

Date December 18, 2017

**APPROVING ADDITIONAL 2017 REVISIONS TO THE DES MOINES  
CONSTRUCTION BIDDING REQUIREMENTS**

WHEREAS, on February 28, 2011, under Roll Call No. 11-0377, the City Council approved revisions to the 2007 Bidding/Contracting Process Changes for Construction of Public Improvements, to be known as the 2011 Revisions to the Des Moines Construction Bidding Policy, that included revisions to supplement, clarify, and improve implementation of said 2007 Policy; and

WHEREAS, on September 8, 2014, under Roll Call No. 14-1417, the City Council approved the City of Des Moines Taxpayer Quality Assurance Policy, that was applied on Vertical Infrastructure Projects requiring a certificate of occupancy on projects with an estimated construction cost in excess of \$1,000,000, unless prohibited by funding; and

WHEREAS, on November 3, 2014, under Roll Call No. 14-1744, the City Council approved and directed staff to include certification on compliance with wage payment laws in written solicitations for City construction projects, excluding emergency solicitations or solicitations; and

WHEREAS, on March 7, 2016, under Roll Call No. 16-0416, the City Council approved the revised City of Des Moines Taxpayer Quality Assurance Policy that included revisions to the Policy, to clarify the definition of Vertical Infrastructure Project and also the process for Council to implement the Policy; and

WHEREAS, on April 13, 2017, the Governor signed SF 438, effective immediately, relating to bidding and contracting for public improvement projects that specifically changed bidding statute and limits what can be required from potential bidders, from the apparent lowest responsive bidder, and prohibits the prequalification of bidders; and

WHEREAS, on May 22, 2017, under Roll Call No. 17-0897, the City Council approved the 2017 revisions to the Des Moines Construction Bidding Requirements, revisions to the Contract Compliance Program, and Suspension of City of Des Moines Taxpayer Quality Assurance Policy, and directed the Engineering and Legal Departments to review the changes necessary to the Contract Compliance Program to make it compliant with Senate File 438 and provide those changes for Council for action when review is complete; and

WHEREAS, on June 26, 2017, under Roll Call No. 17-1038, the City Council approved the 2017 Revisions to the Contract Compliance Program to conform with Senate File 438, authorized and directed the City Engineer to implement, administer and process revisions in the Contract Compliance Program and documents to affect the necessary changes as required by and to comply with Senate File 438; and

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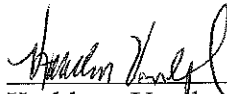
WHEREAS, now Iowa Code section 26.9, subsection 2 allows a governmental entity to obtain information from the lowest responsive bidder related to the bidder's experience, number of employees and ability to finance the cost of the public improvement in order to determine the lowest responsive bidder's responsibility.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF DES MOINES, IOWA: It hereby approves additional revisions to the 2017 Des Moines Construction Bidding Requirements in the form of the Special Provision on City Funded Projects as to the Lowest Responsive Bidder as attached effective beginning with the applicable projects for which construction is ordered on January 8, 2018

BE IT FURTHER RESOLVED: Hereby the City Engineer is authorized and directed to implement, administer and process revisions in the Des Moines Bidding Requirements and documents to affect the necessary changes.

Moved by \_\_\_\_\_ to adopt.

FORM APPROVED:

  
Kathleen Vanderpool  
Deputy City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_ City Clerk

Special Provision on City Funded Projects as to Lowest Responsive Bidder

Iowa Code section 26.9, subsection 2 allows a governmental entity to obtain information from the lowest responsive bidder related to the bidder's experience, number of employees and ability to finance the cost of the public improvement to determine the bidder's responsibility. In accordance with that provision, on City funded projects which are not subject to state or federal review or approval, for which the estimated total cost of the project exceeds \$500,000, the lowest responsive bidder shall provide the following information related to the bidder's experience, number of employees and ability to finance the cost of the public improvement to assist the City in determining the responsibility of the lowest responsive bidder. This form and requested information shall be returned to the City Engineer by noon on the Friday preceding the Council meeting when the award of the contract will be considered. If the lowest responsive bidder has provided the following information previously within the current calendar year, the lowest responsive bidder shall only be required to provide updates to the information previously provided by noon on the Friday preceding the Council meeting when the award of the contract will be considered.

Bidder's Experience

- Attach evaluations or references for the lowest responsive bidder from project owners on similar projects within the last 3 years and identify all similar current projects.
- List all awarded contract amounts and the final contract amount for all projects of the lowest responsive bidder completed in the last 3 years. Provide the reason and amount of any changes.
- List all awarded contracts of the lowest responsive bidder for the last 3 years with specified contract duration to complete the project and the actual time it took for the lowest responsive bidder to complete the project.
- Identify any contracts of the lowest responsive bidder in the last 3 years, on which liquidated damages have been assessed and provide the amount of the liquidated damages assessed.

Number of Employees

- Identify the number of the lowest responsive bidder's employees assigned and available to do the work on the City's project.

Ability to Finance the Cost of the Public Improvement

- List all projects on which the lowest responsive bidder had Code of Iowa Chapter 573 claims filed on the project for the last 3 years and all projects which lawsuits filed by employees or subcontractors for nonpayment for the last 3 years.
- List all contracts awarded to the lowest responsive bidder during the last 3 years that are of similar values or exceed the amount of the City's project.
- List any bankruptcy filings by the lowest responsive bidder during the last 3 years.
- List any contract, bond or loan defaults by the lowest responsive bidder in the last 3 years.

Council Determination

The Council will be provided with this form and attachments provided by the lowest responsive bidder for Council's consideration in determining the lowest responsive bidder's responsibility in accordance with Section 26.9 of the Iowa Code. Failure to provide the information may result in the Council determining the bidder is not responsible. The information required and provided pursuant hereto will aid in the City's determination of responsibility but is not exclusive to the City's determination of responsibility of the lowest responsive bidder related to the bidder's experience, number of employees and ability to finance the cost of the public improvement.