

PI-1A

CITY OF OLATHE		Policy No.:	PI-1A
COUNCIL POLICY STATEMENT		Date Issued:	10-15-24
General Scope:	Public Improvements	Effective Date:	10-15-24
Specific Subject:	Bidding Requirements Policies for Public Improvement Projects	Cancellation Date:	
		Supersedes No.:	

Purpose:

To establish bidding requirements policies for public improvement projects.

Statement of Policy:

The statement of policy is hereby incorporated with Resolution No. 24-1059.

Establishment of the previous bidding requirements policies for public improvement projects was incorporated with Resolution 06-1190.

RESOLUTION NO. 24-1059**A RESOLUTION SETTING THE BIDDING REQUIREMENTS POLICIES FOR PUBLIC IMPROVEMENT PROJECTS.**

WHEREAS, the City exempted itself from the provisions of K.S.A. 13-1017 relating to the procedure to bid public improvement projects pursuant to Charter Ordinance No. 17; and

WHEREAS, the Governing Body desires to clarify the procedures used to bid public improvement projects.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE. Before the City undertakes the construction or reconstruction of any public improvement, including but not limited to, sidewalks, curbs, gutters, [sanitary sewers](#), ~~sewers~~, [sanitary](#) sewer treatment plants, [lift stations](#), waterlines, water treatment plants [and associated facilities](#), bridges, [culverts](#), pavements, streets, [storm sewers](#), highways, [traffic signals](#), [streetlights](#),

public grounds, public park ~~facility~~ facilities, public buildings, and public facilities, a detailed cost estimate of the cost of such improvement shall be made under oath by the City Engineer (or some other competent person appointed by the City Engineer and reviewed by the City Engineer) and the estimate shall be submitted to the Governing Body for its action thereon. If such estimate is more than six (6) months old prior to the contract letting processes described below, such estimate shall be updated before the contract is awarded by the Governing Body.

SECTION TWO. Unless specified below, where the estimated amount of the public works improvement amounts to more than \$100,000, sealed proposals for the improvement shall be invited by advertisement, ~~published by the City Clerk once in the official City newspaper~~ in a manner that provides reasonable notice to the public of the competitive bid opportunity. Reasonable notice typically includes, but is not limited to, posting the solicitation on the City of Olathe's online bidding tool and other means as deemed appropriate by the City. Any solicitations utilizing external funding, such as federal or State grants, will include notices published in a manner that complies with the funding source requirements. The Governing Body shall let all such work by contract to the lowest responsible bidder, if there is any whose bid does not exceed the estimate.

SECTION THREE. If no responsible person proposes to enter into the contract at a price not exceeding the estimated cost, the Governing Body may:

- a. Reject all bids and rebid the project; ~~or~~
- b. Reject all bids and enter into negotiations with any bidder who has submitted a responsible bid, beginning such negotiations with the bidder who has submitted the lowest responsible bid and continuing with the next lowest responsible bidder and so on, and enter into a contract with such bidder upon reaching mutually agreeable conditions for both the City and the bidder; or
- c. Reject all bids and ~~the Governing Body may~~ authorize said improvements to be made within the estimated cost thereof, and the Governing Body shall have the power accordingly to purchase or rent the necessary ~~tool~~ tools, machinery, apparatus, and materials, and to employ the necessary labor, in order to construct the necessary improvements.

SECTION FOUR. The provisions of Section Two shall not apply to:

- a. Any repair or maintenance work not amounting to substantial alteration, addition, or change in any public improvement;
- b. The construction, reconstruction, repair, or maintenance of any public improvement by employees of the City;
- c. Improvements financed by economic development revenue bonds issued pursuant to K.S.A. 12-1740, et seq.;

d. ~~To public~~ Public improvements which are to be constructed on or to real estate owned, in whole or in part, by the City and which public improvements are to be constructed by a developer pursuant to a development agreement between the City and such developer;

e. Public improvements when cost is not the primary factor in making the award for such improvements and other factors may need to be considered, including alternative construction methods, specialized vendor qualifications, or other project-specific needs. A competitive sealed proposal process may be initiated by the City for such projects by issuing a request for proposal (RFP), which shall contain project conditions, requirements, and parameters, including the pertinent criteria that shall be used in evaluating the proposals and awarding the contract. Contracts for such projects do not have to be awarded solely upon the basis of lowest lump-sum, fixed price submitted. A stipend may be considered and paid to proposers selected to submit final proposals in order to allow the City to retain practical project details from any proposal submitted. The Governing Body has the right to reject all proposals submitted;

e. f. ~~To public~~ Public improvements that are constructed pursuant to ~~a~~ an alternative delivery method (ADM) such as design-build or construction manager at risk (CMAR) ~~method of construction in which one company or a consortium of companies are responsible for both the design and construction under a lump-sum, fixed price, cost-plus fee, guaranteed maximum price, or other acceptable contract term that covers both design and construction activities. A design-build~~ An ADM project shall be initiated by the City issuing ~~a~~ an RFP or request for qualifications ~~and/or a request for proposal. Request for qualifications or request for proposals shall contain~~ containing project conditions, requirements, and parameters. ~~Design-build proposal may be awarded on the basis of lowest lump-sum fixed price, fixed price best value, design concepts, experience of company or consortium of companies submitting proposals and upon other pertinent criteria that shall be set by the Governing Body prior to the acceptance of proposals.~~ Contracts for design-build projects do not have to be awarded solely upon the basis of lowest lump-sum, fixed price submitted, and may be awarded based upon other pertinent criteria that shall be set by the City prior to the acceptance of proposals. A stipend may be considered and paid to proposers selected to submit final proposals in order to allow the City to retain practical project details from any proposal submitted. The Governing Body has the right to reject all proposals submitted;

f. g. ~~To public~~ Public improvements adjacent to developments ~~and~~ when the developer is making the improvement. Such improvements include, but are not limited to, traditional developer projects, transportation development districts (TDD), community improvement districts (CID), and tax increment financing districts (TIF).

SECTION FIVE. Before any type of public improvements shall be commenced (except for items c, d, and ~~f~~ g in Section Four above), the money to pay for the same must be available in the City treasury as provided by law; or provision may be made for the issuance of internal improvement bonds to pay for any such improvement as provided by law.

SECTION SIX. Resolution No. 06-1190 is hereby repealed.

SECTION SEVEN. This Resolution shall take effect immediately.

ADOPTED by the Governing Body this 15th day of October, 2024.

SIGNED by the Mayor this 16th day of October, 2024.

/s/ John W. Bacon

Mayor

ATTEST:

/s/ Brenda D. Swearingian

City Clerk

(SEAL)

APPROVED AS TO FORM:

/s/ Ron Shaver

City Attorney
