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August 15, 2017

Attention Public Works Construction Coordinators

RE: City of Madison "Public Construction" Class 1 Notice Requirement

The City Attorney's Office and the Engineering Division are working to resolve the City of Madison's obligation to notice all "public construction" per Wisconsin Statute Section 62.15(1), which reads, in part:

If the estimated cost of any public construction exceeds \$5,000 but is not greater than \$25,000, the board of public works shall give a class 1 notice, under ch. 985, of the proposed construction before the contract for the construction is executed.

Under this statute, if you have "public construction" work within the \$5,000 to \$25,000 range, your department is required to do one Class 1 notice before executing the contract, meaning notice is to be made no later than one week before the contract is *executed by the City*. "Public construction" is not specifically defined in the statutes, but can be considered to be public improvements, excluding materials or supplies (unrelated to a public improvement), equipment, or other items which do not become fixtures to the City's property. It does not include pure services (like design/consulting). A good rule should be "Would you bid the work if it was greater than \$25,000?" If so, then it is public construction. When in doubt, consult the City Attorney's Office or City Engineering.

To ensure compliance with the statute, the City's recurring public notice in the paper is being updated to account for these types of contracts and will refer interested parties to a City maintained database where a list of these contracts will be posted. City Engineering has provided a generic email address (class1notice@cityofmadison.com) for public construction work coordinators to send the required information for the notice requirements to be met. City Engineering will post notice of the proposed construction on the Public Works webpage and the Finance Department will be able to confirm that the notice requirement was satisfied before executing the contract (it will have to have been on the webpage for at least one week). The City Attorney's Office has determined that this process is sufficient to comply with the statutory requirements.

Class 1 notice information needed is: Contract Title, Dollar Amount, City Agency, and Staff Contact.

Sincerely,

Robert F. Phillips, P.E.
City Engineer

RFP:eld