

CITY OF MADISON, WISCONSIN

A **SUBSTITUTE**
ORDINANCE

PRESENTED
REFERRED

BPW, WUB

Amending Sec. 33.07(6) to add additional types of public construction that may be done by the City without submitting the work for public bid.

(**Creation of Sections 33.07(6)(a)3. through 7. requires 15 votes of the Council.)

DRAFT

Drafted by: Doran Viste

Date: Sept. 15, 2017

SPONSORS:

DRAFTER'S ANALYSIS: Wis. Stat. § 62.15(1) allows the Common Council, by a vote of $\frac{3}{4}$ of all its members, to exempt certain types of public construction from the public bidding requirements (otherwise applicable to all public construction over \$25,000) and allow this work to be performed directly by the City. The City has exercised this option for two types of work: golf course irrigation and bus shelter installations. This ordinance would add additional classes of public construction to this list: public water supply system improvements, public stormwater system projects, work where the project is put out for bid but does not receive any bids, the installation of solar panels as part of the City's solar job training program, and the installation of traffic signals **and pedestrian crosswalk enhancements**. **The City would not be able to exercise this option where the cost of labor is estimated to exceed \$125,000, as indexed annually.**

Regarding the exemption for public water supply system improvements, the Water Utility has found that on occasion, it is necessary to perform small projects on the system to make it more functional, such as add a pressure reducing station, or install a short section of main to connect two hydraulically distinct areas. This work can be performed by Utility staff during the summertime when the Utility has more workforce availability. The Utility also believes that it will be able to perform these types of smaller projects more quickly and cost efficiently for its customers.

Similarly, the City Engineer has found that its workforce is capable of performing certain public stormwater system repairs and improvements in a more timely and cost efficient manner, which will benefit stormwater utility customers.

Additionally, there are occasions where a project is placed out to bid and no responsive bids are received for the project. While the City usually re-advertises such projects, this exemption would allow the City the option of self-performing the work.

An exemption is being created for solar installations that are part of the City's solar job training program. Under this program, participants are trained in the installation of solar panels, and preference is given to residents from certain disadvantaged neighborhoods. As part of the training, participants are afforded hands on training in the installation of solar panels at City facilities. This exemption will ensure that the program may continue to afford participants this opportunity.

Finally, an exemption is being created for the City's installation of traffic signals **and pedestrian crosswalk enhancements**.

Of note, these exemptions do not require the City to use its own workforce to perform the work in question. It merely gives the City that option **where the estimated cost of labor does not exceed \$125,000**.

Along with the changes to the ordinance adding additional types of public construction to the bidding exemption, the ordinance itself is being updated to incorporate the statutory reporting requirements that must

Approved as to form:

be followed when the City self-performs under this exemption. This amendment will make it clear that the Department or Division performing the work must prepare an accounting of the project costs for the Board of Public Works, who shall then report the same to the Common Council. This reporting is meant to add additional public oversight of these self-performing projects to ensure that these exemptions are not being abused and the public bidding requirements are not being skirted contrary to the interests of the City.

The Common Council of the City of Madison do hereby ordain as follows:

Subsection (6) entitled "Public Construction Allowed to be Done by the City Without Bids" of Section 33.07 entitled "Board of Public Works" of the Madison General Ordinances is amended to read as follows:

"(6) Public Construction Allowed to be Done by the City Without Bids.

(a) Pursuant to the authority provided by Wis. Stat. § 62.15(1), the following classes of public construction may be done directly by the City without submitting the same for bids:

1. The installation and maintenance of irrigation equipment at municipal golf courses is hereby designated a class of public construction which may be done directly by the City without submitting same for bids, in accordance with Wis. Stat. § 62.15(1).
- (b)2. The installation of prefabricated bus shelters is hereby designated a class of public construction which may be done directly by the City without submitting same for bids, in accordance with Wis. Stat. § 62.15(1).
3. Construction of the public water supply system, or components thereof, where the Water Utility General Manager has determined that the Utility has the resources, expertise and capacity to perform the work internally.
4. The installation, construction, improvement and repair of the City's public stormwater system, as that term is defined in Sec. 37.04, where the City Engineer has determined that the City has the resources, expertise and capacity to perform the work internally.
5. Public construction projects where project is put out to bid and the City gets no bidders for the project.
6. The installation of solar panels on City facilities as part of the City's solar job training program.
7. The installation of traffic signals and pedestrian crosswalk enhancements.

(b) Report to Council of Non-bid Contracts. Whenever any work is done by the City under sub. (a), an accurate account of the cost of the public work, including the necessary overhead expenses, shall be prepared for the Board of Public Works. Once the work is completed, the Board of Public Works shall make a complete report of the work to the Council, stating in detail the items of cost and the total cost of doing the work. The City Clerk shall publish the report as a part of the proceedings of the Council.

(c) Limitation on Authority to Self-Perform. The City may not perform work under this subsection with its own work force when the estimated cost of labor will exceed \$125,000, in Year 2016 dollars as indexed annually by the Construction Cost Index as published by the Engineering News Record or equivalent successor index."