

## ORDINANCE 2023-22

### AN ORDINANCE ESTABLISHING CRITERIA FOR DETERMINING THE QUALIFICATION OF BIDDERS ON CITY CONTRACTS

WHEREAS, §§61.54, 62.15 and 66.0901(m)(a)2. of the Wisconsin Statutes require that public construction contracts exceeding \$25,000 in costs be let to the lowest qualified bidder; and

WHEREAS, §62.15(6) of the Wisconsin Statutes requires the Common Council to determine whether any bidder is, in the judgment of the City, incompetent or otherwise unreliable for the performance of the work on which the bidder bids, and to award the contract only to the lowest responsible bidder; and

WHEREAS, the Common Council has determined that consistency in the determination of bidder responsibility will be promoted by the establishment of objective standard by which the Common Council will determine a bidder's qualification; and

NOW, THEREFORE, the Common Council of the City of Glendale does ordain as follows:

#### Section 1.

Section 3.1.17 of the Glendale Code of Ordinances, titled Responsible Bidders for the City of Glendale be created and shall read as follows:

##### 3.1.17 RESPONSIBLE BIDDERS

###### (a) Purpose

Pursuant to Wis. Stat. §66.0901, whenever the county lets public work by contract, the contract must be awarded to the lowest responsible bidder. What constitutes a responsible bidder is a determination that requires the exercise of discretion by the county and its departments, officials or employees under reasonably consistent responsible bidder criteria when exercising its discretion.

###### (b) Definitions

In this section, the following definitions shall apply:

1. "Contractor" means a person, corporation, partnership or any other business entity that performs work on a public works contract as a general contractor, prime contractor or subcontractor at any tier.
2. "Class A Apprenticeship Program" means an apprenticeship program that is currently approved by the U.S. Department of Labor or a state apprenticeship agency and has graduated apprentices to journeyman status for three (3) years. In addition, a new apprenticeship program that has been registered with the federal or state government within the last three (3) years will be considered a Class A Apprenticeship Program, provided that such new program graduates to journeyman status within the indenture period and has a bonafide training program.
3. "Public works contract" means a contract for the construction, alteration, execution, repair, remodeling or improvement of a public work or building, where the contract is required to be bid pursuant to Wis. Stat. §59.52(29).

###### (c) Responsible Bidders Criteria

In order to be a responsible bidder for purposes of being awarded a public works contract, the contractor must meet the following criteria:

1. The Contractor must pre-register with the City, prior to the submittal of a bid for work.
2. The contractor maintains a permanent place of business.
3. The contractor is authorized to do business in the State of Wisconsin.

4. The contractor, or agent, partner, employee or officer of the contractor, is not debarred, suspended, proposed for debarment or declared ineligible from contracting with any unit of federal, state or local government.
5. The contractor is in compliance with provisions of Section 2000e of Chapter 21, Title 42 of the United States Code and Federal Executive Order No. 11246 as amended by Executive Order No. 11375 (known as the Equal Opportunity Employer provisions).
6. The contractor has general liability, worker's compensation, automobile insurance and unemployment insurance meeting the requirements of the City.
7. The contractor has complied with all provisions of any prevailing wage laws and federal Davis-Bacon related Acts, and the rules and regulations therein, for projects undertaken by the contractor that are covered by these laws, for the past five (5) years.
8. The contractor participates in a Class A Apprenticeship Program if the contractor employs apprentices.
9. Regarding a Public Works Contract estimated to be in excess of one-million dollars, and if determined to be appropriate in the discretion of the City Administrator at the time a Request for Bids or Request for Quotes is issued, then in order to be considered a responsible bidder, the contractor must participate in a Registered Apprenticeship Program.
10. The contractor has a written substance abuse prevention program meeting the requirements of Wis. Stat. §103.503.
11. The employees who will perform work on the project are properly classified as employees or independent contractors under all applicable state and federal laws.
12. The contractor has not been the subject of any investigation, order or judgment from any state or federal agency or court concerning an employment practice, including but not limited to, classification of employees, unemployment insurance, discrimination or payroll fraud. If the contractor has been the subject of any investigation, order or judgment from any state or federal agency or court concerning an employment practice, the contractor must provide copies of the investigation, order or judgment and/or may be disqualified.
13. The contractor's employees who will perform work on the project are:
  - I. Covered under a current worker's compensation policy; and properly classified under such policy.
  - II. Have the health insurance coverage required by federal or state law.
14. The contractor possesses all applicable professional and trade licenses required for performing the public works.
15. The contractor shall possess or have access to equipment required to complete the project.
16. All subcontractors of the contractor shall comply with all requirements of 3.1.17.
17. The contractor has adequate financial resources to complete the public works contract, as well as all other work the bidder is presently under contract to complete.
18. The contractor is bondable for the terms of the proposed public works contract.
19. The contractor has a record of satisfactorily completing projects of similar size and complexity within the last five (5) years, including:
  - I. Demonstration of acceptable performance, quality of work and firsthand experience
  - II. Responsiveness to the Owner and professional interactions with the public

III. Understanding of the project budget and timeline

20. Criteria which will be considered in determining satisfactory completion of projects may include, but are not limited to:

- I. Completion of contracts in accordance with drawings and specifications;
- II. Diligent execution of the work and completed contracts according to the established time schedules unless extensions are granted by the owner; and
- III. Fulfilled guarantee requirements of the contract documents.

21. The contractor has, and diligently maintains, a written safety program.

(d) No Restriction on Discretion

If information other than what was disclosed by the contractor in Section III. is discovered by the City for awarding the public works contract, and such information calls into question the contractor's abilities or competence to faithfully and responsibly comply with the terms of a public works contract, that information shall be considered in determining whether the contractor is a responsible bidder.

(e) Affidavit of Compliance

The general or prime contractor bidding on a public works project must include in its sealed bid:

1. Its own affidavit swearing compliance with the criteria set forth in Section III. on the form required by the City; and
2. An affidavit swearing compliance with the criteria set forth in Section III. on the form required by the county from every subcontractor at any tier who will perform work on the project.

(f) Rejection of Bids

The City Administrator, at their discretion, may reject all bids.

(g) Non-Compliance

The City Administrator, at their discretion, may reject a bid for non-compliance with Section 3.1.17 and award the contract to those adhering to the standards established in Section 3.1.17.

### SECTION 3

That all Ordinances or parts of Ordinances conflicting with the provisions of this Ordinance are hereby to such extent repealed.

### SECTION 4

That this Ordinance shall take effect and be in force from and after its passage and posting.

PASSED AND ADOPTED by the Common Council of the City of Glendale, Milwaukee County, Wisconsin, this 11<sup>th</sup> day of December 2023.

  
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Bryan Kennedy, Mayor

Countersigned:

  
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Megan Humitz, City Clerk