

**SUBJECT: PROCEDURE FOR SELECTION OF AN ALTERNATIVE CONTRACTOR ON PUBLIC WORKS PROJECTS WHEN THE SUCCESSFUL BIDDER FAILS TO EXECUTE A CONTRACT, AN ACCEPTABLE CONTRACT BOND, OR COMPLY WITH THE PROVISIONS OF SECTION 3.58 MADISON GENERAL ORDINANCES ENTITLED "AFFIRMATIVE ACTION."**

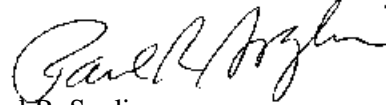
Failure on the part of the successful bidder on any public works project to execute a contract or an acceptable contract bond or comply with the Affirmative Action provisions of the Madison General ordinances is just cause for the annulment of the award or in the case of failure to execute a contract and an acceptable contract bond, forfeiture of the proposal guarantee to the City in payment of liquidated damages sustained as a result of such failure. When this unfortunate situation occurs, it is necessary to establish a procedure for the selection of another contract or to determine if it is necessary for the City to readvertise the project. The following procedure is hereby established to address this situation:

1. The Director of Public Works shall address a letter to the contractor stating that the contractor has exceeded the time requirement for the execution of the contract or the presentation of an acceptable bid bond or compliance with those portions of Section 3.58 of the Madison General Ordinances which are applicable prior to contract execution, and that the contract award has been nullified.
2. The Director of Public Works or his designee shall review the bids submitted for the particular project and prepare a recommendation to the Board of Public Works on the feasibility and/or desirability of accepting the second lowest bidder's quotation. Furthermore, if in the opinion of the Director of Public Works the second lowest bid is in fact economically feasible and in the best interests of the City of Madison, the Director of Public Works shall contact the bidder and determine if the bidder will execute the contract and provide an acceptable contract bond and comply with Section 3.58 of the Madison General Ordinances entitled "Affirmative Action" prior to the next regularly scheduled Board of Public Works meeting. If the second lowest bidder cannot so certify, in writing, the Director of Public Works is empowered to proceed through the list of bidders beginning at the third lowest bidder, provided that, in the opinion of the Director of Public Works, the bids submitted are an accurate reflection of the work and are economically feasible and in the best interests of the City of Madison.

In the event that the Director of Public Works is of the opinion that the bid of the next lowest bidder or any subsequent bidder is not in the best interest of the City of Madison, he shall recommend alternatives to the Board of Public Works that may include provisions be made to readvertise for new bids.

3. At the next regularly scheduled Board of Public Works meeting the Director of Public Works shall prepare a resolution for the annulment of the award to the original lowest qualified bidder on the project and another resolution to award to a subsequent bidder on the project all, provided that the subsequent bidder has indicated in writing his intention to execute a contract and an acceptable contract bond and provided further that the Affirmative Action Officer has certified said bidder to be in compliance with Section 3.58 of the Madison General Ordinances.

This procedure completes the administrative provisions with regard to failure to execute a contract, the remaining provisions being a part of the legislative process of the City of Madison.



Paul R. Soglin  
Mayor

APM No. 4-2  
Date Unknown