



Legislation Text

File #: 21-1319, Version: 1

Resolution to Order Election and to Determine Ballot Question for Amendment to Section 14.3 of the City Charter Related to Best Value Purchasing (**7 Votes Required**)

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Reviewed by: Betsy Blake, Senior Assistant City Attorney

Whereas, The City recognizes the need to ensure that work performed on City contracts, including public improvements, is performed by responsible and qualified firms that have the capacity, experience, personnel, and qualifications to perform such contracts timely, reliably, and with the necessary skill;

Whereas, Section 14.3 of the City Charter, entitled "Limitations on Contractual Power," subsection d provides:

Except as provided by ordinance authorized by Section 14.2 of this chapter, each contract for public improvements or for supplies or materials shall be let to the lowest responsible bidder after reasonable opportunity for competitive bidding. All bids shall be opened in public by the City Administrator, or if the City Administrator is absent or incapacitated, by the City Clerk. The Council may reject any or all bids if deemed advisable. If all bids are rejected, or if no bids are received, the Council may obtain new bids or authorize the City Administrator to negotiate in the open market for a contract at a reasonable price, or to purchase in the open market, or to have the work performed by city employees;

Whereas, Such subsection requires that the purchases outlined therein be let to the lowest responsible bidder, which prevents award of contracts based on consideration and weighing of factors that impact the contract's overall value to the City;

Whereas, the National Institute of Governmental Purchasing (NIGP) encourages the use of best value when selecting sources; and

Whereas, If the City was able to consider which bid provides the overall best value, the City could consider factors that impact value beyond simply price such as: 1) the qualifications of management personnel assigned to the contract; 2) references from individuals or entities that the bidder has performed work for in the past; 3) the size, complexity, and success of past similar projects the bidder has performed; 4) whether the bidder participates in a bona fide apprenticeship program, which can impact the quality of work its employees provide; 5) the adequacy of benefits the bidder provides to its employees, which can impact employee morale and overall performance on the contract; and 6) the bidder's past violations of state, federal or local employee protection laws;

RESOLVED, That the following amendment to Section 14.3 subsection d of the City Charter be placed on the ballot and submitted to the voters at the next general city election:

(d) Except as provided by ordinance authorized by Section 14.2 of this chapter, each contract for public improvements or for supplies or materials shall be let to the ~~lowest~~

~~responsible bidder~~ bidder that provides the best value to the City, after reasonable opportunity for competitive bidding. All bids shall be opened in public by the City Administrator, or if the City Administrator is absent or incapacitated, by the City Clerk. The Council may reject any or all bids if deemed advisable. If all bids are rejected, or if no bids are received, the Council may obtain new bids or authorize the City Administrator to negotiate in the open market for a contract at a reasonable price, or to purchase in the open market, or to have the work performed by city employees;

RESOLVED, That November 2, 2021 is designated as the day for holding an election on the proposed Charter amendment;

RESOLVED, That the City Clerk shall transmit a copy of the proposed amendment to the Attorney General and the Governor of Michigan and shall perform all other acts required by law for holding the election;

RESOLVED, That the following question shall appear on the ballot in the following form:

**ANN ARBOR CITY CHARTER AMENDMENT RELATED TO BEST VALUE
PURCHASING**

Shall Section 14.3 subsection d of the Charter be amended to require the City to award contracts for supplies, materials, or public improvements, to the bidder that is deemed the best value to the City rather than the lowest responsible bidder?

__ Yes __ No

RESOLVED, That the proposed Charter amendment and proposed ballot question shall be published in full in the Washtenaw County Legal News;

RESOLVED, That the City Clerk is directed to publish the proposed Charter amendment in full, together with the existing Charter provisions amended as required by law and in accordance with resolution of Council, and to post the proposed Charter amendment in full together with the existing Charter provisions to the City's website; and

RESOLVED, That if the amendment is adopted, it shall take effect on January 1, 2022.

Sponsored by: Councilmembers Eyer, Radina, Briggs, Nelson, Song, Griswold and Mayor Taylor