

### **107.200 Procedure by city where no bids received on offered bonds.**

If any city of the classes referred to in this chapter shall adopt the third ordinance and shall publicly solicit the submission of bids or proposals for the purchasing of its "improvement assessment bonds" for the project identified, and shall fail to receive a bid upon terms of price and/or interest coupon rate, or rates, conforming to the published notice and acceptable to the governing body, the bonds, or a portion of the bonds, may be awarded to the contractor, or contractors, at a price of not less than the minimum price permitted by the published notice, but only upon the following conditions:

- (1) The entire bond issue authorized by the third ordinance may be awarded to the contractor, or contractors, if it or they shall submit to, and obtain formal approval by, the governing body of the city, of a written undertaking (approved as to form and substance by the city's duly designated legal counsel):
  - (a) Agreeing to accept in full and agreed payment of the amount, or the aggregate of the amounts, of their respective contracts, bonds as authorized by the third ordinance equal in principal amount (or as near as may be practicable) to the amount, or the aggregate of the amounts of their contracts (in which event the bonds shall be the latest maturing and highest numbered of the bonds authorized by the third ordinance); and
  - (b) Agreeing to pay to the city, in cash, the purchase price of the bonds to the extent that the bonds exceed the aggregate amount of the contracts of the contractor, or contractors, who are signatories of the written instrument; or
- (2) Bonds equal to the amount, or amounts, of the contracts of the contractor, or contractors, who are signatories of a written instrument agreeing to accept the same in payment of the bonds, approved as to form and substance by the city's properly designated legal counsel, may be awarded to a contractor, or contractors, in the event the city is able to, and does, (within constitutional restrictions) appropriate from available funds a sum in cash sufficient to defray all costs of the project, as defined in this chapter, in excess of the amount of the construction contract, or the aggregate of the several contracts. In that event, the sum so appropriated by the governing body of the city shall be applied to the payment of the costs;
- (3) In the event of procedure as set forth in either subsection (1) or (2) of this section, the bonds awarded to the contractor, or contractors (other than those paid for in cash as set forth in the foregoing subsection (1)), shall be placed by the city, in escrow, with a responsible financial institution, with written instructions that the bonds may be released to the contractor, or contractors, from time to time, but in principal amount not exceeding seventy-five percent (75%) of the amount certified in writing by the engineer, or engineers, to the escrow agent, and the city, to have been earned by and payable to the identified contractor, or contractors, under the terms and conditions of their respective contracts. Upon final approval and acceptance of the project by the governing body, the reserved twenty-five percent (25%) of the bonds may be released and delivered to the contractor, or contractors.

**Effective:** July 15, 1996

**History:** Amended 1996 Ky. Acts ch. 274, sec. 32, effective July 15, 1996. -- Amended 1968 Ky. Acts ch. 110, sec. 18. -- Created 1956 Ky. Acts ch. 239, sec. 20.