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Title: A substitute ordinance relating to the establishment of requirements for the purchase of Milwaukee-made, Milwaukee county-made and American-made goods.

Sponsors: ALD. ZIELINSKI, ALD. BAUMAN, ALD. DAVIS, ALD. PEREZ, ALD. HINES JR., ALD. COGGS, ALD. KOVAC, ALD. HAMILTON

Indexes: PURCHASING PROCEDURES, SOCIAL CONCERNS

Attachments: 1. Buy American - CRS Report.pdf, 2. Buy American - Federal Act.pdf, 3. Buy American - CFR.pdf, 4. Fiscal Impact Statement, 5. Hearing Notice List, 6. Notice Published on 12-13-12

Date	Ver.	Action By	Action	Result	Tally
4/12/2011	0	CITY CLERK	DRAFT SUBMITTED		
9/13/2012	1	CITY CLERK	Sponsor added		
9/13/2012	0	FINANCE & PERSONNEL COMMITTEE	HEARING NOTICES SENT		
9/13/2012	0	FINANCE & PERSONNEL COMMITTEE	HEARING NOTICES SENT		
9/19/2012	0	FINANCE & PERSONNEL COMMITTEE			
10/5/2012	1	FINANCE & PERSONNEL COMMITTEE	HEARING NOTICES SENT		
10/5/2012	1	FINANCE & PERSONNEL COMMITTEE	HEARING NOTICES SENT		
10/10/2012	1	FINANCE & PERSONNEL COMMITTEE	SUBSTITUTED	Pass	5:0
10/10/2012	1	FINANCE & PERSONNEL COMMITTEE	AMENDED	Pass	5:0
10/10/2012	2	FINANCE & PERSONNEL COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	4:1
10/10/2012	1	CITY CLERK	Sponsor added		
10/10/2012	2	CITY CLERK	DRAFT SUBMITTED		
10/15/2012	2	CITY CLERK	DRAFT SUBMITTED		
10/16/2012	2	COMMON COUNCIL	HELD IN COUNCIL	Pass	15:0
11/8/2012	3	COMMON COUNCIL	HELD IN COUNCIL	Pass	13:2
11/27/2012	3	COMMON COUNCIL			
11/27/2012	4	COMMON COUNCIL			
11/27/2012	4	CITY CLERK	DRAFT SUBMITTED		
12/6/2012	4	MAYOR	SIGNED		

12/13/2012 4 CITY CLERK

PUBLISHED

101572

SUBSTITUTE 4

101573

ALD. ZIELINSKI, BAUMAN, DAVIS, PEREZ, HINES, COGGS AND KOVAC

A substitute ordinance relating to the establishment of requirements for the purchase of Milwaukee-made, Milwaukee county-made and American-made goods.

310-18.9 cr

This ordinance requires that the city purchase Milwaukee-made goods for purchases of goods over \$30,000, provided the purchase does not increase the cost by more than 12%. "Milwaukee-made good" means an article that is manufactured, mined or produced in the city of Milwaukee, and the cost of components made in Milwaukee used in the production of the good exceeds 50% of the total cost of all the components. If a Milwaukee-made good is not available, the city shall then purchase a Milwaukee county-made good, provided the purchase does not increase the cost by more than 12%. "Milwaukee county-made good" means an article that is manufactured, mined or produced in Milwaukee county, and the cost of the components made in Milwaukee county used in the production of the good exceeds 50% of the total cost of all the components. If a Milwaukee-made or Milwaukee county-made good is not available, the city shall then purchase an American-made good, provided the purchase does not increase the cost by more than 12%. "American-made good" means an article that is manufactured, mined or produced in the United States, and the cost of domestic components used in the production of the good exceeds 50% of the total cost of all the components.

The business operations division - procurement services section - department of administration shall be responsible for monitoring compliance with these requirements and may waive the requirements for any of the following reasons:

1. The good is not produced in the United States in a sufficient and reasonably available quantity and of a satisfactory quality.
2. The purchase is necessary for responding to an emergency which endangers the public health and safety, and no other contractor who complies with the requirements of this ordinance is immediately capable of responding to the emergency.
3. It is impossible or impracticable to draw specifications satisfactorily to permit competitive bidding, items can be furnished from only one source, or items constitute a special adaptation for a special purpose, under s. 16-05-3 of the charter.
4. The purchasing director determines that it would be in the best interests of the city to procure the goods pursuant to a cooperative purchasing agreement with the state or another governmental entity.

The purchase of commodities considered to be raw materials and chemicals are exempt from the requirements of this ordinance.

The business operations division - procurement services section - department of administration shall report annually to the common council on purchases made under this ordinance.

Whereas, The economic downtown has had a critical adverse impact on citizens, in both Milwaukee as well as the United States as a whole, who are struggling to maintain or find jobs in a difficult environment; and

Whereas, The Milwaukee region lost more jobs than any metro area in the country from July 2011 to

July 2012; and

Whereas, The unemployment rate for the city of Milwaukee was 11.4% in July of 2012, which represents 31,507 individuals, as compared to 8.6% for the U.S.; and

Whereas, A high unemployment rate severely impacts the economic well-being of the city's population and results in serious social problems; and

Whereas, The high rate of unemployment in the city negatively affects the city's property tax base, revenues and expenditures for city services; and

Whereas, The unemployment rate for the County of Milwaukee was 9.2% in August of 2012, as compared to 7.1% in the state of Wisconsin and 8.2% in the United States; and

Whereas, The same citizens struggling in this difficult economic environment are taxpayers that provide the revenue needed to operate essential government services; and

Whereas, Taxpayer dollars should be spent to maximize the creation of American jobs and restore the economic vitality of the community; and

Whereas, The purchase of domestically-produced products will help struggling American citizens and aid in stabilizing the economy; and

Whereas, The International Monetary Fund has predicted that China's Gross Domestic Product (GDP), based on purchasing power parity, will surpass that of the United States in 2016; and

Whereas, The City of Milwaukee should, to every extent possible, commit to buying products that are produced in the United States, thus employing taxpayers; now, therefore

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 310-18.9 of the code is created to read:

310-18.9. Purchase of Milwaukee-Made, Milwaukee county-made and American-Made Goods.

- 1. DEFINITIONS.** a. "American-made good" means an article that is manufactured, mined or produced in the United States and whose domestic components exceed 50% of the total cost of all components.
- b. "Component" means an article, material or supply incorporated directly into an end product.
- c. "Milwaukee-made good" means an article that is manufactured, mined or produced in the city of Milwaukee and whose components made in Milwaukee exceed 50% of the total cost of all components.
- d. "Milwaukee county-made good" means an article that is manufactured, mined or produced in the county of Milwaukee and whose components made in Milwaukee county exceed 50% of the total cost of all components.

2. MILWAUKEE-MADE GOODS. The city purchasing director and any other officer, agent, agency, committee, board or commission of the city shall, unless contrary to federal, state or local law, trade agreement or other regulations, purchase Milwaukee-made goods for purchases over \$30,000, except for vehicles purchased under s. 310-18.3. Contracts shall be awarded to the lowest

responsible bidder proposing to supply Milwaukee-made goods provided that the bid does not exceed the lowest bid by more than 12%.

3. MILWAUKEE COUNTY-MADE GOODS. If a Milwaukee-made good is not available, the city purchasing director and any other officer, agent, agency, committee, board or commission of the city shall, unless contrary to federal, state or local law, trade agreement or other regulations, purchase Milwaukee county-made goods for purchases over \$30,000, except for vehicles purchased under s. 310-18.3. Contracts shall be awarded to the lowest responsible bidder proposing to supply Milwaukee county-made goods provided that the bid does not exceed the lowest bid by more than 12%.

4. AMERICAN-MADE GOODS. If a Milwaukee-made or Milwaukee county-made good is not available, the city purchasing director and any other officer, agent, agency, committee, board or commission of the city shall, unless contrary to federal, state or local law, trade agreement or other regulations, purchase American-made goods for purchases over \$30,000, except for vehicles purchased under s. 310-18.3. Contracts shall be awarded to the lowest responsible bidder proposing to supply American-made goods provided that the bid does not exceed the lowest bid by more than 12%.

5. AFFIDAVITS. No contracts for items specified in sub. 2 or 3 shall be entered into by contracting departments unless the lowest responsible bidders first submit to the purchasing director sworn reports or affidavits which include a statement by the bidder that the goods to be supplied are Milwaukee-made, Milwaukee county-made or American-made goods.

6. MONITORING AND COMPLIANCE. a. The business operations division - procurement services section - department of administration shall be responsible for monitoring compliance with this section.

b. The business operations division - procurement services section - department of administration shall, prior to contract execution and final payment of a contract, obtain an estimate from the successful bidder of the impact of the contract on job creation and retainment.

7. WAIVER. The requirements of this section may be waived in writing by the purchasing director for any of the following reasons:

a. The good is not produced in the United States in a sufficient and reasonably available quantity and of a satisfactory quality.

b. The purchase is necessary for responding to an emergency which endangers the public health and safety, and no other contractor who complies with the requirements of this section is immediately capable of responding to the emergency.

c. It is impossible or impracticable to draw specifications satisfactorily to permit competitive bidding, items can be furnished from only one source, or items constitute a special adaptation for a special purpose, under s. 16-05-3 of the charter.

d. The purchasing director determines that it would be in the best interests of the city to procure the goods pursuant to a cooperative purchasing agreement with the state or another governmental entity.

8. EXEMPTIONS. The requirements of this section shall not apply to any of the following:

a. The purchase of a commodity that is considered to be a raw material, including salt, gravel or petroleum, or any product derived from petroleum.

b. The purchase of a commodity that is considered to be a chemical, including liquid oxygen, fluoride or anhydrous ammonia.

9. RELATION TO OTHER LAWS. No provision of this section shall relieve any bidder from compliance with other bid specifications or code provisions. Any bidder proposing to supply an American-made good with a bid considered for a contract award as defined in sub. 2 or 3 shall not also receive the benefit of the bid award provided in s. 365-7-1.

10. REPORTING. The business operations division - procurement services section - department of administration shall report annually to the common council on purchases made under this section.

11. SANCTIONS. Any person, firm or corporation who has been found by the business operations division - department of administration to have submitted any false, misleading or fraudulent information or who has failed to comply with the provisions of this section may be subject to the sanctions provided in s. 310-17-3-f.

Part 3. The authorization of this ordinance shall expire July 1, 2014, unless reauthorized by the common council.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

Mary E. Turk
11/27/12
LRB125743-6

1/17/13 technical correction dkf