

ORDINANCE NO. 80-838

AN ORDINANCE TO AMEND CHAPTER 2 OF THE CODE OF ORDINANCES
RELATING TO PUBLIC CONTRACTS AND RESPONSIBLE BIDDERS

THE CITY OF WARREN ORDAINS:

SECTION 1. Chapter 2, Article IX of the Code of Ordinances of the City of
Warren, Michigan is repealed.

SECTION 2. Chapter 2, Article VI, Division 4 of the Code of Ordinances of the
City of Warren, Michigan, is amended to:

ADD THE FOLLOWING DEFINITIONS:

Construction contract is a contract or subcontract to demolish, build, or improve real property. *Construction contracts* do not include the furnishing of materials, or servicing and maintenance work.

Construction project is a project to demolish, build, or improve real property. *Construction projects* do not include the manufacturing, furnishing of materials, or servicing and maintenance work.

Major city projects are *construction projects* involving: (1) city road construction and utility projects; and (2) demolition, construction, or renovations to city-owned land, buildings, or facilities, where the City is the lead in the bidding process and the project is anticipated to cost more than \$250,000. *Major city projects* do not include projects funded by federal or state grants, sole source, consulting, or emergency services.

Responsible contractor is a contractor that has been approved and in good standing, pursuant to Section 2-340 of this Division.

Responsible Contracting Committee is a committee made up of the Purchasing Agent, or his or her designee, the City Engineer, or his or her designee, and the Public Service Director, or his or her designee.

**CHANGE THE MONETARY THRESHOLDS FOR THE FOLLOWING PURCHASING
CATEGORIES:**

Living wage, prevailing wage, small purchase quotations, requests for quotations, sealed/electronic bidding, sole source procurement, spot market purchases, mandatory Council approval, and award waiting periods.

ADD A RESPONSIBLE CONTRACTOR SECTION READING AS FOLLOWS:

2-335 – Responsible Contractors.

(a) *Applicability.* This subsection applies to *construction contracts* involving a *major city project*

(b) *Purpose.* In enacting this Section, the City is acting in a proprietary role as a market participant. The City has determined that hiring *responsible contractors* ensures efficient use of taxpayer dollars by promoting worker safety, productivity, quality workmanship, minimizing waste, and reducing anticipated shortfalls in a trained workforce required to perform necessary City services.

(c) *Prequalification form.*

- (1) A potential bid applicant for a *major city project* contract shall submit a Responsible Contractor Prequalification form as developed by the City.
- (2) If not currently on the City's responsible contractor list as described in subsection (e) below, a potential contractor for a *major city project* shall submit the prequalification form by the date listed by the City in the bid advertisement.
- (3) The Prequalification form shall include the contractor's or their agent's signature swearing to the accuracy of the responses.
- (4) A *responsible contractor* has a duty to update its responses to the Prequalification form if there is a significant change to its answers during the bidding process or the term of the contract.
- (5) Failure to respond or sufficiently answer a question on the form shall give rise to a presumption that the potential contractor is not a *responsible contractor* as related to the unanswered question or incomplete answer.
- (6) An applicant or an applicant's agent who provides false or misleading answers on a Prequalification form or fails to update a prequalification form with a material change that may affect his/her status as *responsible contractor* is:
 - i. guilty of a misdemeanor punishable by incarceration for not more than ninety (90) days, a fine of not more than five hundred dollars (\$500.00), or both;
 - ii. not eligible to be awarded future City contracts; and
 - iii. a material breach of any contract between the City and the applicant.

(d) *Prequalification factors and determination.*

- (1) The *Responsible Contracting Committee* shall determine if each potential bid applicant is a *responsible contractor* by evaluating the following factors:
 - i. Federal, State, or local labor, workplace safety, employment, environmental, license, or tax, civil or criminal violations;
 - ii. Past contract delays, overages, breaches, cancellations, suspensions, and work history;
 - iii. Outstanding judgments or pending legal disputes relevant to the bid applicant's ability to perform the contract;
 - iv. Manager's, member's, officer's, owner's, or other similar person's criminal history;
 - v. Participation in labor force development including, but not limited to apprenticeship and continuing education programs; and
 - vi. Proper classification of workers as employees.

- (2) Except as provided in subsection (3) below, the *Responsible Contracting Committee* has general discretion to determine *responsible contractor* status. The determination is fact-specific and is conducted on a case-by-case basis.
- (3) The *Responsible Contracting Committee* shall deny *responsible contractor* status to a potential bid applicant if any person or entity involved in the contract or performing the work has had significant violations involving criminal, licensing, labor and employment, tax, workplace safety, environmental law or regulations; or does not offer employees a *prevailing wage*.

(e) *Responsible Contractor List.*

- (1) The City shall keep a list of contractors that have been determined to be *responsible contractors* under this section.
- (2) Except if removed from the *responsible contractor* list, the contractor is eligible to enter into *major city contracts*.
- (3) Unless exempted as provided below, all contractors performing work on a *major city project* are required to be listed on the *responsible contractor* list.
- (4) Unless exempted as provided below, if work is performed on a *major city project* by any contractor who is not listed on the *responsible contractor* list, all contractors involved may be subject to revocation as provided below.

(f) *Exemption.* Contractors with less than ten employees are exempt from the *responsible contractor* prequalification.

(g) *Revocation.* If the *Responsible Contracting Committee* determines that an applicant on the *responsible contractor* list: (1) has misrepresented or failed to report information relevant to its *responsible contractor* status on the prequalification form; (2) has taken an action after submitting the prequalification form that affects its status as a *responsible contractor*; or (3) for any other reason, should not be included on the list, the *Responsible Contracting Committee* may remove the applicant from the *responsible contractor* list.

(h) *Notice of determination.*

- (1) If the *Responsible Contracting Committee* determines that an applicant is not a *responsible contractor* within the definition of this Section, it will send written notice of the determination and its reason for denying its application or revoking its status.
- (2) The applicant may appeal this determination as provided in this Section.
- (3) The applicant may reapply to be a *responsible contractor* upon instituting the necessary changes listed in the relevant city department's denial letter.

(i) *Appeal.*

- (1) An applicant may appeal the relevant city department's license revocation or determination that an applicant is not a *responsible contractor* to City Council.
- (2) The appeal must be submitted to City Council within 10 days of the receipt of the notice of determination, be in writing, and state the reasons why the applicant is a *responsible contractor*.
- (3) City Council shall hold a public meeting to hear the applicant's appeal.
- (4) City Council's standard of appellate review is to determine if the *Responsible Contracting Committee* acted in an arbitrary and capricious manner.

- (5) Within 10 days of the appeal hearing, City Council shall provide a written decision to the *Responsible Contracting Committee* and applicant stating the reasons for its decision.
- (6) The applicant may appeal City Council's appellate decision or license revocation as provided by law and court rule.
- (j) *Violations.* A person may file a sworn complaint with the *Responsible Contracting Committee* about a contractor on the City's pre-qualified contractor list. The *Responsible Contracting Committee* will investigate any credible complaint to determine if the contractor is in violation of the requirements of this Chapter.

SECTION 3. This Ordinance shall take effect on July 1, 2026.

I HEREBY CERTIFY that the foregoing Ordinance No. 80-838 was adopted by the Council of the City of Warren at its meeting held on October 28, 2025.

SONJA BUFFA
City Clerk

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