

FINANCE COMMITTEE

14-017-0

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AUTHORIZING BEST VALUE PURCHASING IN CERTAIN CASES AND ESTABLISHING PROCEDURES THEREFORE, AMENDING CHAPTER 41 OF THE DULUTH CITY CODE, 1959, AS AMENDED BY ADDING A NEW SECTION 41-23.1 THERETO.

BY COUNCILOR JULSRUD:

The city of Duluth does ordain:

Section 1. That Chapter 41 of the Duluth City Code, 1959, as amended, is hereby amended by adding a new Section 41-23.1 thereto which reads as follows:

Sec. 41-23.1. Best value procurement over \$100,000.

(a) Pursuant to the authority contained in Minnesota Statutes Section 471.345 subd. 3(a) and Section 16C.28 subd 1(a)(2) and statutes cited therein, notwithstanding the provisions of Section 41-23 above, the city shall have the option of awarding contracts for construction, alteration, repair or maintenance work by means of best value contracting as described in this section where amount of the contract for the subject work is estimated to exceed \$100,000;

(b) The use of best value contracting procedures shall be available for the award of contracts:

(1) From and after the effective date of this ordinance and through the end of the year ending three years after that date, best value contracting shall be used for no more 20 percent of the city's contracts for construction, alteration, repair or maintenance work having an estimated cost in excess of \$100,000 in any one such year;

(2) Any city official wishing to use best value contracting to contract for such construction, alteration, repair or maintenance shall obtain written approval therefore from the head of the department for which such work is to be performed and from the chief administrative officer;

(3) Upon approval of proceeding with best value contracting for subject work, the above city official shall cause to be prepared a request for proposals for the provision of the subject work. Such request for proposals shall contain a listing of criteria that will be considered in determining which proposer offers, in aggregate, the best value to the city for the performance of the work, including minimum specifications for the work to be performed and a requirement that the proposer state the maximum price which the proposer will charge to perform the specified work. Said criteria shall take into account any special issues related to the work and may include, but shall not be limited to:

(A) The quality of the contractor's performance on previous projects;

(B) The timeliness of the contractor's performance on previous projects;

(C) The level of customer satisfaction with the contractor's performance on previous projects;

(D) The contractor's record of performing previous projects on budget and ability to minimize cost overruns;

(E) The contractor's ability to minimize change orders;

(F) The vendor's or contractor's ability to prepare appropriate project plans;

(G) The contractor's technical capacities;

(H) The individual qualifications of the contractor's key personnel; or

(I) The contractor's ability to assess and minimize risks;

(4) The relative weight to be given to each of the

criteria shall be set forth in the request for proposals, including the criteria of price, in determining which proposal offers the best value to the city;

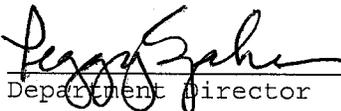
(5) The request for proposals shall include the right of the city to reject all proposals;

(c) Upon opening of the proposals, the above department head shall select a proposal evaluation committee who shall review the proposals and shall assign a weighted value to each of the criteria for each of the proposals in accordance with the weights as set forth in the request for proposals. In evaluating the performance of any proposer on previous projects, the exercise or assertion of said proposer's legal rights with regard to such previous project shall not be considered as a factor in evaluating such proposer's previous performance. The proposal having the highest aggregate criteria score shall be deemed to offer the best value to the city for the work and shall be recommended to the city council for award;

(d) The city council shall either vote to award the contract to the recommended proposer, shall vote to not so award the contract to the recommended proposer or shall vote to reject all proposals.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

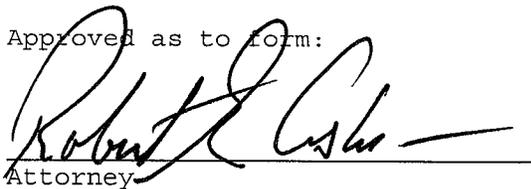
Approved:

  
Department Director

Approved for presentation to council:

  
Chief Administrative Officer

Approved as to form:

  
Attorney

Approved:

  
Auditor

FIN/ATTY 03/18/2014 03/18/2014

STATEMENT OF PURPOSE: The purpose of this ordinance is to allow the city to use an alternative method of awarding contracts, called "Best Value" contracting, to the usual "lowest responsible bidder" process which the city has historically used.

Under the lowest responsible bidder process, plans and specifications are put out for bid and the bid is awarded to the bidder with the lowest bid who meets or exceeds the specifications. While it is legally possible to disqualify a bidder based on poor past performance or their inability to demonstrate that they can

adequately meet the requirements of the specifications, it is a remedy that is very seldom used.

Under Best Value contracting, in addition to the plans and specifications, the "bid documents" (in the form of a request for proposals), can include a requirement that the proposer include information demonstrating that it can adequately perform the contract including such things as their past performance on previous contracts of similar character, their demonstrated ability to meet required time parameters and special skills and abilities that they bring to the subject project.

As part of the request for proposals, the amount of weight to be given to each of the criteria, including price, needs to be specified. After the proposals are received, they are reviewed and the criteria assigned weights in a manner similar to that used to evaluate proposals for professional services. The proposal receiving the highest number of evaluation "points" is the proposal that will be recommended for award of the contract.

Because of limitations in the state statute, for the first three years, the city will be limited to using Best Value contracting to 20% of the contracts for construction, alteration, maintenance and repair over \$100,000.

