

**INSTRUCTION SHEET  
ADDITIONS TO  
MILWAUKEE CODE OF ORDINANCES  
VOLUME 3**

**SUMMARY**

This supplement incorporates changes to Volume 3 of the Milwaukee Code of Ordinances enacted by the following Common Council file:

201296      A substitute ordinance creating the office of equity and inclusion.

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<u>Section Affected</u>	<u>Action</u>	<u>File Number</u>	<u>Effective Date</u>	<u>Remove Pages</u>	<u>Add Pages</u>
<b>Remove <u>old</u> MEMO (Suppl. #321)</b>					
309-41-5	am	201296	2/27/2021	iii-vi 145-146	iii-vi 145-146
310-2-7	am	"	"	161-178	161-174
310-2-10	cr	"	"	"	"
355-7-1-c	am	201296	2/27/2021	1091-1098	1091-1096
355-7-2-0	am	"	"	"	"
355-7-2-a-0	am	"	"	"	"
355-7-2-a-2	am	"	"	"	"
355-7-2-b	am	"	"	"	"
355-7-2-c	am	"	"	"	"
355-7-2.5	am	"	"	"	"
355-7-3-0	am	"	"	"	"
355-7-3-e	am	"	"	"	"
355-11-2-a	am	"	"	"	"
355-11-2-b	am	"	"	"	"
355-11-2-c	am	"	"	"	"
355-11-2-d	am	"	"	"	"
355-11-2-e	am	"	"	"	"
355-11-3-0	am	"	"	"	"
355-11-3-b	am	"	"	"	"
355-11-3-c	am	"	"	"	"
355-11-5	am	"	"	"	"
355-11-6	am	"	"	"	"
355-11-7	am	"	"	"	"
355-13-4-c	am	"	"	"	"

370-1-13	rp	201296	2/27/2021	1351-1358	1351-1356
370-1-18	am	“	“	“	“
370-3-0	rc	“	“	“	“
370-5-2	am	“	“	“	“
370-5-4-a	am	“	“	“	“
370-5-4-c-0	am	“	“	“	“
370-5-4-c-4	am	“	“	“	“
370-5-4-d	am	“	“	“	“
370-9-0	am	“	“	“	“
370-25	am	“	“	“	“
375-1	am	201296	2/27/2021	1361-1362	1361-1362
375-3	am	“	“	“	“
ch380				1363-1364	1363-1364
ch385	cr	201296	2/27/2021		1365-1366
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**Abbreviations:**

**am=amended**  
**cr=created**

**ra=renumbered and amended**  
**rc=recreated**

**rn=renumbered**  
**rp=repealed**

Revised 2/9/2021  
Suppl. #322

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## **MEMO**

If all supplements have been properly inserted, this book contains all actions of the Common Council through February 9, 2021.

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a. Planning and Implementation. Prior to the commencement of any construction or other project covered by this section, the department shall:

a-1. Identify the approximate number of job positions and worker hours involved in the project.

a-2. Determine the appropriate level of participation of unemployed or underemployed residents of the city for inclusion in the contract specifications. The appropriate level of participation shall be presumed to be 40%, unless the department determines there is sufficient reason to impose a lesser requirement. However, the commissioner of public works may require greater levels of participation if the commissioner finds that such levels may be warranted for certain contracts. Up to one-third of required worker hours may be achieved by documenting the use of unemployed or underemployed residents on projects undertaken by the contractor where such compliance is not required, or by hiring unemployed or underemployed residents on a full-time permanent basis for non-construction job categories connected to the project. Such adjustments must be proposed in an affidavit on a form provided by the department setting forth the facts upon which the request for adjustment is based.

b. Monitoring and Enforcement. The department shall:

b-1. Monitor compliance with the provisions of this section.

b-2. Require all contractors and subcontractors, prior to commencement of the work, to submit affidavits on forms supplied by the department from employees utilized to meet the requirements of this section, stating that the employee is both unemployed or underemployed and is a resident.

b-3. Require all contractors and subcontractors to submit within 10 days following completion of the work or every 3 months, whichever comes first, contract time reports listing workers by name, race, gender, residential address, work classification and hours worked.

b-4. Arrange for an independent audit with respect to the residents preference program, to be performed every 3 years, by a certified accounting firm licensed to perform audits in the state of Wisconsin or by the city comptroller.

b-5. Maintain racial demographics and residency information regarding job positions in all construction contracts administered by the department.

b-6. Ensure that all data required for reporting under this section are maintained in a centralized labor or contract compliance software system, as provided in s. 370-3-5.

b-7. Maintain, and verify every 3 years in coordination with the workforce development coordinator, a list of residents qualified under this section, including information relating to skills and sector-specific work experience.

### 3.5. EXCEPTIONS.

a. If a contractor cannot meet the participation requirements of sub. 2-a, the appropriate level of participation may, at the discretion of the department, be met by utilizing unemployed or underemployed residents to work on concurrent projects in any Wisconsin county, provided those residents began their employment on projects in the city.

b. For every worker hour exceeding the requirements of sub. 2-d, one-and-a-half hours shall be credited toward meeting the requirements of sub. 2-a.

c. The hours worked by a resident who meets the definition of unemployed or underemployed solely under the 15-day provision of sub. 1-f shall not be credited toward meeting the contract participation requirements of sub. 2-a unless the resident had not worked on the same project for the same contractor prior to the 15-day period.

4. ANNUAL REVIEW. The residents preference program established by this section shall be reviewed by the common council, in consultation with the mayor, and the residents preference program review commission on or before October 1 of each year, to review the necessity for the continuation of the program and, if necessary, adjust the requirements of the program in an attempt to reduce the disparity between the unemployment statistics among different zip codes in the city and between the city as a whole and the Milwaukee metropolitan area.

### 309-51 Public Works

#### 5. ANNUAL PROGRAM REPORT.

The department, in coordination with the office of equity and inclusion, the department of city development and the residents preference program review commission, shall prepare, on or before October 1 of each year, a residents preference program report on the city's success in achieving the goals of the program. The performance report shall include the following:

- a. The number and dollar amount of all construction contracts let
- b. The number and dollar amount of construction contracts which incorporated a residency requirement and the percentage of unemployed resident worker hours required.
- c. If not all construction contracts included a residency requirement or if some contracts contained a requirement of less than 40% of worker hours, the department shall state the reason for this difference.
- d. The number and dollar amount of non-construction contracts which incorporated a residency requirement, along with a summary of the reasons for not incorporating a residency requirement in some or all of those contracts.
- e. Full disclosure of the department's reasons for adjusting the participation percentage goal for individual contracts or groups of contracts.
- f. The percentage of total hours worked by city, non-city and non-state residents on construction contracts which included the residency requirement.
- g. Information to assist the common council in its annual reappraisal of the residents preference program, including the number of individual participants by job type, the number of new residents hired during the year under the program and the number of program participants who advanced to apprenticeships and on-the-job training programs.
- h. Unemployment rates in the city and the Milwaukee metropolitan area and the sources of the statistics.
- i. Recommendations regarding the necessity for continuation of the program and methods of making the program more successful.
- j. Information relating to worker hours by zip code, race, gender, trade and hourly wage.

#### 6. ADOPTION OF RESOLUTION.

As soon as practicable after review of the residents preference program as provided in sub. 4, the common council shall adopt a resolution stating the results of its reappraisal of the necessity for continuance of the residents preference program and the required participation percentage goals. The department shall prepare said resolution for common council consideration each year.

#### 7. SANCTIONS.

Every city contract awarded under this section shall contain language indicating that if any document submitted to the department by a contractor, subcontractor, bidder or individual contains any false, misleading or fraudulent information, or if a contractor or subcontractor fails to comply with this section, the department may direct the imposition of any of the following sanctions:

- a. Withholding of payments.
- b. Termination, suspension or cancellation of the contract in whole or in part.
- c. After a due process hearing, denial of right to participate in future contracts awarded by the city for 2 years.

#### 8. PENALTY.

Any person, firm or corporation knowingly engaging in fraud, misrepresentation or in any attempt, direct or indirect, to evade the provisions of this section by providing false, misleading or fraudulent information shall, upon conviction, forfeit not less than \$2,000 or more than \$5,000 together with the costs of prosecution, and upon default of payment, shall be imprisoned in the county jail or house of correction not to exceed 90 days, or until the forfeiture costs are paid.

### **309-51. Rules for the Administration of the Metropolitan Sewerage District User Charges.**

1. OVERALL RESPONSIBILITY FOR ADMINISTERING USER CHARGES. The commissioner of public works shall administer the sewer user charge. He shall apply the rules contained herein and make such amendments subject to approval by the utilities and licenses committee of the common council as may be required from time to time for proper application of the charge.



**CHAPTER 310  
DEPARTMENT OF ADMINISTRATION**

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**310-1. Definitions. In this chapter:**

1. **CONTRACTING AGENCY** means any city department, agency, board, commission or officer that has contracting authority.
2. **DEPARTMENT** means the department of administration.
3. **FORMAL COMPETITIVE BIDDING** shall have the meaning given in s. 16-01-1 of the charter.
4. **PURCHASING DIRECTOR** means the city purchasing director granted the authority to purchase in s. 16-05-1-a of the charter.

**310-2. Department Established.** There is created a department of administration, under

the supervision of a director of administration, with the following responsibilities:

1. Budget and management.
2. Capital improvements administration.
3. Community development block grant administration.
4. Information and technology management
5. Intergovernmental relations.
6. Purchasing.
7. Office of equity and inclusion.
8. Citywide emergency response coordination.
9. Environmental sustainability program management.
10. Office of African American affairs.

**310-3. Environmental Sustainability Director.**

There is created an environmental collaboration office in the department of administration which shall be responsible for the administration, coordination and implementation of the city's environmental sustainability program. Under the direction of the department of administration, the environmental collaboration office shall be administered by an environmental sustainability director. The director of environmental sustainability shall be appointed by the director of administration and confirmed by the common council.

**310-4. Chief Information Officer.**

1. **AUTHORITY.** The chief information officer shall be responsible for coordinating information and technology management for the city of Milwaukee and is subject to the direction and control of the director of administration.
2. **FUNCTIONS.** The chief information officer shall:
  - a. Establish a city of Milwaukee information technology strategic plan in conjunction with the city information management committee.
  - b. Establish standards and guidelines for information and technology management.
  - c. Review and evaluate information technology projects
  - d. Serve as a resource to departments in developing and managing information technology projects.

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e. Coordinate monitoring and reporting of information technology projects.

f. In partnership with departments, develop standards for e-government applications, systems and technology on a citywide basis, including transactions through the internet such as payments, service requests and applications.

g. Maintain and support the city website.

h. Work in collaboration with the department of employee relations to develop a citywide information technology training plan and programs.

i. Be responsible for municipal communications and coordinate with city departments and agencies on communications issues to promote interoperability and integration of city communication systems.

j. Coordinate with city departments and agencies in developing a draft telecommunications policy for the city, recommending this policy to the mayor and common council, and implementing this policy.

k. Inventory and review outsourcing and use of consultants by city departments and agencies for information technology functions.

L. Determine if additional boards, committees or task forces are needed to effectively manage information technology.

m. Coordinate city network services by developing a citywide plan for management, operations, and policies in conjunction with the department of public works.

**3. COORDINATION AND COOPERATION WITH THE DEPARTMENT.** All officials and employees of the city shall assist the department and the chief information officer in fulfilling their information and technology responsibilities and shall make available all records, documents and other materials necessary for the performance of the department's functions as provided herein. All city departments and agencies shall:

a. Comply with the information technology plans, standards, policies, guidelines and systems established by the department of administration. The department of administration may grant exceptions based on unique departmental business needs.

b. Cooperate with the department of administration in providing access to data, databases, information and systems as needed for enterprise purposes.

c. Participate in enterprise systems, applications or other technology established by

the department of administration, including but not limited to e-government.

d. Involve and cooperate with the department of administration in their communications planning and implementation efforts.

**4. INFORMATION TECHNOLOGY PROJECT MANAGEMENT.** The department of administration shall implement an information technology project management process.

a. Departments shall submit budget requests for all information technology spending and projects from all funding sources on forms established by the department of administration as part of departmental estimates submitted pursuant to s. 18-03.

b. Departments shall ensure that information technology budget requests are consistent with the information technology strategic plan established by the department of administration.

c. The department of administration shall conduct a comprehensive analysis of information technology requests and recommend projects to the mayor for inclusion in the proposed budget pursuant to s. 18-04-2.

**310-5. Records.** The director of administration shall be the authority, as defined in s. 19.32(1), Wis. Stats., for records of the director's office. Each division director in the department of administration shall be the authority, as defined in s. 19.32(1), Wis. Stats., for records of their respective division.

### 310-6. Intergovernmental Relations.

**1. AUTHORITY.** The division of intergovernmental relations shall have authority to make studies and investigation, to promote programs to attack the underlying problems which face the city and to provide information with respect to fiscal matters related to the securing of a greater share of state and federal funds and to do whatever may be required in promoting for the city a greater share of state and federal fund distributions.

**2. FUNCTIONS.** The division of intergovernmental relations shall be under the direction and supervision of a intergovernmental relations director. The intergovernmental relations director shall be authorized to represent the city before legislative bodies of both the federal government and the state of Wisconsin as well as other political subdivisions of this state, subject to provisions of s. 350-211. The intergovernmental relations director may confer with officials and representatives of

municipalities and of other political subdivisions of this state for the purpose of securing assistance and cooperation in effectuating the purposes and objectives for which the division is created. The intergovernmental relations director may carry on educational programs, communicate in writing and make personal appearances and perform such other duties and responsibilities as in the judgment of the intergovernmental relations director shall be most beneficial to the accomplishment of the purposes and objectives herein provided. The intergovernmental relations director shall from time to time as the director determines most appropriate or as directed by the mayor or the common council, submit reports with reference to the operations of this division. It shall also be the duty and responsibility of the director to carry out programs wherever necessary to increase the city's share of federal and state contributed funds in accordance with proposals prepared from time to time by the director and approved by the common council. Annual reports and recommendations shall be required of the director to be made to the common council.

**3. COORDINATION.** The intergovernmental relations director shall make recommendations to the common council and mayor, as the need arises, as to those matters relating to the underlying problems faced by the city and to fiscal equity, and as to applications for state and federal grants, which would benefit from cooperative action by the common council and mayor, with those officials responsible for applications for state and federal grants who are under the jurisdiction of the county board of supervisors, the board of school directors, the board of vocational and adult education, the city and metropolitan sewerage commissions, and the social development commission of greater Milwaukee.

**310-7. Control of Obsolete Material and Abandoned and Unclaimed Goods.**

**1. CONTROL AND DISPOSITION OF OBSOLETE MATERIAL.**

a. Control. Whenever any property belonging to the city except land, shall have become obsolete, disused, worn out or scrapped, the department of administration shall take charge and control of such property and shall determine the method of disposal of such property. All responsible administrative heads of each department and board in connection with the city shall request direction from the department of administration when they identify

materials, supplies or equipment which are no longer used or which have become obsolete, worn out or scrapped.

b. Disposition. If any of the material, equipment or supplies can be used by any other municipal department or the Milwaukee public schools, the department of administration is authorized to make such material, equipment or supplies available for use in that department. If the material, equipment or supplies because of its condition can no longer be used for municipal purposes, the department of administration may dispose of the same by any of the following means set forth in sub. 2-b as determined by the department to be in the best interest of the city.

**2. CONTROL AND DISPOSITION OF UNCLAIMED AND ABANDONED PROPERTY.**

a. Control. In accordance with s. 105-122, the department of administration shall determine the method of disposal of unclaimed or abandoned property identified as such by the chief of police with the exception of abandoned or unclaimed property to be sold on the city's behalf by an Internet auction service.

b. Disposition. The department of administration may, pursuant to s. 66.0139, Wis. Stats., dispose of any such abandoned or unclaimed property by any of the following means determined by the department to be in the best interest of the city:

b-1. The property may be sold at a public auction, including the city's Internet auction site or an Internet auction service contracting with the city.

b-2. The property may be sold without a public auction at a sale open to the public.

b-3. The property may be sold in a private sale through an agreed-upon amount of sale.

b-4. The property may be retained by the city for its own use.

b-5. The property may be donated.

b-6. The property may be destroyed.

b-7. The property may be used in trade on other property to be acquired.

c. Record Keeping. If the property is not disposed of in a sale open to the public, the department of administration shall maintain an inventory of the property, a record of the date and method of disposal, including the consideration received for the property, if any, and the name and address of the person taking possession of the property. The inventory shall be kept as a public record for a period of not less than 2 years from the date of the disposal of the property.

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3. SALE PROCEEDS. The proceeds of all sales under this section shall be paid to the city treasurer and credited to the general ledger, except proceeds of sales of obsolete equipment from an enterprise funded department shall be credited to the enterprise funded department.

4. EXCEPTIONS. The provisions of this section, however, are not applicable to the disposition of unclaimed or abandoned flammable, explosive or incendiary devices, unclaimed or abandoned firearms or ammunition, unclaimed or abandoned motor vehicles or trailers and unclaimed or abandoned shopping carts.

#### 310-10. Socially-responsible Contractors.

1. DEFINITIONS. "Socially-responsible contractor" means an entity submitting a bid as part of the city's formal competitive bidding process that has acted or implemented a program to eliminate, or significantly reduce, barriers to employment for current and prospective employees of the contractor. Actions or implemented programs shall include at least 3 of the following actions or programs to:

- a. Hire persons with felony convictions.
- b. Assist current or prospective employees in earning high school diplomas.
- c. Underwrite or facilitate industry-linked career-assessed pre-employment services, subsidized or unsubsidized work experience, including internships, job shadowing, on-the-job training, and summer employment.
- d. Partner with a selected employment service agency to monitor and track individualized employment plans.
- e. Provide, underwrite or facilitate industry-linked career-based instruction to current and prospective employees in areas, including but not limited to, blueprint reading, basic math and measurement, technical math, labor history, construction culture and essential skills, health and safety awareness, manufacturing process and production, maintenance, budgeting and financial literacy.
- f. Provide or facilitate occupational-skills training and related adult mentoring and networking.
- g. Underwrite or facilitate subsidized or unsubsidized programs which provide supportive services for current or prospective employees to obtain or fund the following:
  - g-1. Valid driver's licenses.

- g-2. Transportation vouchers to work and home.
  - g-3. Appropriate work attire, work safety gear and needed equipment.
  - g-4. Testing and certification fees.
  - g-5. Legal aid services.
  - g-6. Child care and family-related dependent care.
  - g-7. Emergency housing, health care and short-term emergency assistance.
  - g-8. Career and training services.
  - g-9. School supplies, books and fees.
  - g-10. Referrals to medical services and exams.
  - g-11. Reasonable accommodation for persons with disabilities.
  - h. Partner with employment service agencies to supplement subsidized wages to ensure that employees receive a living wage.
    - i. Provide breast-feeding facilities for employees who are nursing children.
    - j. Provide a minimum of 120 hours of paid sick leave.
    - k. Provide a minimum of 5 paid sick days.
    - L. Provide an employer assisted housing program providing homebuyer assistance in the form of mortgages, down payment assistance or homebuyer education for residences within walking distance of their employer.
    - m. Provide assistance to reduce fees and penalties on tardy child-support payments, manage payment of child-support arrears and become current on child-support obligations.
2. PURPOSE. The purpose of this section is to ensure contributions toward community betterment made by socially-responsible contractors are recognized and rewarded.
3. DISCLOSURE. Each bidder or proposer seeking to qualify as a socially-responsible contractor shall submit, as part of its bid, a sworn affidavit describing actions taken and programs implemented to eliminate, or substantially reduce, the barriers to employment for current and prospective employees of the contractor, and the outcomes of these actions and programs.
4. EVALUATION PREFERENCE. The purchasing director shall develop procedures, rules and regulations to provide an incentive for a bidder or proposer to qualify as a socially-responsible contractor.
5. CONTRACT AWARD. The provisions of this section shall apply to each formal competitive bid and each request for

proposals, provided the bid of the socially-responsible contractor does not exceed the lowest bid by more than 5% or \$25,000. Additional points equal to 5% of the maximum number of points used in the evaluation of requests for proposals shall be applied to increase the total score attained by a socially-responsible contractor.

**6. REPORT TO COMMON COUNCIL.** The purchasing director shall report annually to the common council on the status of contracts awarded under provisions of this section not later than 30 days after the anniversary of the effective date of this section.

**310-12. Professional Service Contract Limitations.** If a contracting agency enters into a professional service contract, as defined in s. 310-13-2-b, with any person who has retired from that department and is receiving a retirement allowance from the employees' retirement system, the combined annual value of the professional service contract and the retirement allowance may not exceed the retired person's earnable compensation, as defined under s. 36-02-12 of the charter, during the 12 months immediately preceding the retirement date, and the contract term shall not exceed a period longer than 18 months. The common council may waive these limitations by resolution for special circumstances, as it, in its sole discretion, shall determine and deem necessary.

**310-13. Service Contract Wage Requirements.** **1. PURPOSE.** The purpose of this section is to ensure a living wage for all employees of contractors and subcontractors performing services for the city.

**2. DEFINITIONS.** In this section:

a. "Living wage" means, prior to March 1, 2015, an hourly wage rate of \$10.10 per hour. Effective March 1, 2015, it shall mean the average of the amount required to produce, for 2,080 hours worked, an annual income equal to the U.S. department of health and human services' most recent poverty guideline for a family of 3 and family of 4 in the 48 contiguous states, as determined by the city clerk on March 1 of each year.

b. "Professional service contract" means any contract in which the majority of workers engaged in the performance of the contract perform work which:

b-1. Is predominantly intellectual and varied in nature, as opposed to work which involves routine mental, manual, mechanical or physical labor.

b-2. Requires advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher education or a hospital.

c. "Service contract" means a contract having a value exceeding \$5,000 that directly engages the time and effort of a contractor whose primary purpose is to perform an identifiable task rather than to furnish an end item of supply. A "service contract" does not include a "professional service contract" under par. b., a department of public works contract subject to s. 66.0903, Wis. Stats., a contract administered by the office of community development grants administration or a contract with the Milwaukee public schools.

**3. LIVING WAGE REQUIREMENT.** Unless contrary to federal, state or local law, all workers, whether permanent or temporary, full-time or part-time, employed in any work performed as part of a service contract with a contracting agency, as defined in sub. 2-c, shall receive and be paid a sum of not less than the living wage in effect at the time a contract is awarded. No contractor may use the living wage requirement of this subsection to reduce the wage paid to any person employed by the contractor.

**4. SERVICE CONTRACT BID AND REQUEST-FOR-PROPOSAL SPECIFICATIONS.** A contracting agency shall add a digest of the provisions of this section to all specifications for service contract work upon which they call for formal competitive bids or issue requests for proposals unless the purchasing director approves the waiver of the provisions in cases where it is likely that no bids or proposals will be received without such a waiver.

**5. SPECIFICATIONS FOR SERVICE CONTRACTS.** No service contract, as defined in sub. 2-c, shall be entered into by a contracting agency unless the contract contains the following stipulations or their equivalent:

a. The contractor agrees to pay all workers employed by the contractor in the performance of this contract, whether on a full-time or part-time basis, a base wage of not less than living wage.

b. The contractor agrees to make a sworn report or affidavit, within 10 days following the contractor's completion of the contract, or every 3 months, whichever occurs first, and to procure and submit a like sworn report or affidavit from every subcontractor employed by

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the contractor to the contracting agency regarding every person employed on or under this contract or subcontract. The affidavit or report shall include, but not be limited to, for the specified time period, the person's name, address, type of work performed, total hours worked on the service contract, hourly wage rate, gross earnings, and employer's contribution to vacation, welfare and pension trust funds. The reports or affidavits shall be accompanied by a statement that each employee has been paid in full the amount of not less than living wage and that there has not been, nor is to be, any rebate or refund of any part of said wages by the employee to the employer.

c. If any documents submitted to a contracting agency by the contractor contain any false, misleading or fraudulent information, or if the contractor fails to comply with the provisions of s. 310-13, the contracting agency may withhold payments on the contract, terminate, cancel or suspend the contract in whole or in part, or, after a due process hearing, deny the contractor the right to participate in future city contracts for a period of one year after the first violation is found and for a period of 3 years after a second violation is found.

**6. POSTING OF WAGE RATE.** For every service contract, as defined under sub. 2-c, the living wage required by sub. 3 shall be kept posted by the contractor at the site of the work in a prominent place where it can be easily seen and read by persons employed in the performance of the contract. In addition, a copy of the living hourly wage requirement shall be supplied to any person employed in the performance of a service contract at the request of the person within a reasonable period of time after the request.

**7. MONITORING AND ENFORCEMENT.** a. Responsibility. The department shall monitor and enforce all service contracts for compliance with this section except for service contracts executed by the department of public works which shall be monitored and enforced by the department of public works. The department or department of public works shall review and monitor the sworn reports or affidavits periodically submitted by service contractors, receive and investigate complaints from service contractors and service contract employees relating to compliance with this section, and impose appropriate sanctions upon any contractor who provides false information to the department or department of public works or fails to comply with the provisions of this section.

b. Employee Complaints. Any person employed in the performance of a service contract may, within one year from the date of an alleged failure to comply with sub. 3, file a written complaint with the department or department of public works regarding the service contractor's alleged failure to comply with sub. 3. No service contractor may discharge, reduce the compensation of or otherwise retaliate against any person employed in the performance of a service contract for making a complaint or for using any civil remedies to recover damages.

c. Appeals. Any service contractor or service contract employee who objects to any decision or action of the department or department of public works concerning the application or enforcement of this section may appeal the decision to the purchasing director or administrative review appeals board in the case of department of public works service contracts in a manner similar to the process provided in s. 310-19-4.

d. Sanctions. Any contractor or subcontractor engaged in a service contract who has been found by the department or department of public works to have submitted any false, misleading or fraudulent information, or to have failed to comply with the provisions of this section, may be subject to any of the following sanctions, imposed by the department or department of public works:

d-1. Withholding of payments.

d-2. Termination, suspension or cancellation of the contract in whole or in part.

d-3. After a due process hearing, denial of the right of the contractor or subcontractor to participate in future city contracts, by himself or herself, partner or agent, or by any corporation of which he or she is a member, for a period of one year after the first violation is found and for a period of 3 years after a second violation is found.

### **310-14. Slavery Era Business, Corporate and Insurance Disclosure.**

**1. PURPOSE.** The purpose of this section is to promote full and accurate disclosure to the public about any slavery policies sold by any companies, or profits from slavery by industries, or their predecessors, who are doing business with the city.

**2. DEFINITIONS.** For the purposes of this section:

a. "Company" means any person, firm, corporation, partnership or combination of these.

b. "Contract" means any agreement, franchise, lease or concession including an agreement for any professional services, the performance of any work or service, the provision of any materials or supplies or rendering any service to a contracting agency or the public, which is let, awarded or entered into with or by any contracting agency.

c. "Enslaved person" means any person who was wholly subject to the will of another and whose person and services were wholly under the control of another and who was in a state of enforced compulsory service to another during the slavery era.

d. "Investment" means to make use of an enslaved person for future benefits or advantages.

e. "Predecessor company" means an entity whose ownership, title and interest, including all rights, benefits, duties and liabilities were acquired in an uninterrupted chain of succession by the company.

f. "Profits" means any economic advantage or financial benefit derived from the use of enslaved persons.

g. "Slavery" means the practice of owning enslaved persons.

h. "Slavery era" means that period of time in the United States of America prior to 1865.

i. "Slaveholder" means holders of enslaved persons, owners of vessels carrying enslaved persons or other means of transporting enslaved persons, merchants or financiers dealing in the purchase, sale or financing of the business of enslaved persons.

j. "Slaveholder insurance policies" means policies issued to or for the benefit of slaveholders to insure them against the death of, or injury to, enslaved persons.

**3. DISCLOSURE.** a. Each contractor whose company was established during the slavery era with whom the city enters into a contract, whether or not subject to formal competitive bidding, shall complete an affidavit, prior to or contemporaneous with entering into the contract verifying that the contractor has searched any and all records of the company or any predecessor company regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era. The names of any enslaved persons or slaveholders described in those records must be disclosed in the affidavit.

b. The city shall make the information contained in the affidavit available to the public, including but not limited to making the information accessible on the city's Internet accessible World Wide Web home page and provide an annual report to the common council.

**4. SANCTIONS.** Any contract between the city and a contractor which fails to provide the requisite affidavit or which includes material false information on such affidavit shall be rendered null and void.

**310-15. Purchase of Products Made from Recycled Materials.**

**1.** Each contracting agency shall, to the extent practicable, make purchasing decisions that maximize the purchasing of materials and products using recycled materials and recovered materials.

**2.** Each contracting agency shall ensure that the average recycled or recovered content of all paper purchased by the contracting agency is no less than the U.S. environmental protection agency's published recycled-content recommendations.

**3.** Each contracting agency that awards contracts for equipment and supplies shall, to the extent practicable, award contracts for equipment and supplies that will minimize the amount of solid waste generated by the city. Each contracting agency shall, to the extent practicable, diminish the purchase of single-use disposable products and substitute the purchase and use of multiple-use, durable products.

**310-16. Placement of Vending Machines on City Property.**

No city department or employee or agent thereof may request and permit the placement of a vending machine in any city office or facility or elsewhere on city property, or enter into an agreement or contract for such placement, unless the placement of the vending machine, and any agreement or contract therefore, has been reviewed and approved by the city purchasing director and the commissioner of public works or the commissioner's designee.

**310-17. Ethical Procurement.**

**1. PURPOSE.** The common council finds that: a. It is in the city's best interest to procure items and services from responsible vendors and manufacturers who provide a safe, non-discriminatory work environment, and who compensate their employees with non-poverty wages.

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b. Many manufacturers, both domestic and international, are engaged in practices that result in poverty wages, violations of workers' rights and unsafe and unhealthy working conditions.

c. Minimum standards for workers' and human rights should be extended to all workers, and it is the responsibility of the city of Milwaukee to ensure that it is not expending funds in ways that contribute to violation of workers' rights and the perpetuation of poverty.

d. As a participant in the marketplace, the city chooses to expend its purchasing dollars to enhance the economic and social well-being of people, while acquiring the best possible quality goods and services at the lowest cost.

### 2. DEFINITIONS. In this section:

a. "Apparel" means all items of clothing and cloth produced by weaving, knitting and felting, and shall include uniforms, coveralls, footwear, linens and entrance mats.

b. "Contractor" means the business entity with which a contracting agency enters into a contract.

c. "Manufacture" means to process, fabricate, assemble, treat or package.

d. "Non-poverty wage" means the following for:

d-1. Domestic manufacturers. A base hourly wage of the amount required to produce, for 2,080 hours worked, an annual income equal to the U.S. department of health and human services' most recent poverty guideline for a family of 3 in the 48 contiguous states plus either health benefits or an additional 20% in hourly wages to be adjusted by the city clerk on March 1 of each year.

d-2. Outside the United States. A nationwide wage, to be adjusted annually, that shall be comparable to the wage for domestic manufacturers in subdiv. 1, adjusted to reflect the country's level of economic development using the central intelligence agency's most recent world factbook purchasing power parity-adjusted gross domestic product per capita index.

e. "Responsible contractor" means an entity, other than a contractor or subcontractor operating as a small business enterprise as defined in s. 370-17, engaged in custodial, janitorial, security or food services that can demonstrate that neither the entity nor any parent company or subsidiary has violated any federal, state or local wage and hour or employment discrimination laws within the past 5 years, including any violation of the following:

e-1. Any federal occupational safety and health administration law or regulation.

e-2. The Equal Employment Opportunity Act of 1972.

e-3. The McNamara Service Contract Act.

f. "Responsible manufacturer" means an establishment engaged in manufacturing, distributing, laundering or dry cleaning that can demonstrate all of the following:

f-1. Compliance with all applicable local, state and national laws of the jurisdiction in which the labor is performed concerning wages and benefits and workplace health and safety. In addition, for manufacturers located outside the United States, compliance with the principles of the fundamental conventions of the International Labor Organization regarding forced labor, child labor and freedom of association.

f-2. Payment of non-poverty wages as defined in par. d-1 for domestic manufacturers and par. d-2 for manufacturers located outside of the United States to laborers in any work done as part of fulfillment of a contract with the city.

f-3. Termination of its employees only with just cause.

f-4. Establishment of a mechanism for the resolution of workplace disputes that are not regulated by the National Labor Relations Act.

g. "Service contract" means a contract subject to formal competitive bidding that directly engages the time and effort of a contractor whose primary purpose is to perform tasks related to security, janitorial, or food services, rather than to furnish an end item of supply.

h. "Violation" means findings of fault by a court or other regulatory agency.

3. REQUIREMENTS FOR APPAREL PURCHASES. a. Application. Unless contrary to federal, state or local law, contracting agencies shall award contracts to responsible manufacturers for all apparel contracts subject to formal competitive bidding. These contracts may include any or all of the following activities relating to apparel: purchase, rental, laundering and dry cleaning.

b. Affidavits. b-1. No contracts for items referenced in par. a shall be entered into by contracting agencies unless the lowest responsible bidders first submit to the purchasing director sworn reports or affidavits which include the following information for the specified time periods of the contracts:



b-1-a. The names and addresses of the companies and facilities in which the items have been or will be manufactured, distributed, laundered or dry cleaned

b-1-b. The names and addresses of all owners of the facilities in which the items have been or will be manufactured, distributed, laundered or dry cleaned.

b-1-c. The base hourly wage and the percent of wage level paid as health benefits for persons working at the facilities in which the items have been or will be manufactured or distributed, laundered or dry cleaned.

b-1-d. Sworn statements by the contractors that facilities identified pursuant to this paragraph are responsible manufacturers as defined in sub. 2-e.

b-1-e. Any other information deemed necessary by the purchasing director for the enforcement of this section.

b-2. Contractors shall procure and submit sworn reports or affidavits from every subcontractor employed by the contractor during the specified time period of the contract for the fulfillment of contracts covered under this section.

b-3. In the event that any information provided by the contractor or subcontractor pursuant to this paragraph changes during the specified time period of the contract, the contractor shall submit or cause to be submitted to the purchasing director sworn reports or affidavits relating to the updated information.

b-4. The purchasing director shall maintain and make available for public inspection any sworn report or affidavit submitted pursuant to this paragraph.

c. Bid specifications. Contracting agencies shall add a digest of the provisions of this section to all specifications for apparel purchasing, renting, laundering and dry cleaning upon which they solicit by formal competitive bid.

d. Specifications for apparel contracts. No contract for the purchasing, renting, laundering and dry cleaning of items of apparel covered under this section shall be entered into by a contracting agency unless the contract contains a stipulation stating that the contractor agrees to provide items from responsible manufacturers in fulfillment of the contract, and that the contractor agrees to include an equivalent stipulation in all subcontracts.

e. Monitoring and enforcement.

e-1. Responsibility. The purchasing director shall be responsible for monitoring contracts for compliance with this paragraph. The contracting agency shall review and monitor the sworn reports or affidavits submitted by contractors, receive and investigate complaints relating to compliance with this section, and impose appropriate sanctions upon any contractor who provides false information to the contracting agency or fails to comply with the provisions of this section.

e-2. Notice. The department shall provide in a timely manner on the city's website notice and related documentation regarding the following:

e-2-a. The issuance of invitations to bid and the awarding of contracts relating to items covered by this section.

e-2-b. The receipt of sworn reports or affidavits submitted pursuant to sub. 3-b.

f. Sanctions. Any contractor or subcontractor engaged in a contract who has been found by the purchasing director to have submitted any false, misleading or fraudulent information shall be referred to the district attorney for investigation. In addition, any such contractor or subcontractor who has otherwise failed to comply with the provisions of this section, may be subject to any of the following sanctions:

f-1. Withholding of payments.

f-2. Termination, suspension or cancellation of the contract in whole or in part.

f-3. After a due process hearing, denial of the right of the contractor or subcontractor to participate in future city contracts, by himself or herself, partner or agent, or by any corporation of which he or she is a member, for a period of one year after the first violation is found and for a period of 3 years after a second violation is found.

**4. REQUIREMENTS FOR NON-APPAREL PROCUREMENT.** a. Application. Unless contrary to federal, state or local law, contracting agencies shall award contracts to responsible manufacturers for all non-apparel items, materials, supplies and equipment that are subject to formal competitive bidding, and shall award service contracts to responsible contractors. The requirements of this paragraph shall not apply to items, materials, supplies and equipment to be furnished as part of a public works contract subject to s. 66.0903, Wis. Stats.

b. Bid specifications. No contracts for the procurement of non-apparel items or services referenced in this subsection shall be

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entered into by a contracting agency unless the bidder affirms on the bid that he or she is familiar with the requirements of this subsection and affirms that he or she will comply with the requirements contained in this subsection. The request for bid shall state that failure to comply shall result in bid rejection.

c. Specifications for Service Contracts. Bids for service contracts shall include each of the following:

c-1. A certificate of insurance indicating the following coverage necessary for the contract and in amounts specified in the bid specifications: general liability, automobile liability, workers' compensation, and product liability.

c-2. Proof of any industry licenses or permits required by law for any trade or specialty area in which the bidder is seeking a contract award, including disclosure of any suspension or revocation of a license held by the company or of any director, officer or manager employed by the bidder.

c-3. A federal employer tax identification number or, for a sole proprietor, a social security number.

d. Affidavits. d-1. No contracts for non-apparel items, materials, supplies or equipment shall be entered into by contracting agencies unless the lowest responsible bidders first submit sworn reports or affidavits which identify any manufacturers to be used in fulfillment of the contract and include a statement by the bidders that the manufacturer's facilities identified pursuant to this subsection are responsible manufacturers of non-apparel items, materials, supplies and equipment that demonstrate all of the requirements contained in sub. 2-f-1 to 4.

d-2. No service contract shall be entered into by a contracting agency unless the lowest responsible bidder first submits a sworn report or affidavit which identifies any contractor to be used in the fulfillment of the contract and includes a statement by the bidder that the contractor is a responsible contractor.

e. Monitoring and enforcement. The purchasing director and any other contracting agency that executes a contract to which this subsection applies shall be responsible for monitoring contracts for compliance with this paragraph. If any information provided by the contractor or subcontractor changes during the specified period of the contract, the contractor shall submit or cause to be submitted to the purchasing director or the director's designee a

sworn report or affidavit relating to the updated information.

f. Availability of Records for Inspection. The purchasing director or the director's designee shall maintain and make available for public inspection all items submitted by the contractor or subcontractor pursuant to this section, including affidavits, insurance certification, and industry licenses or permits.

g. Sanctions. Any contractor engaged in a contract who has been found by the purchasing director and any other contracting agency that executes a contract to which this subsection applies to have submitted any false, misleading or fraudulent information or has otherwise failed to comply with the provisions of this subsection may be subject to the sanctions provided in sub. 3-f, according to the following schedule:

g-1. Contractors shall be subject to withholding of payment after 30 days of non-compliance.

g-2. Contractors shall be subject to termination, suspension or cancellation of the contract in whole or in part after 60 days of non-compliance.

5. WAIVER. The requirements of this section may be waived in writing by the purchasing director if all bidders to a contract are deemed ineligible under this section.

6. APPEALS. Any contractor who objects to any decision or action of the contracting agency relative to this section may appeal the decision to the purchasing appeals board pursuant to s. 310-19.

7. PENALTIES. Any person, firm or corporation knowingly engaging in fraud, misrepresentation or in any attempt, direct or indirect, to evade the provisions of this section by providing false, misleading or fraudulent information shall, upon conviction, forfeit not less than \$2,000 nor more than \$5,000 together with the costs of prosecution, or upon default of payment, shall be imprisoned in the house of correction or county jail not to exceed 90 days.

#### 310-18. Purchase of Ethanol-fueled Vehicles.

1. DECLARATION OF POLICY. It is a desirable goal of the city and a matter of legitimate concern to its government, constituents and environment, that the city reduce the burning of conventional motor vehicle fuels and increase the use of a cleaner-burning, sustainable alternative. It shall be city policy that purchasing decisions reflect that goal and

city-owned vehicles eventually be replaced with vehicles which have the capacity to operate with an ethanol content of at least 85%, to the greatest extent practicable. The city will lead by example in making economically and environmentally responsible purchasing decisions which will encourage individuals, businesses and other levels of government to do the same.

**2. ETHANOL-FUELED VEHICLES.** To the greatest extent practicable, the purchasing director and any other contracting agency of the city shall make purchasing decisions that maximize the purchase of vehicles which have the capacity to operate with an ethanol content of at least 85%.

**310-18.3. Purchase of American-Made Vehicles.**

**1. DECLARATION OF POLICY.** The United States federal government has a direct financial interest in preserving the American automobile industry, owning portions of some companies. There is also a lack of Americans purchasing cars made in the United States which is contributing to the collapse of the domestic auto industry and contributing to the decline in the health, safety and welfare of the nation. It is therefore a desirable goal of the city and the citizens of the United States to support the economic success of these companies.

**2. DEFINITIONS.** a. "American made vehicle" means a light duty vehicle having at least 51% of the monetary value of the parts manufactured in the United States, and 51% of the vehicle assembled in the United States, except in the case of a public safety vehicle, when an "American made vehicle" means a light duty vehicle having at least 51% of the monetary value of the parts manufactured in the United States.

b. "Parts" means an article, material or supply incorporated directly into a vehicle.

**3. AMERICAN MADE VEHICLES.** For vehicle purchases subject to formal competitive bidding, the city purchasing director and any other contracting agency of the city, unless contrary to federal, state or local law or regulations, shall purchase only American-made vehicles.

**4. AFFIDAVITS.** No contracts for items referenced in sub. 3 shall be entered into by contracting agencies unless the lowest responsible bidders first submit to the purchasing director sworn reports or affidavits which include a statement by the bidder that the

vehicles to be supplied are American made vehicles as defined in sub. 2-a.

**5. MONITORING AND ENFORCEMENT.** The contracting agency shall monitor contracts for compliance with this section.

**6. WAIVER.** The requirements of this section may be waived in writing by the purchasing director if all bidders to a contract are deemed ineligible under this section.

**7. SANCTIONS.** Any contractor engaged in a contract who has been found by the contracting agency 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.

**310-18.5. Purchase of Low-Speed Vehicles.**

To the greatest extent practicable, the city purchasing director and any other contracting agency of the city shall make purchasing decisions that maximize the purchase and use of low-speed vehicles.

**310-18.7. Electronic Waste Recycling.**

**1. DECLARATION OF POLICY.** It is a desirable goal of the city that the city reduces the amount of electronic waste it creates. Maximum electronic waste recycling is in the best interest of the city in order to protect public health, to protect the quality of the natural environment and to conserve resources and energy. The city will lead by example by being environmentally responsible in its efforts to recycle electronic waste, which will encourage individuals, businesses and other levels of government to do the same.

**2. DEFINITIONS.** In this section:

a. "Electronic waste" means computer central processing units, computer monitors and monitor cables, computer mice, computer keyboards, CRT units, laptop computers, computer hard drives, surge protector strips, uninterruptible power supplies, and other computer-related accessories, servers, printers, copy machines, facsimile machines, scanners, televisions, stereos, and related cords and cables, mobile telephones, personal digital assistants, data tapes, compact discs and other electronic devices or accessories identified by a city department, agency, committee, board or commission that is determined to be harmful to human health or the environment if disposed of in a solid waste disposal facility.

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b. "Recycling" means preparing electronic waste for use in manufacturing processes or for recovery of useable materials and delivering the material for use. "Recycling" does not include destruction by incineration or other processes or land disposal of recyclable materials.

3. ELECTRONIC WASTE. Every contracting agency shall collect the electronic waste it creates and ensure the proper disposal and recycling of such electronic waste by contacting the department of administration for direction on the proper method of disposal.

### 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 contracting agency of the city shall, unless contrary to federal, state or local law, trade agreement or other regulations, purchase Milwaukee-made goods for purchases subject to formal competitive bidding, 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% or \$25,000, which shall be increased by 1% annually by the city clerk on March 1 of each year.

3. MILWAUKEE COUNTY-MADE GOODS. If a Milwaukee-made good is not available, the city purchasing director and any contracting agency of the city shall, unless contrary to federal, state or local law, trade agreement or other regulations, purchase

Milwaukee county-made goods for purchases subject to formal competitive bidding, 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% or \$25,000, which shall be increased by 1% annually by the city clerk on March 1 of each year.

4. AMERICAN-MADE GOODS. If a Milwaukee-made or Milwaukee county-made good is not available, the city purchasing director and any other contracting agency of the city shall, unless contrary to federal, state or local law, trade agreement or other regulations, purchase American-made goods for purchases subject to formal competitive bidding, 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% or \$25,000, which shall be increased by 1% annually by the city clerk on March 1 of each year.

5. AFFIDAVITS. No contracts for items specified in sub. 2, 3 or 4 shall be entered into by contracting agencies 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 contracting agency shall be responsible for monitoring compliance with this section.

b. The contracting agency 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 if the good is not produced in the United States in a sufficient and reasonable available quantity and of a satisfactory quality.

**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 a Milwaukee-made, Milwaukee county-made or American-made good with a bid considered for a contract award as defined in sub. 2, 3 or 4 shall not also receive the benefit of the bid award provided in s. 365-7-1.

**10. REPORTING.** The purchasing director shall report by April 1 annually to the common council on purchases made under this section.

**11. SANCTIONS.** Any person, firm or corporation who has been found by the contracting agency 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.

**310-19. Purchasing Appeals Process.**

**1. DEFINITIONS.** In this section:

a. "Board" means the purchasing appeals board.

b. "Recommendation" means a recommendation of the purchasing director as to the apparent low bidder which is made after a bid opening or a reverse auction but prior to the award of a contract.

**2. APPLICABILITY.** This section applies only to appeals of specifications and proposed city purchases subject to formal competitive bidding.

**3. SPECIFICATION APPEALS.**

a. Any potential bidder, common council member or city agency which objects to the original or revised specifications may appeal the specifications by filing a written appeal with the purchasing director no later than 5 working days prior to bid opening. Appeals made by a potential bidder shall be filed with the fee specified in s. 81-102.3. No appeal received

later than 5 working days prior to bid opening may be considered. Appeals shall be written, state specific objections to the specifications, be supported by technical data, test results and other information, and suggest alternate specifications.

b. Bids shall not be opened while an appeal is pending.

c. The purchasing director shall schedule a hearing before the board to be held prior to the bid opening or the beginning of a reverse auction.

c-1. All members of the board shall be sent materials sufficient for them to consider the appeal and make a prompt decision.

c-2. The appellant and all individuals and companies which have received specifications for the item being reviewed shall be notified in writing no later than 5 working days prior to the scheduled hearing, of the date, time, place and purpose of the hearing.

c-3. The board shall conduct the hearing and make a determination prior to adjournment and prior to bid opening or the beginning of a reverse auction as to whether to grant, in whole or in part, or deny the appeal. The board shall keep a tape recorded record of its deliberations and decisions.

d. If the appeal is granted, in whole or in part, the appellant and all parties notified under par. c-2 shall be notified in writing of the decision of the board, including any changes in specifications, any need to rebid and any rescheduled bid opening or reverse auction date. If the appeal is denied, the appellant shall be notified in writing of the decision of the board.

e. Within 10 working days of its decision under par. d, the board shall file with the board its written findings and conclusions in support of its decision.

**4. APPEALS OF RECOMMENDATIONS.** a. Following the opening of any bid or reverse auction, the purchasing staff shall make a written recommendation, based on the facts known at that point to the purchasing director, as to which bidder appears to be the lowest responsible bidder. All bidders shall be notified as to the contents of the recommendation as well as the date, time and place of the meeting at which the award will be considered.

b. Any bidder who objects to the recommendation may appeal the recommendation by filing a written appeal with the purchasing director no later than 5 working

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days after the date the recommendation is made. Appeals shall be filed with the fee specified in s. 81-102.3. The appeal shall state the specific objections to the recommendation, include supporting documentation and specify an alternative recommendation.

c. If a timely appeal is not filed, the purchasing director and the board shall proceed as if no appeal was filed.

d. Immediately upon receipt of the appeal, the purchasing director shall forward the appeal to the chair of the board, who shall schedule a hearing before the board. All bidders shall be notified of the appeal, and the date, time and place of the hearing.

e. All members of the board shall be sent materials sufficient for them to consider the appeal and make a prompt decision.

f. The board shall conduct the hearing and make a determination on the appeal prior to adjournment. The board shall keep a tape recorded record of its deliberations and decisions.

g. The board may award in accordance with the recommendation of the purchasing director, make an award to another bidder determined by the board, or reject all bids. The appellant and other bidders shall be notified in writing of the board's decision.

h. Within 10 days of its decision under par. g, the board shall file its written findings and conclusion in support of its decision.

i. Notwithstanding any time limitation specified in sub. 4, when considering an award, the board may, in its discretion, schedule a hearing for its next regular or special meeting, provided that all bidders are notified at least 5 days prior to such hearing.

### 310-21. Milwaukee Civic Partnership Initiative.

1. CREATION, PURPOSE. There is created a Milwaukee civic partnership initiative to market city assets for advertising, sponsorship and naming rights to private businesses and nonprofit organizations.

2. ADMINISTRATION. The Milwaukee civic partnership initiative shall be administered by the department of administration which shall:

a. Develop and implement policies, rules, procedures, guidelines and regulations for the operation of the initiative.

b. Make recommendations to the common council concerning the development of a marketing strategy for the city's assets.

c. Prepare and submit an annual report to the mayor and common council concerning the administration and activities of the initiative.

For legislative history of chapter 310, contact the Municipal Research Library.

**Pages 175 - 182 are blank.**

**CHAPTER 355  
COMMUNITY PARTICIPATION IN DEVELOPMENT AGREEMENTS**

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**355-1. Definitions.** In this chapter:

1. DEPARTMENT means department of city development or other city department partnering on a private construction project.

2. DIRECT FINANCIAL ASSISTANCE means the value of below-market land sales, any direct subsidies to developers and city expenditures for private improvements, with a combined value of \$1 million or more, as determined by the commissioner of the department, targeted specifically to a project. It includes the value of tax increment financing and below-market-rate loans provided by the city.

3. UNEMPLOYED OR UNDEREMPLOYED means that the resident has worked less than 1200 hours in the preceding 12 months or has not worked in the preceding 15 days or, regardless of employment status, has household income at or below the federal poverty guidelines as adjusted by the Wisconsin department of public instruction to define eligibility for reduced lunch in public schools.

**355-3. Requirements for Projects Receiving Direct Financial Assistance.** All persons or entities receiving direct financial assistance for projects approved after August 8, 2009, shall comply with this chapter in the implementation of such projects.

**355-5. Application Process.**

1. All developers seeking direct financial assistance for a project shall complete an application in the form provided by the department.

2. Once the application has been completed, the department and the city comptroller shall provide to the common council an analysis of the project's financial feasibility, market assumptions, rate of return, and jobs impact, including wage and benefit information. The department shall further provide a separate report discussing the quality of proposed building and site design, the impact of the project on the city's historic building stock, and the project's sustainable features, including use of alternative energy sources and recycled and low-impact materials, creation of public open space, incorporation of transit- and pedestrian-oriented design features and amenities, and eligibility for certification under the Leadership in Energy and Environmental Design Green Building Rating System or other national certification.

3. Any resolution proposing direct financial assistance shall include a term sheet outlining the conditions under which such assistance is to be provided.

4. The department shall negotiate development agreements governing the implementation of projects for which direct financial assistance is approved. Such agreements shall incorporate the conditions contained in the term sheet approved by the common council. No city funds may be released for any project governed by this chapter without the approval of a term sheet and execution of a development agreement. Development agreements shall require compliance with all provisions of ss. 355 7 to 355 13, except that the common council may by resolution impose lesser or different requirements.

5. Any developer seeking direct financial assistance for a project shall prepare a report, to be attached to the application required by sub. 1, on the estimated cost of including solar power and other sustainable features as part of the project. This report shall also include an estimate of the amount of time that would be required to recover the cost of the solar-power features through energy-cost savings. The environmental collaboration office established under s. 310-3 shall develop and provide administrative procedures and technical assistance for this report, and shall provide information on financing options, including property assessed clean energy (PACE) financing, to the developer.

## 355-7 Community Participation In Development Agreements

### 355-7. Participation of City Residents.

1. REQUIREMENTS. Recipients of direct financial assistance shall:

a. Ensure compliance with aspects of the development agreement regarding the use of unemployed and underemployed residents for construction of the project. For the purpose of this section, "worker hours" includes work performed by persons filling apprenticeship and on-the-job training programs and excludes the number of hours of work performed by all non-Wisconsin residents.

b. Ensure that all of the recipients' contracts with contractors and sub-contractors for the project include a provision in which such contractor or subcontractor certifies that it knows of the provisions of this section, intends to comply with them and authorizes the city to enforce its terms.

c. Require that contractors and subcontractors maintain personnel records listing the name, address, race and gender of all employees utilized for each construction contract, and any records demonstrating that the employees utilized by the contractors and subcontractors in meeting the requirements of this section are residents of the city. These records shall be maintained for 7 years after the contractor or subcontractor has received final payment under its construction contract, and shall be made available to the office of equity and inclusion for inspection upon reasonable notice.

2. ADMINISTRATION. The department of city development and office of equity and inclusion shall be responsible for the planning, implementation and enforcement of this section.

a. Prior to submitting a proposed term sheet for a project, the commissioner of city development, in consultation with the office of equity and inclusion or such other entity as may be designated by the city from time to time, shall determine the appropriate level of participation of unemployed and underemployed residents of the city for the project to reflect the job or trade categories required for the project and the pool of available certified and qualified workers within each job or trade category. The total appropriate level of participation shall be presumed to be 40%, unless the commissioner determines there is sufficient reason to impose a lesser requirement. The recipient of direct financial assistance shall submit a city resident utilization plan and gap analysis detailing how the level of

required participation will be achieved. Up to one-third of required worker hours may be achieved by documenting the use of unemployed or underemployed residents on projects undertaken by the developer where such compliance is not required, or by hiring unemployed or underemployed residents on a full-time permanent basis for non-construction job categories connected to the project. Such adjustments must be proposed in an affidavit on a form provided by the department setting forth the facts upon which the request for adjustment is based.

a-1. At least one quarter of the appropriate level of participation required in par. a shall be performed by unemployed or underemployed residents who maintain their permanent residence in zip codes established as high-poverty, as determined by the city clerk on January 1 every three years beginning in 2017, in consultation with the department of administration and based on income guidelines established by the U.S. department of housing and urban development for poverty relief and housing block grant programs. Every worker hour exceeding this requirement shall count for one-and-a-half hours toward the requirement of par. a.

a-2. If a developer cannot meet the participation requirements of par. a, the appropriate level of participation may, at the discretion of the office of equity and inclusion, be met by utilizing unemployed or underemployed residents to work on concurrent projects in any Wisconsin county, provided those residents began their employment on projects in the city.

a-3. The hours worked by a resident who meets the definition of unemployed or underemployed solely under the 15-day provision of s. 355-1-3 shall not be credited toward meeting the appropriate level of participation required in par. a unless the resident had not worked on the same project for the same contractor or subcontractor prior to the 15-day period.

b. Prior to the release of funds, the office of equity and inclusion shall confirm that all contractors and subcontractors, prior to commencement of their work, have submitted an affidavit in the form supplied by the office of equity and inclusion from employees utilized to meet the requirements of this section, stating that the employee is unemployed or underemployed and is a resident of the city.



**Community Participation In Development  
Agreements 355-9**

c. During the construction of any project covered by this section, the office of equity and inclusion shall:

c-1. Monitor compliance with the provisions of this section.

c-2. Confirm that all developers, contractors and subcontractors have submitted construction contract time reports listing workers by name, race, gender, residential address, work classification and hours worked at least once every 3 months during the course of their work and within 10 days following completion of their work.

c-3. Arrange for an independent audit with respect to the residents preference program, to be performed every 3 years, by a certified accounting firm licensed to perform audits in the state of Wisconsin, or by the city comptroller.

c-4. Confirm that developers, contractors and subcontractors are utilizing the first-source employment program, as provided in s. 355-11.

**2.5. RECORDKEEPING.** The department of city development and office of equity and inclusion shall ensure that all data required for reporting under this section are maintained in a centralized labor or contract compliance software system, as provided in s. 370-3-5.

**3. REPORTING.** The office of equity and inclusion, in coordination with the department of city development, the department of public works and the residents preference program review commission, shall prepare, on or before October 1 of each year, a residents preference program report on the efforts of recipients of direct financial assistance in achieving the goals of the program for development agreements. The performance report shall include the following:

a. The number and dollar amount of all development agreements executed.

b. The number and dollar amount of development agreements which incorporated a residency requirement and the percentage of unemployed or underemployed resident worker hours required as well as the number of worker hours worked or performed.

c. If not all development agreements included a residency requirement or if some agreements contained a requirement of less than 40% of worker hours, the reason for this difference.

d. Information relating to worker hours by zip code, race, gender, trade and hourly wage.

e. Full disclosure of the office of equity and inclusion's reasons for adjusting the participation percentage goal for individual categories of work.

f. The percentage of total hours worked by city, non-city and non-state residents for contracts which included the residency requirement.

g. Information to assist the common council in its annual reappraisal of the residents preference program pursuant to s. 309-41-4, including the number of individual participants by job type, the number of new city residents hired during the year under the program and the number of program participants who advanced to apprenticeships or on-the-job training programs.

**355-9. Apprenticeship and On-The-Job Trainee Requirements.**

**1. REQUIREMENT.** a. Recipients of direct financial assistance shall employ, and shall require their contractors and subcontractors to employ, apprentices and on-the-job trainees in the performance of all construction contracts and subcontracts for the project entered into by the recipient, contractor or subcontractor in accordance with the maximum ratio of apprentices to journeymen established by the Wisconsin department of workforce development, and in accordance with the following requirements:

a-1. One-quarter of the apprentices and on-the-job trainees required under par. a, as measured in worker hours, shall be unemployed or underemployed residents of the city, as defined in s. 355-1-3. For every worker hour exceeding the requirements of this paragraph, one-and-a-half hours shall be credited toward the requirements of s. 355-7-2-a.

a-2. Of the apprentice and on-the-job trainee worker hours required under par. a-1, at least 40 percent shall be attributable to unemployed or underemployed residents residing in zip codes established as high-poverty, as determined by the city clerk on January 1 every three years beginning in 2017, in consultation with the department of administration and based on income guidelines established by the U.S. department of housing and urban development for poverty relief and housing block grant programs.

a-3. Apprentice and on-the-job trainee worker hours of a resident who meets the definition of unemployed or underemployed solely under the 15-day provision of s. 355-1-3 shall not be credited toward meeting the contract participation requirements of par. a unless the resident had not worked on the same project for the same contractor or subcontractor prior to the 15-day period.

## **355-11 Community Participation In Development Agreements**

b. In determining whether the requirements of par. a are appropriate for insertion in specification for a particular project, the department of administration may consider the nature of the work, whether the project is of short duration and whether their work will involve trades which do not have apprentices or on the job trainees.

**2. MONITORING AND ENFORCEMENT.** The department of administration shall:

a. Monitor the performance of each contractor or subcontractor with respect to the ratio of apprentices to journeymen and on-the-job trainees to non-trainees employed on the construction contract during performance of the construction contract.

b. Confirm that all developers have maintained records concerning their contractors' and subcontractors' apprenticeship and on-the-job training programs, which shall be retained for 7 years after the project has concluded. These records shall be made available to the department of administration for inspection upon reasonable notice.

c. Confirm that recipients, contractors and subcontractors submit contract time reports showing compliance with any contract requirements imposed in accordance with this section at least once every 3 months during the course of their work and within 10 days following completion of their work.

### **355-11. First-Source Employment Utilization.**

**1. DEFINITIONS.** In this section "first-source employment program" means an employment program operated by the city or its designee which is to be utilized as contractors' first source for recruiting applicants for both new and replacement employment.

**2. RECIPIENT OF DIRECT FINANCIAL ASSISTANCE.** Recipients of direct financial assistance shall require all of their contractors and subcontractors on the project to utilize the first-source employment program, subject to the following:

a. Prior to announcing or advertising a position for work which shall be performed as a result of a construction contract, construction subcontract or of a new employment position, a contractor or subcontractor shall notify the office of equity and inclusion, or its designee, about the position, including a general description and the minimum requirements for qualified applicants.

b. The contractor or subcontractor shall not make any public announcement or advertisement for a period of 10 business days after notification to the office of equity and inclusion or its designee, of the availability of the position.

c. The office of equity and inclusion or its designee shall maintain a database of job opportunities subject to this section and shall provide information on these job opportunities to all city residents.

d. The advance notice period required by par. b shall be waived if there are no qualified candidates to refer to the contractor or subcontractor. The office of equity and inclusion or its designee, shall notify the contractor of this waiver within 5 business days of being informed of the job availability.

e. The office of equity and inclusion or its designee shall institute a tracking system and record which applicants were interviewed, which applicants were not interviewed and which applicants were hired for positions subject to this subsection.

**3. FIRST SOURCE RECRUITMENT AGREEMENT.** The office of equity and inclusion shall confirm that each construction contract for a project entered into by a recipient of direct financial assistance requires contractors and subcontractors to enter into a first-source recruitment agreement with the city or its designee which shall apply for the duration of the contract. A first-source recruitment agreement shall require:

a. Utilization of the city's first-source employment program as the first source for recruitment and referral of applicants for new and replacement employment.

b. Allowing the city's first-source employment program a minimum of 10 business days to refer applicants to contractors. Contractors may apply for a waiver of the 10-day requirement in emergency situations. Waivers may only be granted by the office of equity and inclusion or its designee.

c. The contractor or subcontractor to interview and consider qualified applicants referred by the office of equity and inclusion or its designee before interviewing others.

**4. HIRING DECISIONS.** Contractors and subcontractors shall retain the right to make all final hiring decisions.

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**5. COMPLIANCE NOT REQUIRED.** First-source recruitment agreements shall not require contractors or subcontractors to comply with this section if job vacancies or newly-created positions are filled by transfer or promotion from existing staff or from a file of qualified applicants previously referred by the office of equity and inclusion or its designee.

**6. DISTRIBUTION OF INFORMATION.** The department and the office of equity and inclusion shall distribute information about the first-source employment program to all developers of commercial, industrial and mixed-use projects in the city, including all developers not receiving direct financial assistance.

**7. ENFORCEMENT.** The office of equity and inclusion shall monitor compliance with this section.

**355-13. Other Requirements.**

**1. CASH FLOW AND COST-SAVINGS PARTICIPATION.** When determined feasible by the commissioner, development agreements shall include provisions under which the city benefits financially from either lower-than-expected project costs or higher-than-expected project cash flow.

**2. PAYMENTS IN LIEU OF TAXES.** When direct financial assistance is provided to a project in the form of tax incremental financing, the development agreement shall require a payment in lieu of taxes with respect to any parcel or building within the project that is or becomes exempt from real property taxes. This provision shall be incorporated into a covenant running with the land.

**3. WAGE REQUIREMENTS.** A development agreement shall include provisions requiring, unless precluded by s. 66.0903, Wis. Stats., that an employee who performs work that is funded by financial assistance from the city receive, at a minimum, a living wage as defined in s. 310-13-2-a. The department of administration shall monitor compliance with this subsection.

**4. SMALL BUSINESS ENTERPRISES.**  
**a.** The developer of any project receiving direct financial assistance from the city shall use a small business enterprises as defined in s. 370-1-23 for project expenditures in a total aggregate dollar amount equal to the following.

- a-1. Construction: 25%.
- a-2. The purchase of goods and services: 25%.

a-3. The purchase of professional services: 18%.

**b.** The requirement to use small business enterprises shall be included in a written agreement between the city and the entity receiving the direct financial assistance.

**c.** A business that is certified with Milwaukee County, the state of Wisconsin or the U.S. federal government as a disadvantaged, emerging or small business enterprise, or some other program that in the discretion of the chief equity officer of the office of equity and inclusion is comparable to the city's small business enterprise program, shall qualify as a small business enterprise for the purposes of this chapter, and shall be included when determining compliance with the subsection.

**5. COMMUNITY PARTICIPATION ENFORCEMENT.** Every development agreement subject to the requirements of this chapter shall include a provision indicating that if the developer fails to comply with all community participation provisions of ss. 355-7 to 355-9, the commissioner shall cause financial assistance to be withheld, reduced or reimbursed to the city. The provision shall include:

**a.** A schedule of intermediate phases of the project to be used for reporting on compliance with the provisions of ss. 355-7 to 355-9.

**b.** Benchmarks for the actual participation by city residents in compliance with all provisions of ss. 355-7 to 355-9 following the completion of each intermediate phase of the project, including any credit for worker hours achieved on other projects under s. 355-7-2-a.

**c.** A formula setting forth the amount of financial assistance that the commissioner shall withhold, reduce or require to be reimbursed to the city if the actual participation by city residents is less than the benchmark at each intermediate phase of the project. No adjustment to the financial assistance shall be required if the total participation by city residents at the completion of an intermediate phase exceeds the sum of the benchmarks for all completed intermediate phases of the project.

**d.** A requirement that any financial assistance that is withheld, reduced or required to be reimbursed to the city in accordance with this subsection may be reinstated or returned after the developer remedies any deficiency in the required participation or with the approval of the common council.

## **355-17 Community Participation In Development Agreements**

**355-17. Sanctions.** 1. GENERAL. Every development agreement subject to the requirements of this chapter shall contain language indicating that if a developer receiving financial assistance is not in compliance with the requirements of this chapter or if any document submitted to the city by a developer receiving financial assistance, a contractor or subcontractor under this chapter contains false, misleading, fraudulent information, the department of administration may seek prosecution under s. 355-19 and shall impose sanctions which shall include one or more of the following:

a. Imposition of a requirement that remedial efforts be undertaken by developers for the remaining portion of a project where initial reports demonstrate non-compliance with the resident preference hours required for the project.

b. Specific performance or specified remedies under any written agreement pertaining to small business enterprise participation or first-source recruitment agreement.

c. Remedies available to the city under a development agreement for such non-compliance.

d. Withholding of payments.

e. Termination, suspension or cancellation of the contract or agreement in whole or in part.

f. After a due process hearing, denial of right to enter into agreements with the city for 2 years.

2. RESIDENT PREFERENCE HOURS. Any sanction imposed that arises from non-compliance with resident preference hours, other than a forfeiture under s. 355-19 or withholding of payments, shall be subject to approval by the common council.

**355-19. Penalty.** Any person, firm or corporation knowingly engaging in fraud, misrepresentation or in any attempt, direct or indirect, to evade the provisions of this chapter by providing false, misleading or fraudulent information shall, upon conviction, forfeit not less than \$2,000 nor more than \$5,000 together with the costs of prosecution.

For legislative history of chapter 355, contact the Municipal Research Library.

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CHAPTER 370  
SMALL BUSINESS ENTERPRISE PROGRAM

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SUBCHAPTER 1  
GENERAL PROVISIONS

**370-1. Definitions. In this chapter:**

**1. AT A DISADVANTAGE WITH RESPECT TO BUSINESS LOCATION** means location within a renewal community within the city for a period of not less than one year of the applicant's principal office and business of which the applicant is the sole owner or one of the owners and a principal operator.

**2. AT A DISADVANTAGE WITH RESPECT TO EDUCATION** means failure to attain a high school degree or its equivalent for good reason or attendance in schools which have repeatedly achieved ratings below national, state and community averages in educational standards, educational standardized test scores and student grade point averages.

**3. AT A DISADVANTAGE WITH RESPECT TO EMPLOYMENT** means a pattern of nonachievement in hiring, promotion and other aspects of employment advancement due to factors beyond the individual's reasonable control, a lack of current knowledge and skills necessary for employment, career advancement or consistent earning of average annual income below the median income level of adults of comparable age in this city.

**4. AT A SOCIAL DISADVANTAGE** means an applicant's experience of substantial difficulty in attaining employment or business success at least in part due to location of the individual's residence and lack of mobility, physical handicap or other causes beyond the individual's reasonable control.

**5. AT AN ECONOMIC DISADVANTAGE** means an inability to compete in the free enterprise system due to diminished capital, credit or bonding opportunities. Factors which will be considered as an indication that an individual has been economically disadvantaged include, but are not limited to, failure to accumulate adequate business capital or obtain sufficient credit to start or support a going business concern, failure to acquire business-related credit or bonding under terms or circumstances as favorable as those generally experienced by nondisadvantaged individuals, consistent failure to receive awards or bids of governmental contracts despite competitive pricing or other similar factors which have disadvantaged the applicant in the development of a business.

**6. CONSTRUCTION** means the erection, rehabilitation, alteration, conversion, extension, demolition or repair of improvements to real property, including facilities providing utility service and includes the supervision, inspection and other on-site functions incidental to construction.

**7. CONTRACT** means a binding agreement by which the city is committed to expend or does expend its funds or other resources for in connection with any of the following purposes:

- a. Construction of any public improvements.
- b. Purchase of any personal property.
- c. Purchase of any services, goods or supplies.
- d. Lease of any personal or real property.
- e. Concession agreements whereby the city grants a specific permission, privilege or license.

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**8.** CONTRACTING AGENCY means any city department, agency, board, commission or officer that has contracting authority.

**9.** CONTRACTOR means a separate and distinguishable business entity participating or seeking to participate in the performance of a contract.

d disadvantaged by the common council.

**11.** INDIVIDUAL AT A DIS-ADVANTAGE means a person who is at an economic disadvantage, who is a citizen or lawful permanent resident of the United States and who is experiencing substantial difficulty in achieving business-related success as a result of at least 3 of the following:

a. At a disadvantage with respect to business location.

b. At a disadvantage with respect to education.

c. At a disadvantage with respect to employment.

d. At a social disadvantage.

**12.** JOINT VENTURE means an association of 2 or more persons or businesses carrying out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills and knowledge.

**15.** OWNED, OPERATED AND CONTROLLED means a business which is one of the following:

a. A sole proprietorship legitimately owned, operated and controlled by an individual at a disadvantage.

b. A partnership or joint venture legitimately owned, operated and controlled by individuals who are at a disadvantage and who own at least 51% of the beneficial ownership interests in the enterprise and who hold at least 51% of the voting interests of the enterprise.

c. A corporation legitimately owned, operated and controlled by one or more individuals who are at a disadvantage and who own at least 51% of the outstanding shares and who hold at least 51% of the voting interests of the corporation.

**17.** RENEWAL COMMUNITY means an area within the city for which an application for designation as a renewal community has been submitted to the United States secretary of housing and urban development, or which has been designated as a renewal community by the United States secretary of housing and urban development, under 26 U.S.C., ss. 1400E, et seq., as amended, or similar area designated as disadvantaged by the common council.

**18.** SMALL BUSINESS ENTERPRISE means a business that has been certified by the office of equity and inclusion based on the requirements specified in s. 370-25.

**370-3. Administration.** The office of equity and inclusion in the department of administration shall be responsible for the administration, coordination and implementation of the city's small business enterprise program. The office of equity and inclusion shall:

**1.** Establish criteria and procedures for reviewing contract performance and compliance with the requirements of the program, subject to approval by the common council.

**2.** Develop appropriate rules, procedures and regulations for assuring participation of small business enterprises in city contracts, subject to approval by the common council, and supervise, coordinate, monitor and enforce the implementation of small business enterprise participation goals for all city procurements in accordance with those rules, procedures and regulations.

**3.** Develop procedures for certification of small business enterprises.

**4.** Provide appropriate management assistance and direction to small business enterprises so as to maximize their participation in contracts let by the city, with such assistance to include:

## Small Business Enterprise Program 370-5

a. Providing assistance and information in connection with the establishment, expansion and overall development of small business enterprises.

b. Assisting in the introduction of business associations between individuals of small business enterprises and others or between 2 or more small business enterprises.

c. Planning and participating in training seminars for informing potential bidders of the small business enterprise program and of business opportunities available.

d. Serving as a clearinghouse for information about training and educational programs.

e. Developing various types of financial assistance for consideration by the common council to assist small business enterprises to obtain working capital to begin, continue and maintain a satisfactory level of business. These include a revolving loan program, guaranteed loan program, gap lending program and bond reduction and waivers when feasible.

5. Use centralized labor and contract compliance software reporting and evaluation systems for uniform data collection, maintenance, monitoring and reporting by all city departments and contractors with responsibilities under the city's small business enterprise and residents preference programs.

6. Review and monitor all city contracts with small business enterprises for compliance and notify in written form the contractor on the findings of the review and decisions concerning satisfaction of contractual deficiencies.

7. Serve as liaison with economic development organizations and agencies working in support of economic development in the community.

8. Coordinate any city-sponsored economic development programs for small business enterprises.

9. Review small business enterprise participation progress in the city's contract and procurement activities and submit, on or before October 1 of each year, a written report to the mayor and common council.

10. Establish reporting requirements for all contracting departments to document the percentage of contracts which have been awarded to small business enterprises.

11. Devise rules, regulations and procedures governing requests for waivers from the requirements of the small business enterprise program, subject to approval by the common council.

12. Conduct hearings on requests by contracting agencies for waivers from the requirements of the program. Upon a denial of a request for a waiver, the affected agency may apply for a waiver to the appropriate standing committee of the common council. The committee shall have the authority to waive any requirements of this chapter upon showing of good cause.

13. Develop and monitor affirmative action criteria for employment of minorities and women by contractors, subcontractors and suppliers consistent with law.

### 370-5. Goals of Contracting Departments.

1. GOALS. The following requirements are adopted by the city for increasing the level of small business enterprise participation in city contracts. It shall be the responsibility of each contracting agency to attain such goals in accordance with the criteria specified in this section. Each contracting agency shall, unless contrary to federal, state or local law, utilize small business enterprises for the following percentage of the total dollars, through prime contracts or subcontracts, annually expended on:

a. Construction: 25%.

b. The purchase of goods and services: 25%.

c. The purchase of professional services: 18%.

2. REVIEW OF GOALS. To assure the appropriate percentage goals for small business enterprise participation, the office of equity and inclusion shall annually review and adjust the percentage goal, with the approval of the common council.

3. JOINT VENTURES. Participation of small business enterprises in joint ventures with other such businesses and mainstream business entities is encouraged. In the case of a certified joint venture, only that portion of the total dollar value of the contract equal to the percentage of participation of the small business enterprise partner venture in the joint venture shall be counted toward the applicable requirement.

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**4. DUTIES OF CONTRACTING AGENCIES.** Each contracting agency is directed to:

a. Cooperate with the office of equity and inclusion in the implementation of the small business enterprise program.

b. Develop lists of small business enterprises experienced in the various types of services, products or property typically contracted for.

c. Provide monthly reports to the office of equity and inclusion not later than 30 calendar days after the end of the previous month specifying with respect to contracts and subcontracts for the following:

c-1. For the forthcoming month, the means by which it intends to meet the requirements established by this section and the projected opportunities for small business enterprises.

c-2. The total dollar percentage and dollar amount expended on all city contracts, including with and without small business enterprises.

c-3. The degree to which the goals set forth in this section have been met, any past and current activities undertaken and being undertaken in trying to meet the goals and, if necessary, a detailed explanation of why the goals have not been met.

c-4. Any other information requested by the office of equity and inclusion.

d. Appoint a member of the contracting agency or division to serve as a liaison between the contracting agency and the office of equity and inclusion.

e. Identify appropriate categories of contracts, on an annual basis, for the inclusion of requirements specifying designated levels of participation of small business enterprises, and, where appropriate, include in each contract a requirement that the contractor achieve the stated percentages.

f. Comply with the monitoring requirement that all prime contractors pay subcontractors within 7 business days of receipt of payment from the city.

**5. PERFORMANCE ASSURANCE PROCEDURE.** Each contracting agency shall develop and implement procedures, unless inappropriate, to assure that suppliers, employees, agents or other persons providing goods or services to small business enterprises participating in city contracts shall be paid in full in a timely manner. The procedures shall include joint check payments, bonding requirements and other financial safeguards. Nothing contained in this subsection shall require the city to make payments in excess of the contract price.

**370-9. Sanctions.** Every contract awarded under this chapter shall contain language indicating that if any document submitted to the office of equity and inclusion by a contractor, subcontractor, bidder or individual to be certified as a small business enterprise for participating in any city contract contains false, misleading or fraudulent information, the office of equity and inclusion may direct the imposition of any of the following sanctions on the offending contractor, subcontractor, bidder or individual:

1. Withholding of payment.

2. Termination, suspension or cancellation of the contract in whole or in part.

3. Denial to participate in any further contracts awarded by the city for a period of one year after the first violation is found and for a period of 3 years after any subsequent violations are found.

**370-11. Penalties.** Any person, firm or corporation knowingly engaging in fraud, misrepresentation or in any attempt, direct or indirect, to evade the provisions of this chapter by providing false, misleading or fraudulent information shall, upon conviction, forfeit not less than \$2,000 nor more than \$5,000 together with the costs of prosecution, or upon default of payment, shall be imprisoned in the house of correction or county jail not to exceed 90 days.



SUBCHAPTER 4  
SMALL BUSINESS ENTERPRISE PROGRAM

**370-23. Creation.** There is created a small business enterprise program to assist and protect the interests of individuals at a disadvantage owning, operating and controlling small businesses to promote and encourage full and open competition in the city, and to enhance opportunities for individuals who are at an economic disadvantage to successfully compete in a free market as independent business owners. The program shall apply to all contracts and shall include the taking of steps to increase the participation of small business enterprises, assisting in small business enterprise development programs and the identification and elimination of barriers that deny small business enterprises equal opportunity.

**370-25. Certification Requirements for a Small Business Enterprise.** A business shall be certified by the office of equity and inclusion as a small business enterprise for participation in the program, and shall meet the following requirements:

1. The business shall be a U.S.-based business which is independently owned, operated and controlled and is not dominant in its field of operation, or an affiliate of subsidiary of a business dominant in its field of operation.
2. The business shall meet the size standards of the United States small business administration.
3. The business shall have demonstrated capacity to perform independently or as a subcontractor relative to its field of operation.

4. The business shall not be owned, operated and controlled by individuals or groups of individuals who own, operate and control a large business involved in the same category of work as the business for which small business enterprise status is sought.

5. The business shall be operational for at least one year prior to certification.

6. The owner shall control the day-to-day critical operations of the firm.

7. The owner or owners shall be citizens or permanent, legal residents of the United States.

8. The business shall be at least 51% owned, operated and controlled by one or more individuals at a disadvantage.

**370-27. Requirements for the Participation of Small Business Enterprises.** Annually, there shall be required levels of participation of small business enterprises for the following types of contracts:

1. Construction contracts: 25%.
2. Goods and services contracts: 25%.
3. Professional services contracts: 18%.

For legislative history of chapter 370, contact the Municipal Research Library.

**370- Small Business Enterprise Program**

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CHAPTER 375  
OFFICE OF AFRICAN AMERICAN AFFAIRS

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**375-1. Creation.** There is created an office of African American affairs in the department of administration which shall be responsible for the administration, coordination and implementation of the city's policies relating to the special needs of the city's African American residents.

**375-3. Administration.** Under the direction of the director of administration, the office of African American affairs shall be administered by a manager.

**375-5. Duties.** The manager of the office of African American affairs shall:

1. Examine and define issues central to the rights and needs of African American residents of the city.
2. Identify and assess the potential disparate impacts of new budgetary and regulatory initiatives on African American residents of the city.
3. Present recommendations to the common council for changes in existing programs and ordinances that disparately impact African Americans residents of the city.

4. Identify barriers faced by African American residents of the city to existing government resources and services and present recommendations for removing those barriers.

5. Develop and implement policies, plans and programs related to the special needs of African American residents of the city.

6. Promote equal opportunities for African American residents of the city with regards to home ownership, business ownership, job creation, job training, health care and education.

7. Promote multiculturalism and full participation by African American residents of the city.

**375-7. Cooperation.** The manager of the office of African American affairs shall coordinate the activities of the office under this section with any other city departments, boards, commissions and councils that have been tasked with attending to the needs of the city's African American residents.

**375-9. Annual Report.** The manager of the office of African American affairs shall submit an annual written report of its activities under this section to the common council and the mayor.

For legislative history of chapter 375, contact the Municipal Research Library.

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**CHAPTER 380  
OFFICE OF VETERANS' AFFAIRS**

TABLE

380-1	Creation
380-3	Administration
380-5	Duties
380-7	Cooperation
380-9	Annual Report
380-11	Advisory Council

**380-1. Creation.** There is created an office of veterans' affairs in the office of the common council - city clerk which shall be responsible for the administration, coordination and implementation of the city's policies relating to the special needs of the city's military veteran residents, their families and caregivers. In this chapter, the term "veteran" shall mean a person who has served in the active military service of the United States and who has been released from such service, other than by dishonorable discharge, or who has been furloughed to the reserve.

**380-3. Administration.** Under the direction of the city clerk, the office of veterans' affairs shall be administered by an executive director.

**380-5. Duties.** The executive director of the office of veterans' affairs shall:

1. Identify issues central to the rights and needs of the city's veteran residents, their families and caregivers.
2. Identify barriers faced by the city's veteran residents to existing municipal resources and services and present recommendations for removing those barriers.
3. Develop and implement veteran-centered policies, plans and programs related to the special needs of the city's veteran residents, their families and caregivers.
4. Promote opportunities for the city's veteran residents with regards to home ownership, business ownership, job creation, job training, health care and education.
5. Act as a liaison and facilitate partnerships between Milwaukee's veterans community, state and federal agencies, and public-private-sector organizations, to improve veterans access to available resources and opportunities.

**380-7. Cooperation.** The executive director of the office of veterans' affairs shall coordinate the activities of the office under this section with any other city departments, agencies, boards, commissions and councils that have been tasked with attending to the needs of the city's veteran residents.

**380-9. Annual Report.** The executive director of the office of veterans' affairs shall submit an annual written report of the office's activities under this section to the common council and the mayor.

**380-11. Advisory Council.**

1. ESTABLISHMENT. There is created a veterans' affairs advisory council.

2. PURPOSE. a. The purpose of the veterans' affairs advisory council is to make recommendations to the common council and the executive director of the office of veterans' affairs on matters of importance to veterans in Milwaukee. In making recommendations, the advisory council shall:

a-1. Advocate for fair and accessible healthcare services for veterans.

a-2. Support efforts to end homelessness among veterans.

a-3. Advocate for employment initiatives for veterans.

a-4. Identify and support local, state, federal and private-sector initiatives to improve veterans' quality of life.

b. The advisory council shall support efforts to recognize the contributions of all veterans, from all United States wars and conflicts.

3. COMPOSITION.

a. The veterans' affairs advisory council shall be composed of the following 9 members, each of whom shall be subject to confirmation by the common council:

a-1. A member of the common council who is a veteran. If more than one such person exists, the common council president shall select the person from among the eligible common council members. If no such person exists, the common council president shall select from any member of the common council.

**Office of Veterans' Affairs 380-11-4**

a-2. Eight persons who are veterans and who collectively approximate a cross-section of veterans relative to age, branch of service, gender and period of service, 4 of whom shall be appointed by the common council president and 4 of whom shall be appointed by the mayor.

b. The city residency requirements of s. 320-3 shall not apply to any member of the advisory council.

**4. TERM OF SERVICE.**

a. Term. Veterans' affairs advisory council members shall serve 2 year terms.

b. Reappointment. Members of the advisory council may be reappointed.

c. Vacancy. When a vacancy occurs on the advisory council, the appointing authority shall make an appointment within 60 days after the vacancy occurs. A vacancy shall be filled for the unexpired term in the same manner as the original appointment.

**5. ORGANIZATION.** The veterans' affairs advisory council shall meet every other month and may meet at such additional times as the advisory council determines or the chair directs. The common council member of the advisory council shall be chair of the advisory council and shall designate a vice-chair. Advisory council members shall receive no compensation.

**6. OPEN MEETINGS.** All meetings of the veterans' affairs advisory council shall be publicly held and open to all citizens at all times in accordance with subch. V of ch. 19, Wis. Stats.

**7. STAFFING.** The city clerk's office shall provide staff assistance to the veterans' affairs advisory council. All city departments shall cooperate with the advisory council and provide assistance whenever the advisory council so requests.

**8. ANNUAL REPORTS.** The veterans' affairs advisory council shall submit a written annual report of its activities under this section to the common council and the mayor.

For legislative history of chapter 380, contact the Municipal Research Library.

CHAPTER 385  
OFFICE OF EQUITY AND INCLUSION

TABLE

385-1	Creation
385-3	Administration
385-5	Duties
385-7	Cooperation
385-9	Annual Report

**385-1. Creation.** There is created an office of equity and inclusion in the department of administration which shall be responsible for advancing equity in city government and in the communities it serves and for the administration, coordination and implementation of the city's policies relating to equity and inclusion. The goals of the office of equity and inclusion shall be to improve existing and new city services using a racial equity framework, end disparities in city government, strengthen outreach and community engagement with people of color and strengthen partnerships with community stakeholders.

**385-3. Administration.** Under the direction of the director of administration, the office of equity and inclusion shall be administered by a chief equity officer. The chief equity officer shall be appointed by the mayor, confirmed by the common council, and serve concurrently with the term of the mayor.

**385-5. Duties.** The chief equity officer shall:

1. Advance city equity and inclusion policies.
2. Lead and administer the city's initiatives under the government alliance on race and equity.
3. Develop and implement city strategies for racial equity analysis and reporting.

4. Oversee the small business enterprise program.

5. Address institutional and other forms of racism that impact the health and well-being of city residents.

6. Provide support to the equal rights commission.

**385-7. Cooperation.** The chief equity officer shall coordinate the activities of the office of equity and inclusion under this section with the office of African American affairs and any other city departments, boards, commissions and councils that have been tasked with improving racial equity, inclusion or equal opportunities.

**385-9. Annual Report.** The chief equity officer shall submit an annual written report of the activities of the office of equity and inclusion to the common council and the mayor.

For legislative history of chapter 385, contact the Municipal Research Library.

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