

**AGENDA FOR COMMITTEE OF THE WHOLE MEETING
SUPERIOR, WISCONSIN
Tuesday, May 16, 2017
Immediately following the 6:30 p.m. Regular Council Meeting
Government Center, Board Room 201**

ROLL CALL

1. Mayor Jim Paine introducing draft ordinance repealing Section 2, Article XII, Public Works Projects and recreating Section 2, Article XIII, Responsible Bidder Criteria.

Pursuant to the Americans with Disabilities Act of 1990, if you are in need of an accommodation to participate in the public meeting process, please contact the City Clerk's Office at (715) 395-7200 prior to the scheduled meeting. The City will attempt to accommodate any request depending on the amount of notice received. TDD (715) 395-7521.

In compliance with Wisconsin Open Meetings Law, this agenda was:
Posted: Government Center, Court House, & Public Library
Faxed to: Daily Telegram, Public Library: 5-12-17



SUPERIOR

WISCONSIN

Living up to our name.

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May 11, 2017

Committee of the Whole: 5/16/17

MEMORANDUM

TO: Members of the Common Council
FROM: Mayor Jim Paine *JP/rg*
RE: ***Proposed Responsible Bidder Criteria Ordinance***

I am introducing an Ordinance which will repeal Section 2, Article XII Public Works Projects and Recreating Section 2, Article XII Responsible Bidder Criteria.

Pursuant to Wis. Stat. 66.0901, whenever the City lets public work by contract, the contract must be awarded to the lowest responsible bidder when said contract is for the construction, alteration, execution, repair, remodeling or improvement of a public work or building.

Responsible Bidder Criteria means that in order to be a responsible bidder for purposes of being awarded a public works contract, the contractor must meet the criteria outlined in the ordinance.

This ordinance is necessary not only to update our existing Public Works Projects ordinance to maintain compliance with State law, but also to protect taxpayers and law-abiding, responsible bidders of public projects.

I believe it is vital that we are good stewards of taxpayer money. While we must consider carefully the cost of each project and encourage cost-efficient bids and contractors, we must also consider the value of the work we receive. This ordinance creates a level playing field for all bidders by ensuring that qualified, well trained, experienced, and cost efficient bidders have fair access to public projects. It also protects the City and taxpayers from contractors that may engage in illegal, unfair or low quality work.

I am placing this on the Committee of the Whole Agenda for further discussion and look forward to your questions.

Thank you.

rg

Ordinance: 17-

O17-4004

ORDINANCE INTRODUCED BY MAYOR JIM PAINE REPEALING SECTION 2, ARTICLE XII PUBLIC WORKS PROJECTS AND RECREATING SECTION 2, ARTICLE XII RESPONSIBLE BIDDER CRITERIA

The Common Council of the City of Superior, Wisconsin, does ordain as follows:

SECTION 1. Chapter 2, Article XII, Public Works Projects of the City Code of Ordinances is hereby repealed and recreated as follows:

ARTICLE XIII. RESPONSIBLE BIDDER CRITERIA

Section 2-468. Purpose. Pursuant to Wis. Stat. §66.0901, whenever the city 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 city and its departments, officials or employees under reasonably consistent responsible bidder criteria when exercising its discretion.

Section 2 -469. Definitions. In this section, the following definitions shall apply.

“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.

“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.

“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).

Section 2-470 Responsible Bidder Criteria. In order to be a responsible bidder for purposes of being awarded a public works contract, the contractor must meet the following criteria.

- a) The contractor maintains a permanent place of business.
- b) The contractor is authorized to do business in the State of Wisconsin.
- c) 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.

- d) 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).
- e) The contractor has general liability, workers' compensation, automobile insurance and unemployment insurance.
- f) 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.
- g) The contractor participates in a Class A Apprenticeship Program.
- h) The contractor has a written substance abuse prevention program meeting the requirements of Wis. Stat. §103.503.
- i) The employees who will perform work on the project are properly classified as employees or independent contractors under all applicable state and federal laws.
- j) The contractor has not been the subject of any investigation, order or judgement 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 judgement and/or may be disqualified.
- k) The contractor's employees who will perform work on the project are:
 - 1) Covered under a current workers' compensation policy; and properly classified under such policy.
 - 2) The contractor's employees who will perform work on the project have the health insurance coverage required by federal or state law.
- l) The contractor possesses all applicable professional and trade licenses required for performing the public works.
- m) 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.
- n) The contractor is bondable for the terms of the proposed public works contract.
- o) The contractor has a record of satisfactorily completing at least five (5) projects of similar size and complexity within the last five (5) years. Criteria which will be considered in determining satisfactory completion of projects may include, but are not limited to:
 - 1) Completion of contracts in accordance with drawings and specifications;

- 2) Diligent execution of the work and completed contracts according to the established time schedules unless extensions are granted by the owner; and
- 3) Fulfilled guarantee requirements of the contract documents.

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

Section 2-471.No Restriction on Discretion. If information other than what was disclosed by the contractor in subsection (3) is discovered by the city or the department, official or employee responsible 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.

Section 2-472. Affidavit of Compliance. The general or prime contractor bidding on a public works project must include in its sealed bid;

Its own affidavit swearing compliance with the criteria set forth in subsection (3) on the form required by the county; and

An affidavit swearing compliance with the criteria set forth in subsection (3) on the form required by the city from every subcontractor at any tier who will perform work on the project.

SECTION 2. All ordinances and parts of ordinances conflicting with this ordinance are hereby repealed.

SECTION 3. This ordinance shall be in full force and effect from and after its passage and publication.

Adopted and approved this _____ day of _____, 2017.

Mayor Jim Paine

Attest: _____
City Clerk