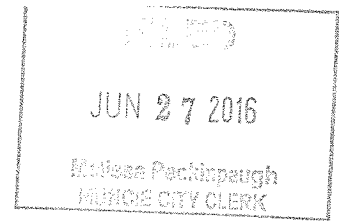


ORDINANCE NO. 22-16



An ordinance to establish Responsible Bidding Practices and Submission Requirements for Submitting Bids to Perform Construction Work on Public Works Projects

WHEREAS, the City of Muncie is required by law to award capital improvement contracts to the “lowest responsive and responsible” bidder;

WHEREAS, the City, based upon its experience, has determined that quality workmanship, efficient operation, safety, and timely completion of projects requires all bidders meet certain minimum requirements in order to be a “responsive and responsible” bidder;

WHEREAS, applicable state law also requires that bidders meet certain minimum requirements in order to be a “responsive and responsible” bidder;

WHEREAS, payroll fraud by irresponsible contractors deny employees the wages that they have earned and the protections that they deserve under the law. Additionally, payroll fraud imposes significant costs on local governments and places honest businesses at a disadvantage when competing for contracts.

WHEREAS, the City seeks to enhance its ability to identify “responsive and responsible” bidders on all City public works construction projects by institution of more comprehensive submission requirements which are in compliance with Indiana State law;

WHEREAS, the “Responsible Bidding Practices and Submission Requirements” Ordinance will preserve administrative resources by insuring that only qualified contractors and subcontractors are awarded contracts on public works constructions projects; and,

WHEREAS, the “Responsible Bidding Practices and Submission Requirements” Ordinance will assure efficient use of taxpayer dollars, will promote public safety and is in the public interest:

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THAT:

SECTION 1. This Ordinance No. 22-16, which is entitled “Responsible Bidding Practices and Submission Requirements for Submitting Bids to Perform Construction Work of Public Works Projects,” is hereby enacted and shall read as follows:

- I. Bid Submission Requirements: estimated to be at least one hundred fifty thousand dollars (\$150,000) or more must, prior to the opening of bids, submit a statement made under oath and subject to perjury laws, on a form designated by the City and must include:

- (A) A copy of a print-out of the Indiana Secretary of State's on-line records for the bidder dated within sixty (60) days of the submission of said document showing that the bidder is in existence, current with the Indiana Secretary of State's Business Entity Reports, and eligible for a certificate of good standing. If the Bidder is an individual, sole proprietor or partnership; this subsection shall not apply;
- (B) A list identifying all former business name.
- (C) Any determinations by a court or governmental agency for violations of federal, state, or local laws including, but not limited to violations of contracting or antitrust laws, tax or licensing laws, environmental laws, the Occupational Safety and Health Act (OSHA), or federal Davis-Beacon and related Acts:
- (D) A statement on staffing capabilities, including labor sources;
- (E) Evidence of participation in apprenticeship and training programs, applicable to the work to be performed on the project, which are approved by and registered with the United States Department of Labor's Office of Apprenticeship, or its successor organization. The required evidence includes a copy of all applicable apprenticeship certificated or standers for these training programs.
- (F) A copy of a written plan for employee drug testing that: (i) covers all employees of the bidder who will perform work on the public work project; and (ii) meets, or exceeds, the requirements set for in IC 4-13-18-5 or IC 4-13-18-6;
- (G) The name and description of the management experience of each of the bidder's project managers and superintendents that bidder intends to assign to work on the project;
- (H) Proof of any professional or trade license required by law for any trade or specialty area in which bidder is seeking a contract award; and, disclosure or any suspension or revocation within the previous five years of any professional or trade license held by the company, or of a director, office or manage employed by the bidder;
- (I) Evidence that the contractor is utilizing a surety company which is on the United States Department of Treasury's Listing of Approved Sureties; and

(J) A written statement of any federal, state or local tax liens or tax delinquencies owed to any federal, state or local taxing body in the last five years.

(K) Evidence that all contractors and subcontractors are qualified under IC 4-13.6-4 et seq., or IC 8-23-4, et seq. This qualification requirement applies to all public works contracts awarded to contractors and subcontractors on projects governed by this Ordinance irrespective of the total amount of any specific contract awarded to a contractor or subcontractor on such a public works project.

The City of Muncie reserves the right to demand supplemental information, from the bidder, additional verification of any of the information provided by the bidder and may also conduct random inquiries of the bidder's current and prior customers.

II. Post-Bid Submission from Subcontractors

All bidders shall provide a written list that discloses the name, address, and type of work for each first-tier subcontractor from whom the bidder has accepted a bid and/or intends to hire on any part of the public work project, including individuals performing work as independent contractors, within five (5) business days after the date the bids are due.

In addition, each such first-tier subcontractor shall be required to adhere to the requirements of Section 1 of this Ordinance as though it were bidding directly to the City, except that first-tier subcontractors shall submit the required information (including the name, address, and type of work for each of their first-tier subcontractors) to the successful bidder no later than five (5) business days after the subcontractor's first day of work on the public work project and the bidder shall then forward said information to the City. Payment shall be withheld from any first-tier subcontractor who fails to timely submit said information until such information is submitted and approved by the City.

Upon request, the City may require any second and lower-tier subcontractors to provide the required information (including the name, address, and type of work on the project and the name of the higher-tier subcontractor). Payments shall be withheld from any second or lower-tiered contractor who fails to timely submit this information until this information is submitted and approved by the City. Additionally, the City may require the successful bidder and relevant subcontractor to remove the second or lower-tier subcontractor from the project and replace it with a responsive and responsible subcontractor.

Failure of a subcontractor to submit the required information shall not disqualify the successful bidder from performing work on the project and shall not constitute a

contractual default and/or breach by the successful bidder. However, the City may withhold all payments otherwise due for work performed by a subcontractor, until the subcontractor submits the required information and the City approves such information. The City may also require that the successful bidder remove the subcontractor from the project and replace it with a responsive and responsible subcontractor.

The disclosure of a subcontractor (“Disclosed Subcontractor”) by a bidder or a subcontractor shall not create any rights in the Disclosed Subcontractor. Thus, a bidder and/or subcontractor may substitute another subcontractor (Substitute Subcontractor”) for a obtained by the City through its own independent verification of the information provided by the contractor.

III. Certified Payroll

For projects in which the cost is at least \$250,000, the successful bidder and all subcontractors working on a public work project shall submit a certified payroll report utilizing the federal form now known as a WH-347 which must be prepared on a weekly basis and submitted to the City within ten (10) calendar days after the end of each week in which the bidder or subcontractor performed its work on the public work project. These certified payroll reports shall identify the job title and craft of each employee on the project, e.g. journeyman electrician or apprentice electrician.

The City may withhold payment due for work performed by a bidder if the bidder fails to timely submit its certified payroll reports until such time as such certified payroll reports are submitted. The City may also withhold payment due for work performed by a subcontractor if the subcontractor fails to timely submit its certified payroll reports until such time as such certified payroll reports are submitted. The City shall not withhold payment to a bidder for work performed by the bidder or for work performed by subcontractors who have submitted their certified payroll reports, because one or more other subcontractors failed to timely submit their certified payroll reports.

III. Public Records

All information submitted by a bidder or a subcontractor pursuant to this Ordinance, including certified payrolls, are public records subject to review pursuant to the Indiana Access to Public Records law (IC 5-14-3).

IV. Conflicting Ordinances

Any Ordinance or provision of any Ordinance of the City of Muncie or the Municipal Code of the City of Muncie in conflict with the provisions of this Ordinance is hereby repealed.

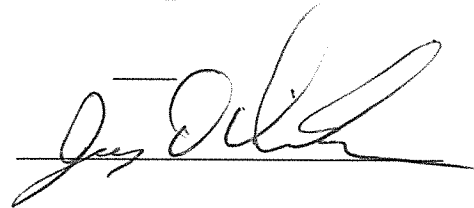
V. Severability

If any provision of this Ordinance is found to be invalid, the remaining provisions of this Ordinance shall not be affected by such a determination. These other provisions of this Ordinance shall remain in full force and effect without the invalid provision.

SECTION 2. This Ordinance shall be in force and effect upon passage by the Common Council of the City of Muncie upon passage by the Common Council and signature of the Mayor of the Mayor of the City of Muncie or override of any veto.

So Ordained and Passed by the Common Council of the City of Muncie, Indiana this 1st day of August, 2016.

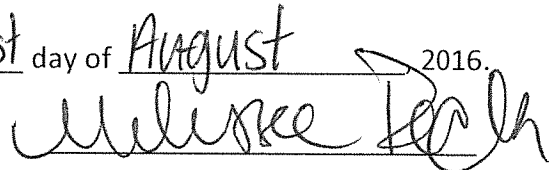
	Yeas	Nays	Abstained	Absent
Doug Marshall	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dan Ridenour	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lynn Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brad Polk	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jerry Dishman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Julius Anderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Linda Gregory	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Nora Powell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Alison Quirk	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



Jerry Dishman, President

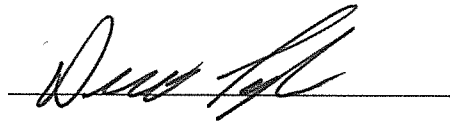
City Council, City of Muncie

Presented by me to the Mayor for his approval, this 1st day of August, 2016.



Melissa Peckinpaugh,
City Clerk, city of Muncie

The above Ordinance is approved/vetoed by me this 17 day of August, 2016.



Dennis Tyler

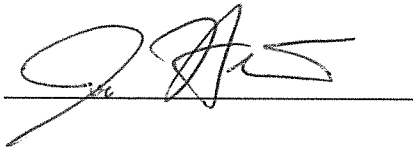
Mayor, City of Muncie

This ordinance is proposed by



City Council member

This ordinance is approved in form by



Corporate Counsel