



Legislation Text

File #: 041492, Version: 0

041492
ORIGINAL

THE CHAIR

A charter ordinance relating to retention of payments on public construction projects.

7-26 rc

This charter ordinance revises the provisions of the charter relating to retention of payments to public works contractors to be consistent with the recently-revised state statute on payment retention (s. 66.0901(9)(b), Wis. Stats.). Specifically, it reduces the percentage of the estimated value of the work done that may be retained by the city from 10% to not more than 5%, provided the work is not at least 50% complete. At 50% completion or anytime after 50% completion, partial payments shall be made in full (i.e., no retention) unless the commissioner of public works determines that work is not progressing satisfactorily, in which additional amounts may be retained, but the total retainage shall not be more than 10% of the value of the work completed.

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

Part 1. Section 7-26 of the charter is repealed and recreated to read:

7-26. Payments on Contract as Work Progresses. 1. RETAINED PERCENTAGES. As the work progresses under a contract involving \$1,000 or more for the construction, execution, repair, remodeling or improvement of a public work or building or for the furnishing of supplies or materials, regardless of whether proposals for the contract are required by law to be advertised, the commissioner shall, from time to time, grant the contractor an estimate of the amount and proportionate value of the work done, which entitles the contractor to receive the amount of the estimate, less the retainage, from the proper fund. The retainage shall be an amount equal to not more than 5% of the estimate until 50% of the work has been completed. At 50% completion, further partial payments shall be made in full to the contractor and no additional amounts may be retained unless the commissioner determines that the work is not proceeding satisfactorily, but amounts previously retained shall not be paid to the contractor. At 50% completion or any time after 50% completion when the progress of the work is not satisfactory, additional amounts may be retained but the total retainage shall not be more than 10% of the value of the work completed. Upon substantial completion of the work, an amount retained may be paid to the contractor. When the work has been substantially completed, except for work which cannot be completed because of weather conditions, lack of materials or other reasons which in the judgment of the commissioner are valid reasons for noncompletion, the commissioner may make additional payments, retaining at all times an amount sufficient to cover the estimated cost of the work still to be completed or may pay out the entire amount retained and receive from the contractor guarantees in the form of a bond or other collateral sufficient to ensure completion of the job. For the purposes of this subsection, estimates may include any fabricated or manufactured materials and components specified, previously paid for by the contractor and delivered to the work site or properly stored and suitable for incorporation in the work embraced in the contract.

2. EXTENSION OF TIME FOR COMPLETION OF CONTRACT. The commissioner is authorized to extend or enlarge the time limited by the terms of the contract for the performance thereof.

3. PAYMENT FROM SPECIAL ASSESSMENTS. Any person entering into any contract with the city who agrees to be paid from special assessments shall have no claim upon the city in any event, except from the collection of the special assessments made for the work contracted for. No work that is to be paid for by special assessments shall be let except to a contractor who agrees to this provision.

4. ADDITIONAL WITHHOLDING. Nothing in this section shall prejudice the right of the commissioner to withhold additional amounts to cover lien claims filed with the city.

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: _____

Department of Public Works

LRB05054-1

JDO

02/10/05