

**Board of Trustees of the La Porte County Public Library Resolution to Establish  
Responsible Bidding Practices and Submission Requirements for Submitting Bids to  
Perform Construction Work on Public Works Projects**

WHEREAS, the Board of Trustees of the La Porte County Public Library (hereinafter the “Library”) is required by law to award Public Works contracts to the “lowest responsive and responsible” bidder; and,

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

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

WHEREAS, the Library seeks to enhance its ability to identify “responsive and responsible” bidders on all Library Public Works construction projects by institution of more comprehensive submission requirements that comply with laws of the State of Indiana; and,

WHEREAS, the Library has determined that a “Responsible Bidding Practices and Submission Requirements” resolution will help preserve administrative resources by ensuring that only qualified contractors and subcontractors are awarded contracts on Public Works construction projects; and,

WHEREAS, the Library has determined that a “Responsible Bidding Practices and Submission Requirements” resolution will help assure efficient use of taxpayer dollars, will promote public safety and is in the public interest; and,

WHEREAS, the Library has determined that a “Responsible Bidding Practices and Submission Requirements” resolution will help ensure that no contractor awarded work under this resolution or any subcontractor at any tier working on a project awarded pursuant to this resolution engages in payroll fraud, including the misclassification of employees as independent contractors to avoid paying state, federal or local payroll taxes, workers compensation insurance, unemployment insurance premiums and failing to pay overtime and wages as required by law.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE LA PORTE COUNTY PUBLIC LIBRARY THAT:**

**ARTICLE 1.** This Resolution which is entitled “Responsible Bidding Practices and Submission Requirements for Submitting Bids to Perform Construction Work on Public Works Projects of the La Porte County Public Library,” expressly repeals and replaces any other resolutions of the Library addressing the same or similar matters and is hereby adopted and shall read as follows:

**Section I. Bid Submission Requirements for all Bidders**

Any contractor who bids on any Library Public Works project, regardless of the amount of the bid, must, prior to the opening of bids, submit on a form designated by the Library a statement made under oath and subject to the penalties for perjury, and include with that statement the following information and/or documentation:

- (A) If the bidder is an entity other than an individual, sole proprietor or partnership, 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;
- (B) A list identifying all former business names of the bidder;
- (C) Any final determinations by a court or governmental agency for violations of federal, state or local laws by the bidder including, but not limited to, violations of contracting or antitrust laws, tax or licensing laws, environmental laws, the Occupational Safety and Health Act (OSHA), Civil Rights laws, or other federal laws such as Davis-Bacon and related Acts;
- (D) Copies of any professional or trade licenses of bidder applicable to the bid being submitted and required by law for any trade or specialty area in which bidder is seeking a contract award; and disclosure of any suspension or revocation within the previous five years of any professional or trade license held by the company, or of any director, office or manager employed by the bidder;
- (E) Evidence that the contractor is utilizing a surety company which is on the United States Department of Treasury's Listing of Approved Sureties;
- (F) A written statement of any federal, state or local tax liens or tax delinquencies allegedly owed to any federal, state or local taxing body in the last five years;
- (G) A statement that individuals who will perform work on the Public Works project on behalf of the bidder will be properly classified as either (i) an employee or (ii) an independent contractor, under all applicable state and federal laws and local ordinances;
- (H) A list of projects of similar size and scope of work that the bidder has performed in the State of Indiana within three (3) years prior to the date in which the bid is due; and

- (I) Proof that the bidder utilizes E-verify to determine the eligibility of its employees to work on the project.
- (J) A copy of the bidder's drug and alcohol free workplace policy that includes random testing protocols; and
- (K) Any other information required by the bid documents.

The Library reserves the right to demand supplemental information from the bidder, including, but not necessarily limited to, additional verification of any of the information provided by the bidder and the Library may also conduct random inquiries of the bidder's current and prior customers.

**Section II. Additional Bid Submission Requirements where Bid Exceeds \$250,000**

Any contractor who submits a bid on any Library Public Works project where such bid exceeds two hundred fifty thousand dollars (\$250,000.00) must, prior to the opening of bids, submit a statement made under oath and subject to perjury laws, on a form designated by the Library and must include with that statement:

- (A) All documents and information required by Section I of Article 1 of this resolution;
- (B) A statement on staffing capabilities, including labor sources;
- (C) 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 certificates or standards for these training programs;
- (D) 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 Works project; and (ii) meets, or exceeds, the requirements set forth in IC 4-13-18-5 or IC 4-13-18-6;
- (E) 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;
- (F) Certification that all contractors and subcontractors to be used by bidder are qualified under IC 4-13.4 or IC 8-23-10;
- (G) Any other information required by the bid documents.

The Library reserves the right to demand supplemental information from the bidder, including, but not necessarily limited to, 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.

**Section III. Post-Bid Submissions from Subcontractors**

Unless otherwise required by the bid documents, all bidders on any Library Public Works project 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 Works project, including individuals performing work as independent contractors, within five (5) business days after the date the bids are due.

A successful bidder must obtain from each of its subcontractors and any lower tier subcontractors all of the documentation and information required by either Section I or Section II of Article 1 of this resolution (depending upon the dollar amount of the relevant subcontractor's bid), as if that subcontractor or lower tier contractor was bidding directly to the Library. Such documentation and information must be obtained by the successful bidder no later than five (5) business days after the relevant subcontractor's first day of work on the Public Works project and the bidder shall forward said information to the Library or its designee. Payment may be withheld from any contractor who fails to timely submit said information about its subcontractors and all lower tier subcontractors until such information is submitted and approved by the Library. Additionally, the Library may require the successful bidder and/or 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 will 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 Library may withhold all payments otherwise due to the successful bidder until Library receives the required information and the Library approves such information. The Library may also require a successful bidder to remove a non-compliant 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 Disclosed Subcontractor by giving the Library written notice of the name, address, and type of work of the Substitute Contractor. The Substitute Subcontractor is subject to all of the obligations of a subcontractor under this resolution.

**Section IV. Incomplete Submissions by Bidders**

It is the sole responsibility of the potential bidder to comply with all submission requirements applicable to the bidder in Sections I and II above by no later than the public bid opening. Post-bid submissions must be submitted in accordance with Section III above. Submissions deemed inadequate, incomplete, or untimely by the Library may result in the rejection of the bid.

**Section V. Responsive and Responsible Bidder Determination**

The Library, after review of complete and timely submissions, shall, in its sole discretion, after considering all information in the submission requirements and after considering the statutes and laws of the State of Indiana, determine whether a bidder is responsive and responsible. The Library specifically reserves the right to utilize all information provided in the contractor or subcontractor's submission or any information obtained by the Library through its own independent verification of such information.

**Section VI. Public Records**

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

**Section VII. Penalties for False, Deceptive, or Fraudulent Statements/Information**

Any bidder that willfully makes, or willfully causes to be made, a false, deceptive or fraudulent statement, or willfully submits false, deceptive or fraudulent information in connection with any submission made to the Library shall be disqualified from bidding on all Library Public Works projects for a period of three (3) years.

**Section VIII. Conflicting Resolutions**

Any resolution or any provision of any resolution of the Library in conflict with the provisions of this Resolution is hereby repealed.

**Section IX. Severability**

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

**ARTICLE 2.** It is hereby found and determined that all formal actions of the Board of Trustees of La Porte County Public Library relating to the passage of this resolution were conducted in open meeting(s) of this Board and that all deliberations of this Board that resulted in such formal actions, were meetings open to the public, in compliance with all legal requirements and that the reading and adoption of this Resolution and otherwise in full compliance with the laws of the State of Indiana.

**ARTICLE 3.** This Resolution shall take effect upon passage by the Board of Trustees of the La Porte County Public Library.

**DULY ADOPTED** by the Board of Trustees of the La Porte County Public Library at its regular meeting held on the 16<sup>th</sup> day of May and continued on the 21<sup>st</sup> day of May, 2019 at which meeting a quorum was present.

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ATTEST:  
  
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Secretary