) one of three or more similar violations committed within the two years immediately preceding the submission of the bid, (iii) classified by an agency of the state or federal government as serious, (iv) one which threatened the health or safety of the workers employed by the bidder, (v) one resulting in the payment of back wages and benefits of \$5,000 or more, or (vi) one that resulted or could have resulted in the debarment of the bidder from contracting with the state or federal government, or any agency thereof.

A bidder who has been found by the Illinois Department of Labor to be in violation of the Prevailing Wage Act shall be deemed not to be a responsible bidder for two years from the date of the finding.

(c) When the award is not recommended to be given to the lowest bidder, a statement of the reasons for such award recommendation shall be prepared by the purchasing agent.

(d) When two or more responsible bidders submit the same low bid, the contract award shall be determined by drawing lots in public at a meeting of the city council; unless one bidder is a local bidder and one is a nonlocal bidder, in which event the local bidder shall be awarded the contract.

(Ord. No. 824-10-92, § 1(Exh. A), 12-17-96; Ord. No. 855-12-96, § 1(Exh. A), 12-17-96; Ord. No. 721-12-03, § 1, 12-16-03; Ord. No. 55-02-05, § 2, 2-1-05; Ord. No. 385-07-09, § 1(Exh. A), 7-7-09)

§ 38.36. Rejections of bids.

Any and all bids received in response to an advertisement may be rejected by the mayor.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96)

§ 38.36.1. Bid; waiver of defects.

In awarding a contract pursuant to sealed competitive bidding, the city council may waive any variation from the bid requirements or defect in a bid which does not materially affect the competitive nature of the bid, is not in violation of any ordinance, statute or law and does not prejudice the right of the public.

A variance or defect does not materially affect the bid if the terms of the bid are clear and unambiguous, the bid contains all essential elements of the contract, if the amount or competitive nature of the bid is not affected and if the bidder has not received an unfair advantage from having seen the competitor's bid documents.

In considering any waiver, the city purchasing agent shall attempt to secure the best work or materials at the lowest price practicable and shall make such determination in a manner as to fairly and reasonably accomplish such purpose with sole reference to the public interest.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96)

§ 38.36.2. Bid; clarification.

The city purchasing agent may request clarification of a bid or any part thereof. Clarification shall mean the communication between the city and the bidder regarding the bid. Such communication shall not change the bid, the competitive nature of all bids or violate any ordinance, statute or law.

In considering any clarification the city purchasing agent shall attempt to procure the best supply, service or construction at the lowest practicable price and shall make such clarifications in such a manner as to fairly and reasonably accomplish such purpose with the sole reference to the promotion of public interest.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96)

§ 38.37. Performance bonds of bidders.

Bond, with sufficient sureties, in such amount as shall be deemed adequate, not only to insure performance of contract in the time and manner prescribed in the contract, but also to save, indemnify, and keep harmless the city against all loss, damages, claims, liabilities, judgments, costs, and expenses which may in anywise accrue against the city in consequence of the granting of the contract, or which may in anywise result therefrom, may be required of each bidder upon contracts involving accounts in excess of \$15,000 when, in the opinion of the purchasing agent, the public interest will be served thereby.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96)

§ 38.38. Competitive sealed proposals.

(a) If the purchasing agent determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the city in a particular instance, a contract may be entered into by competitive sealed proposals. The purchasing agent may also provide by regulation that it is either not practicable or not advantageous to the city to procure specified types of supplies, services or construction by competitive sealed bidding.

(b) In the event a contract is to be entered into pursuant to paragraph (a) of this section, the following shall apply:

- (1) Proposals shall be solicited through a request for proposals.
- (2) Adequate public notice of the request for proposals shall be given in accordance with the rules and regulations promulgated by the purchasing agent.
- (3) The request for proposals shall state the relative importance of price and other evaluation factors.
- (4) Proposals shall be opened in a manner so as to avoid disclosure of contents thereof to competing offerors during the process of negotiations.
- (5) The award of any contract pursuant to a competitive sealed proposal in excess of \$100,000 shall be made by the city council.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96; Ord. No. 385-07-09, § 1(Exh. A), 7-7-09)

§ 38.39. Small purchases.

Any procurement not exceeding \$15,000 shall be made in accordance with small purchase procedures delineated in the rules and regulations adopted by the purchasing agent, provided, however, that procurement requirements shall not be artificially divided so as to constitute a small purchase under this section.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96)

§ 38.40. Sole source procurement.

A contract may be awarded for a supply, service or construction item without competition when, under regulations promulgated by the purchasing agent, the purchasing agent determines in writing that there is only one source for the required supply, service, or construction item. Sole source contracts in excess of \$100,000 shall be awarded by the city council. Sole source contracts in excess of \$15,000 but \$100,000 or less may be awarded by the director of the office of budget and management.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96; Ord. No. 385-07-09, § 1(Exh. A), 7-7-09)

§ 38.41. Emergency contracts.

Purchases where an emergency immediately affects the public health, safety or welfare may be made without regard to the requirements of this chapter if authorized by the mayor; provided, however, that the mayor shall declare the emergency in writing setting out the nature of the emergency. The mayor or his designee shall inform the city council, city clerk and city treasurer, in writing, of contracts entered into or purchases made pursuant to this section.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96; Ord. No. 113-03-06, § 1, 3-7-06)

§ 38.42. Professional services.

Contracts for the services of individuals possessing a high degree of professional skill where the ability or fitness of the individual plays an important role shall not be subject to sealed competitive bidding. Professional services contracts shall be awarded pursuant to provisions found in section 38.35 (a) of this article.

(Ord. No. 385-07-09, § 1(Exh. A), 7-7-09)

§ 38.43. Assignment of contracts.

No contract shall be assignable or sublet by the successful bidder without the consent of the city council.

§ 38.44. Modification of contracts.

(a) Contract modifications involving the expenditure of 10% or less of an original contract amount previously approved by the city council may be approved by the director of the office of budget and management provided the modifications are otherwise in compliance with all applicable laws.

(b) All other contract modifications involving the expenditure of funds shall be approved by the city council unless the total expenditure under the contract, as modified, is \$100,000 or less, in which case the modifications may be approved by the director of the office of budget and management provided the modifications are otherwise in compliance with all applicable laws.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96; Ord. No. 386-07-09, § 1, 7-7-09)

§ 38.44.1. Purchases when competitive bidding is not reasonable.

A contract may be awarded pertaining to firefighting apparatus, including engines, towers and quints, without sealed competitive bidding or sealed competitive proposals when the purchasing agent determines in writing that although there exists more than one responsible source, a competitive process cannot reasonably be used or if used will result in substantially higher cost to the city, will otherwise injure the city's financial interest, or will substantially impede the city's administrative functions.

(Ord. No. 503-9-01, § 1, 9-18-01)

§ 38.45. Local preference in contract award.

For purchases in excess of \$15,000, (1) if the lowest bidding local vendor is a responsible bidder and (2) the lower responsible bidders are not local vendors and (3) if the lowest bidding local vendor's bid is higher than the nonlocal vendor by no more than 2%, then that local vendor should be considered the lowest responsible bidder. This provision shall not be applied to a contract if the funding source prohibits it through law, rule or regulation.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96; Ord. No. 130-03-04, § 1, 3-2-04)

§ 38.46. Debarment or suspension.

The mayor is authorized to debar or suspend a vendor or contractor for just cause. No vendor or contractor shall be debarred or suspended until an opinion regarding the same has been obtained from the corporation counsel and until procedures recommended by the corporation counsel have been followed. The period of debarment shall be determined by the mayor on a case by case basis, but shall not exceed three years. Reasons for debarment or suspension include without limitation the following:

- (a) Commission of fraud or a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such a contract or subcontract;
- (b) Conviction or indictment under a state or federal statute of embezzlement, theft, forgery, bribery, falsification or destruction of records, or receiving stolen property;
- (c) Conviction or indictment under a state or federal antitrust statute;
- (d) Failure or default without good cause to perform in accordance with the terms of any contract or unsatisfactory performance of any contract;
- (e) Disqualification or rejection of a bid by the vendor on three or more occasions within a three-year period; or
- (f) Debarment, disqualification or suspension by another government entity for any reason.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96; Ord. No. 55-02-05, § 3, 2-1-05)

§ 38.47. Prohibited contracts and bids.

(a) No contract shall be let or bid accepted without prior approval of the council, nor shall any person or entity contracting with the city, without prior approval of the council, subcontract, assign or sublet any contract for services or materials for the city with any person or entity that:

- (1) Is delinquent more than 60 days in paying any indebtedness owed to the city in any sum in excess of \$100;

(2) Is in violation of any of the ordinances of the city and has so continued in the violation for more than 30 days after notice to abate has been serviced; or

(3) Is delinquent more than 30 days in the payment of any tax, fee or fine which accrues to the city.

(4) Hires an alien knowing the alien is an unauthorized alien with respect to such employment or continues to employ the alien knowing the alien is or has become an unauthorized alien with respect to such employment. For purposes of this subsection, a person or other entity who uses a contract, subcontract, or exchange to obtain the labor of an alien knowing that the alien is an unauthorized alien with respect to performing such labor, shall be considered to have hired the alien for employment.

(b) Any contract let or any bid accepted in violation of this section is void.

(Ord. No. 855-12-96, § 1(Exh. A), 12-17-96; Ord. No. 457-07-07, § 1, 7-3-07)

§ 38.48. Unauthorized charges against city contracts.

(a) Any contract, with the exception of professional services contracts, for \$100,000 or less entered into by the city shall include a provision that shall read substantially as follows:

"This contract does not authorize an expenditure of city funds in excess of \$100,000 without the prior approval of the city council. The contractor agrees and acknowledges that absent such prior approval, it proceeds at its own risk with no guarantee of payment if the amount billed to the city exceeds \$100,000."

(b) Professional services contracts for \$25,000 or less entered into by the city shall include a provision that shall read substantially as follows:

"This contract does not authorize an expenditure of city funds in excess of \$25,000 without the prior approval of the city council. The contractor agrees and acknowledges that absent such prior approval, it proceeds at its own risk with no guarantee of payment if the amount billed to the city exceeds \$25,000."

(c) Any contract requiring city council approval shall include a provision that shall read substantially as follows:

"This contract does not authorize an expenditure of city funds in excess of the amount authorized by the city council unless the city council specifically approves an additional expenditure. The contractor agrees and acknowledges that absent such prior approval it proceeds at its own risk with no guarantee of payment if the amount billed to the city exceeds the amount authorized by the city council."

(Ord. No. 651-11-03, § 1, 11-19-03; Ord. No. 19-01-04, § 1, 1-6-04; Ord. No. 385-07-09, § 1(Exh. A), 7-7-09)