



Legislation Text

File #: 980849, Version: 0

980849
ORIGINAL

THE CHAIR

A charter ordinance relating to approval by the city attorney of the form and execution of certain performance bonds.

4-17-2 am

- Analysis -

This charter ordinance deletes the requirement that the city attorney approve the performance bonds posted by publishers of legal advertising and common council proceedings.

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

Part 1. The City of Milwaukee elects not to be governed by the provisions of s. 1, ch. 539, laws of Wisconsin, 1919.

Part 2. Section 4-17-2 of the charter is amended to read:

4-17. Publications.

2. TO REQUEST BIDS. The common council [[of any city of the first class, as classified by the Statutes of 1898,]] shall on or before the 1st Tuesday in April, in each year direct the city clerk [[of such city]] to invite proposals to do the advertising for [[such]] >>the<< city for the next ensuing year thereafter, and until a new contract is awarded, of all ordinances, notices and all the city advertising required by law, or by resolution or ordinance of the common council, to be published in a newspaper, and also for proposals to publish the proceedings of the common council as may be ordered by the council. He >>or she<< shall invite separate bids for the advertising required, which advertising may be divided and classified if the council shall so order, and for publishing the proceedings of the common council, and shall invite such bids from the English newspapers published daily in such city for at least [[two]] >>2<< consecutive years prior to the date of the bids, and shall require the delivery of such proposals in writing duly sealed, and directed to [[said]] >>the city<< clerk, on or before the 3rd Thursday of April of the then current year. Such proposals shall name a price per folio, or shall name a price per folio per [[thousand]] >>1,000<< of average daily circulation in such city for the period of [[six]] >>6<< months next preceding the date of such proposals, as shown by the affidavit of an authorized officer or agent of such proponent, or shall name a price for such advertising space as may be required or ordered by the common council at any time during the year for which awards shall be made, or at the option of the proponent, shall include any or all of such separate proposals as aforesaid. No bids for either kind of work shall be considered by [[said]] >>the city<< clerk except from a daily newspaper which has been published in such city at least [[two]] >>2<< years consecutively next before the date of the bid, and no bid shall be considered unless accompanied by a certificate from the city treasurer, showing that the bidder has deposited with him [[five hundred dollars]] >>or her \$500<< in money, or United States bonds, and a written agreement, executed by [[said]] >>the<< bidder under seal, to the effect that if such bid, either for advertising or publishing proceedings, be accepted, and upon being notified thereof, such bidder shall fail to enter into and execute a contract for the advertising, or the publication of proceedings, or for both, as required by this act, within the time prescribed by [[said]] >>the<< clerk, then and in such case the [[said five hundred dollars]] >>\$500<< shall become absolutely forfeited to [[such]] >>the<< city. If a bid [[be]] >>is<< rejected in case the bidder makes but one, and if both bids [[be]] >>are<< rejected in case the bidder makes [[two]] >>2<< bids, the [[said]] certificate of the city treasurer, [[and such]] >>the<< agreement, and [[said five hundred dollars]] >>the \$500<< shall be thereupon returned to the bidder. The [[said]] clerk shall, on the 3rd Tuesday in April in each year at [[twelve o'clock at]] noon, in the presence of the mayor, open all such bids or proposals, and shall thereupon in the presence of the mayor, enter upon a record to be kept by the clerk for that purpose, all the [[said]] proposals for either kind of work, with the respective prices for which such newspapers shall offer to do either the advertising or the publication of the proceedings of the common council. And thereupon [[said]] >>the<< clerk shall transmit all such proposals to the common council, at the next regular meeting thereof, held after the opening of such proposals, and a statement of all such proposals, designating therein the several rates respectively made by newspapers for such advertising, or such publication of council proceedings, or both of them, at the lowest price for the time herein specified. The common council shall thereupon by its resolution, designate and award such advertising, and such publication of council proceedings to the newspaper or newspapers, so published in such city in the English language, which shall respectively offer to do such advertising and such publication of proceedings, or either, at the lowest price for the time herein specified, or, [[said]] >>the<< common council may award such advertising and such publication proceedings or either to the lowest bidder or to the lowest bidder based upon a rate per [[thousand]] >>1,000<< of average circulation in [[such]] >>the<< city, [[as aforesaid,]] or [[said]] >>the<< common council may award such advertising and such publication of council proceedings, or either, to the lowest bidder and also to the lowest bidder based upon a rate per [[thousand]] >>1,000<< of average circulation in [[such]] >>the<< city, as aforesaid. The common council may separately provide for additional advertising of any division or class of advertising in any daily newspaper which shall have made a proposal therefor, as aforesaid, and such additional advertising shall not be required to be proven as an essential to the validity of any proceeding of any nature. And if [[two]] >>2<< or more bids shall be received for either the advertising or the publication of the proceedings for the same rate then and in such case the common council may determine which newspaper [.] or newspapers [., aforesaid,] shall be awarded such advertising or publication of proceedings, and the publisher of the newspaper or newspapers to which such advertising or publication of proceedings, or both, shall be awarded [[as aforesaid,]] shall respectively thereupon give bond in the sum of [[two thousand dollars]] >>\$2,000<< for the faithful performance of [[said]] >>the<< contract, which bond shall be approved by the comptroller of such city, as to the sureties therein, [[and by the city attorney as

to the form and execution thereof]]. Provided, that in case both the advertising and the publication of proceedings shall be let to the same newspaper, then the penalty of such bond shall be [[four thousand dollars]] >>\$4,000<< . And, whenever the successful bidder for the advertising, or for the publishing of proceedings [[as aforesaid]] , or for both, shall have executed the contract and bond [[aforesaid]], and such bond shall have been duly approved [[as aforesaid]] , the sum of [[five hundred dollars]] >>\$500<< deposited with the city treasurer by such bidder, in accordance with this act, shall be returned to the [[said]] bidder in accordance with the provisions hereinbefore set forth. Such newspaper or newspapers shall thereupon become liable to print and publish all such ordinances, notices, council proceedings and other proceedings as are required by the charter of such city, or by resolution or ordinance of the common council to be published in a public newspaper, or which such newspaper shall have contracted to publish for the compensation specified in such proposals and contract, and shall receive no other compensation therefor; provided, however, that [[said]] >>the<< common council may in its discretion reject any or all bids so made that by said common council shall be deemed exorbitant, or too high, and in case of the rejection of all bids for either advertising or publication of proceedings for such cause, it shall [[thereupon]] be the duty of the [[said]] common council to direct [[said]] >>the<< city clerk to invite new proposals for such advertising or publication of proceedings, as the case may be, and the [[said]] clerk shall thereafter transmit to [[said]] >>the<< common council the proposals so received by him >>or her<< in the manner aforesaid. The [[said]] common council shall designate the newspapers receiving the contract for such advertising and for such publication of proceedings as the proper official newspapers of such city. Provided, that if for any reason such contracts, or any of them, shall not be awarded at the time [[hereinbefore]] specified, then the new contract, or contracts, shall be awarded for the unexpired portion of such year and until a new contract is awarded.

Part 3. This is a charter ordinance and shall take effect 60 days after its passage and publication, unless within such 60 days a referendum petition is filed under s. 66.01(5), Wis. Stats., in which event this ordinance shall not take effect until submitted to a referendum and approved by a majority of the electors.
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: _____

City Attorney

LRB98316.1

CAW

8/31/98