

CITY OF WAUKEGAN
RESOLUTION No. 19—O—07

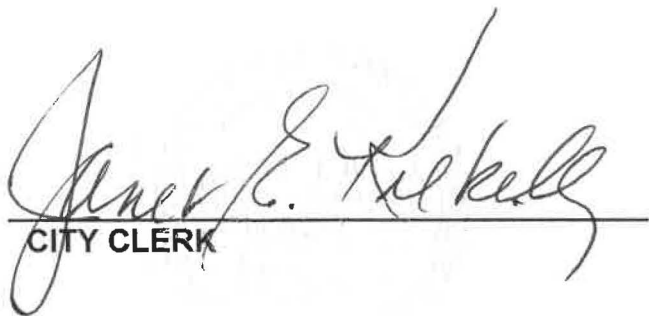
The Title of The

**AN ORDINANCE AMENDING DIVISION 2 to CHAPTER 2, ARTICLE VI OF THE
CITY OF WAUKEGAN, ILLINOIS CODE OF ORDINANCES RELATING TO
PURCHASING POLICIES**

**ADOPTED AND PASSED BY THE CITY COUNCIL
OF THE CITY OF WAUKEGAN**

**ON THE 22nd
DAY OF JANUARY, 2019**

**Published in pamphlet form by authority of the City Council, of the City of
Waukegan, Lake County, Illinois, on the 23rd day of JANUARY, 2019**


CITY CLERK

ORDINANCE NO. 19—O—07

**AN ORDINANCE AMENDING DIVISION 2 to CHAPTER 2, ARTICLE VI OF THE
CITY OF WAUKEGAN, ILLINOIS CODE OF ORDINANCES RELATING TO
PURCHASING POLICIES**

WHEREAS, the Mayor and City Council desire to implement a program to provide locally owned businesses and businesses owned and controlled by socially and economically disadvantaged individuals a fair opportunity to compete for city contracts; and

WHEREAS, the City Council desires to modernize the City's purchasing code to specifically address changes in the law with regard to federally funded projects, and the increase in 65 ILCS 5/8-9-1 raising the threshold for competitive bid requirements to \$25,000; and

WHEREAS, the City Council desires to clarify the process for change orders, and otherwise codify current practices; now therefore,

THE CITY OF WAUKEGAN, ILLINOIS, IN EXERCISE OF ITS HOME RULE POWERS does hereby Ordain as follows:

SECTION ONE: Chapter 2, Article VI, Division 2 of the City of Waukegan, Illinois Code of Ordinances, entitled "Purchasing" is hereby amended as set forth on the code attached as Exhibit A hereto. A redlined version of the code, intended to highlight the changes from existing code is attached as Exhibit B hereto

SECTION TWO: This ordinance is intended to be severable, and if any portion thereof, or of the draft code adopted hereby is deemed to be unconstitutional or violative of any law or process, the remainder shall remain in full force and effect to the maximum extent possible under law.

SECTION THREE: This Ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

EXHIBIT A:TEXT OF CODE

DIVISION 2. - PURCHASING

Sec. 2-451. - Department established.

There is hereby established an executive department of the city which shall be known as the purchasing department. The officer in charge of this department shall be appointed by the mayor with the advice and consent of the city council. Alternatively, the mayor may, at his or her discretion, direct that the finance department serve as the purchasing department.

Sec. 2-452. - Definitions.

The word "contract" as used in this article shall be an agreement between parties for the acquisition of goods or services and shall include leases and installment purchase contracts for personal property. The terms "bids," "quotes" and "proposals" shall mean a document offering to provide goods or services at a specific price within a certain amount of time.

Sec. 2-453. - Purchases under \$25,000.00.

Certain city staff, s designated by the Mayor , shall make all purchases of supplies, equipment and material needed for the use of the city and shall let all contracts for labor to be performed for the city in cases wherein the cost of the same shall be less than \$25,000.00, following the purchasing policies of the city.

Sec. 2-454. - Purchases of or over \$25,000.00.

- (a) The Mayor or their designee(s) may make contracts for the furnishing of supplies, equipment, materials and services for use of the city which are in constant use and demand, over a period of time not exceeding 12 months. The aggregate cost of supplies, equipment, materials and services furnished under such contract must not exceed the sum of \$24,999.99; nor may the period of time, over which payment under such contract is to be made, extend beyond one year. Such contracts shall be in quantities and terms as required by the departments of the city.
- (b) In all cases where such contracts involve the expenditure of a sum of \$25,000.00 and in excess thereof, the contracts shall be let to the lowest responsible bidder after advertising in the same manner as is provided by law. A minimum of three quotes or bids is required prior to the letting of the contract unless exempted or waived pursuant to subsection 2-458(i) or any subsection thereof. The city council shall award the contract to the maker of the lowest responsible quote considering but not limited to the same factors as defined in section 2-459. All contracts for work or other public improvements shall continue to be provided for in the manner prescribed by the Illinois Municipal Code as codified at 65 ILCS 5/8-9-1.
- (c) All quotes must be submitted in writing. Electronic submissions are also accepted. When possible, all quotes related to the same purchase shall be opened simultaneously at a time determined by Mayor or their designee, which will be provided to the businesses or entities making the quotes. If this is not possible, no quotes shall be made available for public inspection until all quotes are received.

Sec. 2-455. - Terms of purchase.

It shall be the duty of the Mayor or their designee(s) to make or supervise the making of all contracts upon the most advantageous terms and to this end, he or she shall procure competitive proposals from at least three responsible persons or companies, when it is possible to do so, and shall take advantage of the lowest prices quoted for goods of equal value. Any bids so received shall be filed with the requisition pursuant to which the expenditures are made.

Sec. 2-456. - Bills.

The finance department shall receive all bills for supplies, materials and labor furnished upon orders issued by the Mayor or their designee(s), and shall certify their correctness as to prices, extensions and totals.

Sec. 2-457. - Record of purchases.

The finance department shall keep, or cause to be kept, a record of all purchases made and reported to him or her and the city clerk shall keep, or cause to be kept, all contracts let under the provisions of sections 2-453 through 2-456 inclusive.

Sec. 2-458. - Procedure for contract bids.

- (a) *Specifications.* All contracts when the expense thereof will exceed \$25,000.00, shall be based on specifications prepared under the direction of the Mayor procuring the goods or services, or their designee(s), and advertised for quotes and/or bids. When deemed necessary by the Mayor or their designee(s), completion of notarized city application forms by the bidders may be required, and/or bid deposits shall be prescribed in the public notices inviting bids. The amount of such deposits shall be in an amount no greater than ten percent and in a form prescribed by the invitation to bid. All bid deposits shall be returned to unsuccessful bidders within five days of the contract award.
- (b) *Advertisement.* Advertisement for bids shall be placed on the city's website no less than ten days prior to the date of receiving or opening such bids. At the discretion of the Mayor, or their designee(s), advertisements for bids may also be placed in a newspaper of general circulation printed and published in the city, the last advertisement to be no less than ten days prior to the date of receiving or opening such bids.
- (c) *Bids opened.* All bids submitted shall be sealed. All sealed bids shall be opened by the city clerk or their designee in the council chambers or at such other place as determined by the city clerk, at a time determined by the city clerk in the notice to bidders and shall remain open to public inspection until the award of contract is made.
- (d) *Award; right to reject.* The council shall determine the most advantageous bid for the city, but shall always in every such advertisement reserve the right to reject any and all bids. The council may take into consideration the quality of material and responsibility of any and all bidders.
- (e) *Specifications on file.* During the pendency of advertisement of a proposed contract, specifications therefor shall be on file in the office of the department head for which the contract is to be let, subject to the inspection of all parties desiring to bid.

- (f) *Council actions.* Nothing in this division shall preclude the council from directing advertisement on contracts and specifications for bids on contracts in lesser amounts than \$25,000.00, if in their opinion it would be advantageous to the city to do so.
- (g) *Bids; tabulation and approval.* All bids shall be tabulated by the Mayor, or their designee(s) who are procuring goods or services.. No bidder or representative of any bidder shall appear before the committee or approach any member of the council concerning such bid, unless requested to do so by the committee. The committee may, in its discretion, reject any bid wherein the bidder or a representative has sought to change or alter the written terms of his bid, or approach any officer of the city or council member in respect thereto after the bids have been submitted.
- (h) *Performance bonds.* To protect the interest of the city, a performance bond in an amount deemed adequate by the city council may be required from the successful bidder before entering into the contract. If such bond is required and is not provided within 15 days of the award of such contract, the award shall be void. The contractor shall furnish such other bonds or insurance as may be required by law, the city or specifications. The amounts and types of these bonds and insurance shall be set forth in the bid specifications.
- (i) *Exceptions to competitive bidding requirement.* Notwithstanding any provision of this division to the contrary, the competitive bidding procedures and requirements may be dispensed with in any of the following instances:
 - (1) The city council may authorize a purchase or award a contract, without complying with the provisions of this division provided that, while in public session, it has received competent information and data supporting the fact that the product or service desired is provided by only one person or firm.
 - (2) By a vote of two-thirds of the corporate authorities, the city council may authorize the purchase of materials, supplies, equipment and services or order work performed by city or non-city forces upon a finding supported by competent information or data that such purchase or work is necessary to meet a bona fide operating emergency. Such emergency shall be explained on the record.
 - (3) Any agreement involving acquisition of service, equipment or article entered into with another governmental entity, including without limitation any supply pools set up by any other governmental agency in accordance with the Governmental Joint Purchasing Act, 30 ILCS 525.
 - (4) All contracts for professional services, including, but not limited to, attorneys, engineers, real estate appraisers, architects, insurance and city planners may be entered into by the city without observing the bidding procedures prescribed by this division for the award of contracts.
 - (5) Contracts which by their nature are not adapted to award by competitive bidding, such as, but not limited to, contracts for the services of individuals possessing a high degree of skill where the ability or fitness of the individual plays an important part may be entered into by the city without observing the bidding procedures prescribed by this division for the award of contracts.
 - (6) In all contracts, other than for works or other public improvements, which are not to be paid for in whole or in part by special assessment or special taxation, when the

expenses thereof will exceed \$25,000.00 the city council may, by a vote of two-thirds of the corporate authorities elected, elect not to require the bidding procedure provided under this division when the city chooses to purchase items under a state contract.

- (7) By vote of two-thirds of the corporate authorities, the city council may waive any bid requirement, including without limitation, the need to obtain at least three bids. The good-faith basis for this waiver must be stated on the record.
- (8) Contracts for utility services such as water, light, heat, or telephone.

Sec. 2-459. - Contracts to be awarded to lowest responsible bidder; defined.

- (a) *Considerations.* Contracts shall be awarded to the lowest responsible bidder. In determining "lowest responsible bidder," in addition to price, the city council shall consider:
 - (1) The ability, capacity and skill of the bidder to perform the contract or provide the service required.
 - (2) Whether the bidder can 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.
 - (4) The quality of performance of previous contracts for 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 ability of the bidder to perform the contract or provide the service.
 - (7) The quality, availability and adaptability of the supplies, 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.
 - (9) The number and scope of conditions attached to the bid.
- (b) *Local vendors.* If two or more bids are received which are substantially equal the contract shall be awarded to a local bidder. If bids are identical, and all or none of such bidders maintain a place of business in this city, the contract shall be awarded by drawing lots.
- (c) *Local hiring.* In its consideration of substantially similar bids, the council may also take into consideration any promise, commitment, or plan by the bidder to utilize the labor of Waukegan residents in the performance of the contract.
- (d) *Public works contracts.* For the purposes of this section, the term "public works" shall have the same definition as found in the Illinois Prevailing Wage Act, 820 ILCS 130.1, et seq. In addition to price and to the requirements set out above, in determining whether a contractor is a "responsible bidder" for the award of a public works contract, the contractor shall submit the information and supporting documentation set forth below in order for the bid to be considered. All required documentation shall be submitted at the same time as the bid itself to the city:
 - (1) All applicable laws prerequisite to doing business in the state.

- (2) Evidence of compliance with:
 - a. Federal employer tax identification number or tax identification number (for individuals).
 - b. A statement of compliance with provisions of Federal Equal Opportunity Employer requirements.
- (3) Certificates of insurance indicating at a minimum the coverages required by section 6-27, subsection 122.2 of this Code, for contractor registration in the city, and all coverages required by state law.
- (4) Compliance with all provisions of the Illinois Prevailing Wage Act, 820 ILCS 130.1, et seq.
- (5) Evidence of participation in apprenticeship and training programs which are approved by the United States Department of Labor, Bureau of Apprenticeship and Training. The required evidence includes a copy of all applicable apprenticeship standards and apprenticeship agreement(s) for any apprentice(s) who will perform on the public works project.
- (6) A statement listing all employees who will perform work on the public works project and evidence that all listed employees are covered by a health and welfare plan and a retirement plan.
- (7) Evidence of any professional or trade license required by law or local ordinance for any trade or specialty area in which the contractor is seeking a contract award. Additionally, the contractor must disclose any suspension or revocation of such license held by the company, or of any director, officer, or manager of the company any material changes to the contractor's status, at any time, must be reported in writing to the city within 14 days of its occurrence. Failure to comply with this requirement is grounds for the contractor to be deemed non-responsible.

Sec. 2-460. - Disbursement of funds.

Funds of the city shall be disbursed only by check, draft or order signed by the facsimile signature of the mayor and treasurer.

Sec. 2-461. - Disadvantaged Business Enterprise and City of Waukegan Business Program.

(a) *Definitions.*

Contract for public works or improvement project. Any contract with the city for construction, alteration, demolition, or repair work.

Waukegan Business. A business domiciled within the boundaries of the city for at least one year immediately preceding the date of the award of the contract by the city which holds a current and active Business License issued by the city. .

Disadvantaged Business Enterprise. A company current and active certification under the State of Illinois Department of Central Management Services' (CMS) Business Enterprise Program (BEP) as disadvantaged business enterprise including a minority owned business

(MBE), female owned business (FBE) or disabled-person owned business (PBE), or have current and active certification issued by CMS as a Veterans Business Program (VBP).

- (b) *Consideration Granted.* All city contracts with an estimated value of \$25,000.00 or more, to be financed in whole or in part with public funds of the city, shall contain provisions allowing the bidder to submit an alternative bid with a contract directly let by a firm which meets the Waukegan Business or Disadvantaged Business Enterprise definitions, or if proposing a joint venture no less than 10% percent of the proposal includes firms which meet definitions of the same. Notwithstanding any other provision of this Division, the City Council may award the contract, even if the pricing is higher than the lowest bid, to a firm or firms meeting these requirements with a two-thirds vote of the Council to leverage the city's core values of fairness and equal opportunity.
- (c) *Required documentation.* If opting to provide an alternative bid, the contractor shall provide proof of BEP and/or VBP certification, or City of Waukegan Business License status, and file with the city clerk an affidavit certifying the accuracy of the above-referenced information.
- (d) *Binding on subcontractors.* If awarded a contract under the alternative bid, the contractor shall be required to submit and make available to the city all information required by this section relative to any of its subcontractors.
- (e) *Contracts; bid documents.* Contracts and bid documents which incorporate this section by reference and shall provide that the failure of any contractor or subcontractor to comply with any of its requirements shall be deemed a material breach of the contractor or subcontract. All subcontracts shall expressly acknowledge the city's status as a third party beneficiary to that subcontract and further expressly acknowledge that the city, as a third party beneficiary, shall have the right to enforce the provisions of this section with regard to that subcontract or seek remedies available under this section should a party to the subcontract fail to comply with any of the provisions of this section that apply to the subcontract. Contracts and bid documents shall further require bidders, contractors, and subcontractors to maintain records necessary for monitoring their compliance with this section.
- (f) *Penalty for noncompliance.* Any person found to have violated any provision of this section, including but not limited to the failure to provide BEP certification, the filing of a false affidavit, or the failure to comply with the requirement to have at least 10 percent of the total vendors contracted or subcontracted on a public works or improvement project be certified under the BEP and/or VBP program, shall be subject to the general penalties provided for in section 1-13 of this Code, in addition to any other legal or equitable remedies available to the city. Such other remedies include, but are not limited to, injunctive relief and/or an action in breach of contract of the construction contract, and could subject the contractor to, among other remedies, liquidated damages of \$1,000.00 for each day that the breach commences or continues.

Sec. 2-462. - Change orders.

- (a) In the event a contract necessitates any increase in the original contract price of 5% of the City Council approved annual amount, but not to exceed \$5,000, the Mayor or their designee may grant approval of the change order.

- (b) Contract increase changes in the aggregate of 5% of the approved annual contract amount, and / or in excess of \$5,000, must be resubmitted to the city council for authorization before a change order may be issued.
- (c) The Mayor or their designee may determine that a change order which significantly changes the nature, value, or scope of the contract requires resubmission to the bidding process under the provisions of section 2-458.

Sec. 2-463. - Ethical procurement.

All parties involved in the procurement of goods and services on behalf of the City of Waukegan shall promote good governance. Activities which violate the public trust including, but not limited to bid rigging, kickbacks, stringing of bids or other actions which conflict with section 2-194 or the Public Contracts under the State of Illinois Criminal Code Act, 720 ILCS 5/Art. 33E., are prohibited.

Sec. 2-464. – Procurement of property and services under a Federal Award.

All parties involved in the procurement of goods and services on behalf of the City of Waukegan under a Federal Award shall ensure compliance with Office of Management and Budget (OMB) Procurement Standards 200.317 through 200.328, or, to any successor or substitute provisions enacted or adopted hereafter.

Secs. 2-465—2-485. - Reserved.

EXHIBIT B: REDLINE

DIVISION 2. - PURCHASING

Sec. 2-451. - Department established.

There is hereby established an executive department of the city which shall be known as the purchasing department. The officer in charge of this department shall be appointed by the mayor with the advice and consent of the city council. Alternatively, the mayor may, at his or her discretion, direct that the finance department serve as the purchasing department.

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- (b) In all cases where such contracts involve the expenditure of a sum of \$25,000.00 and in excess thereof, the contracts shall be let to the lowest responsible bidder after advertising in the same manner as is provided by law. A minimum of three quotes or bids is required prior to the letting of the contract unless exempted or waived pursuant to subsection 2-458(i) or any subsection thereof. The city council shall award the contract to the maker of the lowest responsible quote considering but not limited to the same factors as defined in section 2-459. All contracts for work or other public improvements shall continue to be provided for in the manner prescribed by the Illinois Municipal Code as codified at 65 ILCS 5/8-9-1.
- (c) All quotes must be submitted in writing. Electronic submissions are also accepted. When possible, all quotes related to the same purchase shall be opened simultaneously at a time determined by Mayor or their designee, which will be provided to the businesses or entities making the quotes. If this is not possible, no quotes shall be made available for public inspection until all quotes are received.

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It shall be the duty of the Mayor or their designee(s) to make or supervise the making of all contracts upon the most advantageous terms and to this end, he or she shall procure competitive proposals from at least three responsible persons or companies, when it is possible to do so, and shall take advantage of the lowest prices quoted for goods of equal value. Any bids so received shall be filed with the requisition pursuant to which the expenditures are made.

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The finance department shall receive all bills for supplies, materials and labor furnished upon orders issued by the Mayor or their designee(s), and shall certify their correctness as to prices, extensions and totals.

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The finance department shall keep, or cause to be kept, a record of all purchases made and reported to him or her and the city clerk shall keep, or cause to be kept, all contracts let under the provisions of sections 2-453 through 2-456 inclusive.

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- (b) *Advertisement.* Advertisement for bids shall be placed on the city's website no less than ten days prior to the date of receiving or opening such bids. At the discretion of the Mayor, or their designee(s), advertisements for bids may also be placed in a newspaper of general circulation printed and published in the city, the last advertisement to be no less than ten days prior to the date of receiving or opening such bids.
- (c) *Bids opened.* All bids submitted shall be sealed. All sealed bids shall be opened by the city clerk or their designee in the council chambers or at such other place as determined by the city clerk, at a time determined by the city clerk in the notice to bidders and shall remain open to public inspection until the award of contract is made.
- (d) *Award; right to reject.* The council shall determine the most advantageous bid for the city, but shall always in every such advertisement reserve the right to reject any and all bids. The council may take into consideration the quality of material and responsibility of any and all bidders.
- (e) *Specifications on file.* During the pendency of advertisement of a proposed contract, specifications therefor shall be on file in the office of the department head for which the contract is to be let, subject to the inspection of all parties desiring to bid.

- (f) *Council actions.* Nothing in this division shall preclude the council from directing advertisement on contracts and specifications for bids on contracts in lesser amounts than \$25,000.00, if in their opinion it would be advantageous to the city to do so.
- (g) *Bids; tabulation and approval.* All bids shall be tabulated by the Mayor, or their designee(s) who are procuring goods or services.. No bidder or representative of any bidder shall appear before the committee or approach any member of the council concerning such bid, unless requested to do so by the committee. The committee may, in its discretion, reject any bid wherein the bidder or a representative has sought to change or alter the written terms of his bid, or approach any officer of the city or council member in respect thereto after the bids have been submitted.
- (h) *Performance bonds.* To protect the interest of the city, a performance bond in an amount deemed adequate by the city council may be required from the successful bidder before entering into the contract. If such bond is required and is not provided within 15 days of the award of such contract, the award shall be void. The contractor shall furnish such other bonds or insurance as may be required by law, the city or specifications. The amounts and types of these bonds and insurance shall be set forth in the bid specifications.
- (i) *Exceptions to competitive bidding requirement.* Notwithstanding any provision of this division to the contrary, the competitive bidding procedures and requirements may be dispensed with in any of the following instances:
 - (1) The city council may authorize a purchase or award a contract, without complying with the provisions of this division provided that, while in public session, it has received competent information and data supporting the fact that the product or service desired is provided by only one person or firm.
 - (2) By a vote of two-thirds of the corporate authorities, the city council may authorize the purchase of materials, supplies, equipment and services or order work performed by city or non-city forces upon a finding supported by competent information or data that such purchase or work is necessary to meet a bona fide operating emergency. Such emergency shall be explained on the record.
 - (3) Any agreement involving acquisition of service, equipment or article entered into with another governmental entity, including without limitation any supply pools set up by any other governmental agency in accordance with the Governmental Joint Purchasing Act, 30 ILCS 525.
 - (4) All contracts for professional services, including, but not limited to, attorneys, engineers, real estate appraisers, architects, insurance and city planners may be entered into by the city without observing the bidding procedures prescribed by this division for the award of contracts.
 - (5) Contracts which by their nature are not adapted to award by competitive bidding, such as, but not limited to, contracts for the services of individuals possessing a high degree of skill where the ability or fitness of the individual plays an important part may be entered into by the city without observing the bidding procedures prescribed by this division for the award of contracts.
 - (6) In all contracts, other than for works or other public improvements, which are not to be paid for in whole or in part by special assessment or special taxation, when the

expenses thereof will exceed \$25,000.00 the city council may, by a vote of two-thirds of the corporate authorities elected, elect not to require the bidding procedure provided under this division when the city chooses to purchase items under a state contract.

(7) By vote of two-thirds of the corporate authorities, the city council may waive any bid requirement, including without limitation, the need to obtain at least three bids. The good-faith basis for this waiver must be stated on the record.

(8) Contracts for utility services such as water, light, heat, or telephone.

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(1) The ability, capacity and skill of the bidder to perform the contract or provide the service required.

(2) Whether the bidder can 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.

(4) The quality of performance of previous contracts for 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 ability of the bidder to perform the contract or provide the service.

(7) The quality, availability and adaptability of the supplies, 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.

(9) The number and scope of conditions attached to the bid.

(b) *Local vendors.* If two or more bids are received which are substantially equal the contract shall be awarded to a local bidder. If bids are identical, and all or none of such bidders maintain a place of business in this city, the contract shall be awarded by drawing lots.

(c) *Local hiring.* In its consideration of substantially similar bids, the council may also take into consideration any promise, commitment, or plan by the bidder to utilize the labor of Waukegan residents in the performance of the contract.

(d) *Public works contracts.* For the purposes of this section, the term "public works" shall have the same definition as found in the Illinois Prevailing Wage Act, 820 ILCS 130.1, et seq. In addition to price and to the requirements set out above, in determining whether a contractor is a "responsible bidder" for the award of a public works contract, the contractor shall submit the information and supporting documentation set forth below in order for the bid to be considered. All required documentation shall be submitted at the same time as the bid itself to the city:

(1) All applicable laws prerequisite to doing business in the state.

- (2) Evidence of compliance with:
 - a. Federal employer tax identification number or tax identification number (for individuals).
 - b. A statement of compliance with provisions of Federal Equal Opportunity Employer requirements.
- (3) Certificates of insurance indicating at a minimum the coverages required by section 6-27, subsection 122.2 of this Code, for contractor registration in the city, and all coverages required by state law.
- (4) Compliance with all provisions of the Illinois Prevailing Wage Act, 820 ILCS 130.1, et seq.
- (5) Evidence of participation in apprenticeship and training programs which are approved by the United States Department of Labor, Bureau of Apprenticeship and Training. The required evidence includes a copy of all applicable apprenticeship standards and apprenticeship agreement(s) for any apprentice(s) who will perform on the public works project.
- (6) A statement listing all employees who will perform work on the public works project and evidence that all listed employees are covered by a health and welfare plan and a retirement plan.
- (7) Evidence of any professional or trade license required by law or local ordinance for any trade or specialty area in which the contractor is seeking a contract award. Additionally, the contractor must disclose any suspension or revocation of such license held by the company, or of any director, officer, or manager of the company any material changes to the contractor's status, at any time, must be reported in writing to the city within 14 days of its occurrence. Failure to comply with this requirement is grounds for the contractor to be deemed non-responsible.

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Funds of the city shall be disbursed only by check, draft or order signed by the facsimile signature of the mayor and treasurer.

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Contract for public works or improvement project. Any contract with the city for construction, alteration, demolition, or repair work.

Waukegan Business. A business domiciled within the boundaries of the city for at least one year immediately preceding the date of the award of the contract by the city which holds a current and active Business License issued by the city. .

Disadvantaged Business Enterprise. A company current and active certification under the State of Illinois Department of Central Management Services' (CMS) Business Enterprise Program (BEP) as disadvantaged business enterprise including a minority owned business

(MBE), female owned business (FBE) or disabled-person owned business (PBE), or have current and active certification issued by CMS as a Veterans Business Program (VBP).

- (b) *Consideration Granted.* All city contracts with an estimated value of \$25,000.00 or more, to be financed in whole or in part with public funds of the city, shall contain provisions allowing the bidder to submit an alternative bid with a contract directly let by a firm which meets the Waukegan Business or Disadvantaged Business Enterprise definitions, or if proposing a joint venture no less than 10% percent of the proposal includes firms which meet definitions of the same. Notwithstanding any other provision of this Division, the City Council may award the contract, even if the pricing is higher than the lowest bid, to a firm or firms meeting these requirements with a two-thirds vote of the Council to leverage the city's core values of fairness and equal opportunity.
- (c) *Required documentation.* If opting to provide an alternative bid, the contractor shall provide proof of BEP and/or VBP certification, or City of Waukegan Business License status, and file with the city clerk an affidavit certifying the accuracy of the above-referenced information.
- (d) *Binding on subcontractors.* If awarded a contract under the alternative bid, the contractor shall be required to submit and make available to the city all information required by this section relative to any of its subcontractors.
- (e) *Contracts; bid documents.* Contracts and bid documents which incorporate this section by reference and shall provide that the failure of any contractor or subcontractor to comply with any of its requirements shall be deemed a material breach of the contractor or subcontract. All subcontracts shall expressly acknowledge the city's status as a third party beneficiary to that subcontract and further expressly acknowledge that the city, as a third party beneficiary, shall have the right to enforce the provisions of this section with regard to that subcontract or seek remedies available under this section should a party to the subcontract fail to comply with any of the provisions of this section that apply to the subcontract. Contracts and bid documents shall further require bidders, contractors, and subcontractors to maintain records necessary for monitoring their compliance with this section.
- (f) *Penalty for noncompliance.* Any person found to have violated any provision of this section, including but not limited to the failure to provide BEP certification, the filing of a false affidavit, or the failure to comply with the requirement to have at least 10 percent of the total vendors contracted or subcontracted on a public works or improvement project be certified under the BEP and/or VBP program, shall be subject to the general penalties provided for in section 1-13 of this Code, in addition to any other legal or equitable remedies available to the city. Such other remedies include, but are not limited to, injunctive relief and/or an action in breach of contract of the construction contract, and could subject the contractor to, among other remedies, liquidated damages of \$1,000.00 for each day that the breach commences or continues.

Sec. 2-462. - Change orders.

- (a) In the event a contract necessitates any increase in the original contract price of 5% of the City Council approved annual amount, but not to exceed \$5,000, ~~25,000.00~~, the Mayor or their designee may grant approval of the change order.
- (b) Contract increase changes in the aggregate of 5% of the approved annual contract amount, and / or in excess of \$5,000, ~~25,000.00~~ must be resubmitted to the city council for authorization before a change order may be issued.
- (c) The Mayor or their designee may determine that a change order which significantly changes the nature, value, or scope of the contract requires resubmission to the bidding process under the provisions of section 2-458.

Sec. 2-463. - Ethical procurement.

All parties involved in the procurement of goods and services on behalf of the City of Waukegan shall promote good governance. Activities which violate the public trust including, but not limited to bid rigging, kickbacks, stringing of bids or other actions which conflict with section 2-194 or the Public Contracts under the State of Illinois Criminal Code Act, 720 ILCS 5/Art. 33E., are prohibited.

Sec. 2-464. – Procurement of property and services under a Federal Award.

All parties involved in the procurement of goods and services on behalf of the City of Waukegan under a Federal Award shall ensure compliance with Office of Management and Budget (OMB) Procurement Standards 200.317 through 200.328, or, to any successor or substitute provisions enacted or adopted hereafter.

Secs. 2-465—2-485. - Reserved.

Passed and Approved at the Regular City Council Meeting on **January 22nd, 2019**


MAYOR SAMUEL D. CUNNINGHAM, JR

ATTEST:


CITY CLERK JANET E. KILKELLY

AYE: Ald Bolton, Ald Seger, Ald Moisio, Ald Villalobos, Ald Newsome, Ald TenPas, Ald May, Ald Valko.

NAY: None.

ABSTAIN: None.

ABSENT: Ald Taylor.

DEPUTY CITY CLERK
PATTERSON