

ORDINANCE NO.: A—2023-24

TO THE HONORABLE, THE OUTAGAMIE COUNTY BOARD OF SUPERVISORS

LADIES AND GENTLEMEN:

MAJORITY

The Property, Airport, Recreation and Economic Development Committee and Legislative/Audit and Human Resources Committee are requesting to amend the County Code of Ordinances as pertains to Chapter 22, Finance and Taxation, as listed below.

NOW THEREFORE, the undersigned members of the Property, Airport, Recreation and Economic Development Committee and Legislative/Audit and Human Resources Committee recommend adoption of the following ordinance.

BE IT ORDAINED, that the Outagamie County Board of Supervisors does amend Chapter 22, Finance and Taxation, of the Outagamie County Code of Ordinances to read as follows (additions are in red and underlined; deletions are in red and struck through):

Sec. 50-41. Scope.

(a) *Contracts, bids.* All public work undertaken by the county or any agency thereof, including contracts for the construction, repair, remodeling or improvement of any public work, building or furnishing of supplies or materials of any kind shall follow the procedures as set forth in Sections 59.52(29) and 66.0901, Wisconsin Statutes and the current Administrative Rules for Public Works Projects of \$1,500,000 or Less and Public Works Projects Over \$1,500,000.~~where estimated cost of such work will exceed \$50,000.00, shall be let by contract to the lowest responsible bidder. Any public work, the estimated cost of which does not exceed \$50,000.00, once the funds have been provided by the County Board by either the budgetary or transfer process, shall be completed in accordance with procedures established as administrative rules which have been created by the county procurement coordinator and reviewed by the County Board without further action of the County Board. If the estimated cost of any public work is between \$5,000.00 and \$50,000.00, a class 1 notice under Wis. Stats. ch. 985, shall be given before any department or agency of the county contracts for the work or shall contract with a person qualified as a bidder under Wis. Stats. § 66.0901(2), or any amendments thereto. A public works project, the estimated cost of which exceeds \$25,000.00, shall be let and awarded under Wis. Stats. §66.0901(2), except that the County Board may by a three-fourths vote of all the members entitled to a seat provide that any class of public work or any part thereof may be done directly by the county without submitting the same for bids.~~

Sec. 50-44. Policy statement.

(a) It shall be the policy of the county to act in accordance with chapter 22, pertaining to finance and taxation, and to publicly announce all requirements for architectural, engineering services and construction management to negotiate contracts for such services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices and at cost determined to be in the best interests of the taxpayers of the county.

(b) Public works projects with a contract sum greater than ~~\$500,000.00~~\$1,500,000.00 shall not commence until an agreement has been executed between the contractor and the county and all required contractor insurance certificates, performance bonds, and payment bonds have been received by the county. This provision shall not be mandatory for the repair or reconstruction of a county facility or facilities when such must be repaired or reconstructed on an emergency basis to protect the structural integrity of the improvement or the contents therein from further damage. For public works projects valued less than ~~\$500,000.00~~\$1,500,000.00, refer to administrative rules which shall be reviewed by the County Board in accordance with section 2-52.

Sec. 50-87. Committee to oversee project.

(a) Upon passage of an appropriating resolution for any public works project whose total cost exceeds \$1,500,000.00, the Project Oversight Committee shall from that point forward have the total responsibility for overseeing all phases of the project to ensure that the project is proceeding in the best interests of the county. The Project Oversight Committee shall consist of:

- (1) The County Executive or his representative.
- (2) One member of the Standing Property, Airport, Recreation and Economic Development Committee.
- (3) ~~(34)~~ Finance Committee member.
- (45) The affected department head or, in the case of multiple departments, a representative.
- (45) The Facilities Engineer.
- (6) Finance Director, or representative.
- (5) The County Board Chair or his representative.
- (6) One member of the standing committee of jurisdiction.
- (b) The County Board Chair shall appoint one of the County Board Supervisors assigned to the Project Oversight Committee as Chair of the Project Oversight Committee.

BE IT FURTHER ORDAINED, that this ordinance shall be in effect upon completion of publication in accordance with Wisconsin State Statutes, and

BE IT FINALLY ORDAINED, that the Outagamie County Clerk be directed to forward a copy of this ordinance to the Outagamie County Corporation Counsel and Municipal Code Corporation for inclusion in the Outagamie County Code of Ordinances.

Dated this ____ day of May 2023.

Respectfully submitted,

PROPERTY, AIRPORT, RECREATION &
ECONOMIC DEVELOPMENT COMMITTEE
AND
LEGISLATIVE/AUDIT AND HUMAN
RESOURCES COMMITTEE

Dean Culbertson

Lee W. Hammen

Ronald Klemp

Yvonne Monfils

Jayson Winterfeldt

Cathy Spears

Curt Konetzke

Sara MacDonald

Ryan Ferguson

Joe Santonato

Duly and officially adopted by the County Board on: _____

Signed: _____

Board Chairperson

County Clerk

Approved: _____

Vetoed: _____

Signed: _____

County Executive

- CODE OF ORDINANCES
Chapter 50 STREETS, SIDEWALKS AND OTHER PUBLIC PROPERTY

Chapter 50 STREETS, SIDEWALKS AND OTHER PUBLIC PROPERTY¹

ARTICLE I. IN GENERAL

Secs. 50-1—50-18. Reserved.

ARTICLE II. PUBLIC PROPERTY

DIVISION 1. GENERALLY

Secs. 50-19—50-39. Reserved.

DIVISION 2. PUBLIC WORKS PROJECTS²

Subdivision I. In General

Sec. 50-40. Purpose.

The purposes of this section are as follows:

- (1) To provide a uniform process for the handling of county public works projects from the earliest stages of the project through its completion
- (2) To designate the areas of responsibility through the various stages of the project.

(Code 1992, § 8.01(4); Ord. No. B-2006-2007, § 8.01(4), 6-27-2006)

Sec. 50-41. Scope.

- (a) *Contracts, bids.* All public work undertaken by the county or any agency thereof, including contracts for the construction, repair, remodeling or improvement of any public work, building or furnishing of supplies or materials of any kind ~~shall follow the procedures as set forth in Sections 59.52(29) and 66.0901, Wisconsin Statutes and the current Administrative Rules for Public Works Projects of \$1,500,000 or Less and Public Works Projects Over \$1,500,000, where estimated cost of such work will exceed \$50,000.00, shall be let by contract to the lowest responsible bidder. Any public work, the estimated cost of which does~~

¹State law reference(s)—County highways, Wis. Stats. § 83.001 et seq.

²State law reference(s)—Public works contracts and bids, Wis. Stats. § 66.0901.

~~not exceed \$50,000.00, once the funds have been provided by the County Board by either the budgetary or transfer process, shall be completed in accordance with procedures established as administrative rules which have been created by the county procurement coordinator and reviewed by the County Board without further action of the County Board. If the estimated cost of any public work is between \$5,000.00 and \$50,000.00, a class 1 notice under Wis. Stats. ch. 985, shall be given before any department or agency of the county contracts for the work or shall contract with a person qualified as a bidder under Wis. Stats. § 66.0901(2), or any amendments thereto. A public works project, the estimated cost of which exceeds \$25,000.00, shall be let and awarded under Wis. Stats. § 66.0901(2), except that the County Board may by a three-fourths vote of all the members entitled to a seat provide that any class of public work or any part thereof may be done directly by the county without submitting the same for bids.~~

- (b) *Exceptions.* Except as otherwise provided by law, the provisions of this chapter are not mandatory for projects involving the county and any federal, state or other governmental entity where such noncounty entity is the lead or directing entity for the project. In addition, this chapter is not mandatory for highway contracts which the county highway commissioner is authorized by law to let or make. This article does not apply to public construction if the materials for such a project are donated or if the labor for such a project is provided by volunteers.
- (c) *Emergency provision.* The provisions of this article are not mandatory for the repair or reconstruction of public facilities when damage or threatened damage thereto creates an emergency as declared in writing by the county executive in which the public health or welfare of the county is endangered. For purposes of this subsection, an emergency shall mean any situation that exists immediate and substantial danger to the health, life or property of any person or any situation where there exists potential for increased damage to county property if the situation is not immediately remedied. Within 24 hours of declaring an emergency, the county executive shall notify the County Board Chair. Whenever the County Board by majority vote at a regular or special meeting determines that an emergency no longer exists, this subsection no longer applies.
- (d) *Turnkey methods.* In those construction projects where the Wisconsin Statutes permit the use of turnkey methods, the provisions of this article shall not be mandatory. In those projects, the county executive, the jurisdictional committees and the property, airport, recreation and economic development committee shall develop appropriate requests for bids and shall present their recommendation to the County Board for the awarding of the constructional contract.

(Code 1992, § 8.01(2)(a)—(d); Ord. No. K-2001-2002, § 8.01(2), 9-25-2001; Ord. No. B-2006-2007, § 8.01(2)(a)—(d), 6-27-2006)

State law reference(s)—Public work, Wis. Stats. § 59.52(29).

Sec. 50-42. Prevailing wage rate.

On any project subject to the prevailing wage rate, as defined and determined under Wis. Stats. § 66.0903 and Wisconsin Admin. Code, § DWD 290.01(17), the county shall apply to the department of workforce development for a prevailing wage rate determination. Applicability and exemptions shall be in accordance with definitions and project cost determinations of Wis. Stats. § 66.0903 and Wis. Admin. Code, § DWD 290.01(17).

(Ord. No. B-2006-2007, § 8.01(2)(e), 6-27-2006)

Sec. 50-43. Release of funds and retained percentages

Payment and retainage shall be in accordance with Wis. Stats. § 66.0901(9)(b).
(Ord. No. B-2006-2007, § 8.01(2)(f), 6-27-2006)

State law reference(s)—Bidder's proof of responsibility required, Wis. Stats. § 66.0901(2).

Sec. 50-44. Policy statement.

- (a) It shall be the policy of the county to act in accordance with chapter 22, pertaining to finance and taxation, and to publicly announce all requirements for architectural, engineering services and construction management to negotiate contracts for such services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices and at cost determined to be in the best interests of the taxpayers of the county.
- (b) Public works projects with a contract sum greater than ~~\$500,000.00~~\$1,500,000.00 shall not commence until an agreement has been executed between the contractor and the county and all required contractor insurance certificates, performance bonds, and payment bonds have been received by the county. This provision shall not be mandatory for the repair or reconstruction of a county facility or facilities when such must be repaired or reconstructed on an emergency basis to protect the structural integrity of the improvement or the contents therein from further damage. For public works projects valued less than ~~\$500,000.00~~\$1,500,000.00, refer to administrative rules which shall be reviewed by the County Board in accordance with section 2-52.

(Code 1992, § 8.05; Ord. of 8-11-1998, § 8.05)

Secs. 50-45—50-61. Reserved.**Subdivision II. Stages of Public Works Projects****Sec. 50-62. Stages.**

Every county public works project shall proceed through the stages in this subdivision.
(Code 1992, § 8.02; Ord. No. B-2006-2007, § 8.02, 6-27-2006)

Sec. 50-63. Initial discussions.

To determine the need for the project, an initial discussion concerning such proposed project shall be conducted by the County Board committees of jurisdiction, the standing property, airport, recreation and economic development committee and the county executive.
(Code 1992, § 8.02(1); Ord. No. B-2006-2007, § 8.02(1), 6-27-2006)

Sec. 50-64. Appropriating resolution.

- (a) The standing property, airport, recreation and economic development committee, together with the committees of jurisdiction, shall submit a resolution describing any proposed public works project whose

estimated cost exceeds \$1,500,000.00 for consideration by the County Board which shall include recommendations for the scope of a particular project; approval to engage the services of a construction manager, if one is desired, and an architect/engineer for the project; authorization to proceed with having plans and specifications prepared; authorization to advertise for bids; and making provisions for funding the project. The projects shall be administered in accordance with administrative rules prepared by the county purchasing agent and reviewed by the County Board.

- (b) Projects whose estimated cost is less than \$1,500,000.00 and for which funding has been budgeted shall be considered approved by the County Board upon the passage of such project's budget and at the levels so authorized by the Board. Financing sources, outside of the county property tax levy, shall first be approved of by separate action of the County Board before any work or contract for work shall be entered into for such projects. The projects shall be administered in accordance with written administrative rules prepared by the County Procurement Coordinator and approved by the County Board which rules are incorporated herein by reference.

(Code 1992, § 8.02(2); Ord. No. B-2006-2007, § 8.02(2), 6-27-2006)

Secs. 50-65—50-86. Reserved.

Subdivision III. Public Works Project Oversight

Sec. 50-87. Committee to oversee project.

- (a) Upon passage of an appropriating resolution for any public works project whose total cost exceeds \$1,500,000.00, the Project Oversight Committee shall from that point forward have the total responsibility for overseeing all phases of the project to ensure that the project is proceeding in the best interests of the county. The Project Oversight Committee shall consist of:
- (1) The County Executive or his representative.
 - (2) One member of the Standing Property, Airport, Recreation and Economic Development Committee.
 - (3) Finance committee member.
 - (34) The affected department head or, in the case of multiple departments, a representative.
 - (45) The Facilities Engineer.
 - (6) Finance Director, or representative.
 - (5) The County Board Chair or his representative.
 - (6) One member of the standing committee of jurisdiction.
- (b) The County Board Chair shall appoint one of the County Board Supervisors assigned to the Project Oversight Committee as Chair of the Project Oversight Committee.

(Code 1992, § 8.03(1), (2); Ord. No. L-1995-1996, § 8.03(1), 9-26-1995; Ord. of 1-23-1996; Ord. of 9-7-1999, § 8.03(1), (2); Ord. No. B-2006-2007, § 8.03(1), (2), 6-27-2006)

Sec. 50-88. Funds to be authorized by County Board.

No funds may be spent, nor costs incurred on a project beyond appropriations authorized by the County Board. Where insufficient project funds exist, supplemental appropriations shall only be authorized by the County Board.

(Code 1992, § 8.03(3); Ord. No. L-1995-1996, §8.03(2), 9-26-1995; Ord. of 9-7-1999(1), § 8.03(3); Ord. No. B-2006-2007, § 8.03(3), 6-27-2006)

Sec. 50-89. County Board may decline creation of committee.

If the public works project, meeting the threshold to institute an oversight committee, is deemed, because of its merits, not to require an oversight committee, the County Board may through resolution decline the creation of the oversight committee for the project. The following solid waste projects will be exempt from the requirement to form an oversight committee: Landfill earthwork and liner installation for cell or final cover construction and gas collection piping or well system construction.

(Ord. No. B-2006-2007, § 8.03(4), 6-27-2006; Ord. No. A-2011-12, 4-19-2011)

Sec. 50-90. Updates required.

At six-month intervals of the public works project, a written update as to the progress of the project and the financial aspects of the project shall be brought before the Property, Airport, Recreation and Economic Development Committee and the Committee of Jurisdiction.

(Ord. No. F-2003-2004, § 8.03(4), 12-9-2003; Ord. No. N-2003-2004, § 8.03(4), 3-23-2004; Ord. No. B-2006-2007, § 8.03(4), 6-27-2006)

Sec. 50-91. Report due at project completion.

At the completion of a public works project, the Facilities Engineer shall submit a written finish-out report to ensure all functional criteria of the project have been met, and the Finance Director shall submit a financial close out report which shall summarize the accounting for the dispersion of funds throughout the project and show a final project balance, to the Property, Airport, Recreation and Economic Development Committee and the Committee of Jurisdiction. The County Board of Supervisors shall then receive this report from the Committees of Jurisdiction.

(Ord. No. F-2003-2004, § 8.03(4), 12-9-2003; Ord. No. N-2003-2004, § 8.03(5), 3-23-2004; Ord. No. B-2006-2007, § 8.03(5), 6-27-2006)

Sec. 50-92. Progress reports; contracts; invoices and payments; Committee of Jurisdiction.

- (a) The County Executive or designee shall prepare and submit progress reports on the various public works projects to the County Board from time to time.
- (b) The County Board Chair, County Clerk and County Executive shall execute all contracts requiring County Board approval on behalf of the county.
- (c) The County Executive or designee shall prepare invoices and authorize payments to be made on any project pursuant to the County Board authorizing resolution.

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- (d) The Standing Property, Airport, Recreation and Economic Development Committee shall be the Committee of Jurisdiction for all county remodeling, reconstruction, refurbishing, repair or new construction projects with jurisdiction for the acquisition or disposal of any land as may be required.

(Code 1992, § 8.04; Ord. No. G-1995-1996, 6-13-1995)

Secs. 50-93—50-112. Reserved.