

ORDINANCE NO. 2020-34

AN ORDINANCE ESTABLISHING RESPONSIBLE BIDDER REQUIREMENTS ON PUBLIC WORKS PROJECTS

WHEREAS, the Aurora Township (“Township”) is a township organized and existing under the provisions of Article VII, Section 8 of the 1970 Illinois Constitution; and

WHEREAS, the Township expends substantial funds for the construction of public works, a portion of that money being derived from taxes paid by residents; and

WHEREAS, the township seeks to preserve administrative resources by ensuring that only qualified contractors and subcontractors are awarded contracts on public works construction projects; and

WHEREAS, the township, based upon experience, has determined that quality workmanship, efficient operation, safety, and timely completion of projects are not necessarily insured by awarding a construction contract solely on the basis of the low bid; and

WHEREAS, the township seeks to enhance its ability to identify the lowest “responsible bidder” on all public works construction projects by instituting more comprehensive submission requirements which are in compliance with Illinois State Law; and

WHEREAS, “An Ordinance Establishing Responsible Bidder Requirements on Public Works Projects” shall pertain to any public works project with a construction cost in excess of \$1.00.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE AURORA TOWNSHIP situated in the County of Kane, State of Illinois, that:

Section 1. Public Works

The term “pubic works” shall mean the following: any construction, altering, reconstructing, repairing, rehabilitating, remodeling, renovating, maintenance, landscaping, painting, decorating, excavation and adding to or subtracting from any public building, structure, roadway, parking facility, bridge, ditch, sewer, drain, which is paid for out of a public fund. Notwithstanding the foregoing, mowing of grass and other areas, periodic landscape maintenance and furnishing of custodial service are expressly excluded from the definition of public works. Construction projects that require a high level of artisan fabrication skill or installation craftsmanship that are unique to the Aurora Township, and design/build projects may also be excluded.

Section 2. Responsible Bidder

“Responsible Bidder” for the award of a public works contract means a bidder who meets all of the job specifications and who submits evidence of compliance with the following applicable criteria:

- A. All applicable laws prerequisite to doing business in Illinois.
- B. Evidence of compliance with:
 - 1) Federal Employer Tax Identification Number or Social Security Number (for individuals);
 - 2) Equal Opportunity Employer provisions of Section 2000e of Chapter 21, Title 42 of the United States Code and Federal Executive Order No. 11246 as amended by Executive Order No. 11375 (known as the Equal Opportunity Employer provisions);
- C. Certificates of insurance indicating coverages as set forth in a bid specification including general liability, workers’ compensation, completed operations, automobile, hazardous occupations and products liability.
- D. Compliance with all provisions of the Illinois Prevailing Wage Act, including wages, medical and hospitalization insurance and retirement for those trades covered in the Act. Bidder shall provide a statement listing all employees who will perform work on the public works project at the project site and evidence that all listed employees are covered by a health and welfare plan and retirement plan. The required evidence includes a copy of the summary plan description(s) or similar document(s);
- E. Compliance with the Substance Abuse Prevention on Public Works Projects Act (820 ILCS 130/1 *et seq.*, as amended); bidder and all subcontractors must provide a copy of the written program for the prevention of substance abuse. The bidder shall certify that only workers enrolled and tested in company-based controlled substance and alcohol testing programs will be allowed to participate on the project at the project site;
- F. The bidder and all bidder’s sub-contractors with workers employed at the project site for such public works contracts must participate in an active apprenticeship and training with craft specific programs approved and registered with the United States Department of Labor’s Bureau of Apprenticeship and Training. The required evidence includes a copy of all applicable apprenticeship standards and Apprenticeship Agreement(s) for any apprentice(s) who will perform work at the public works project site. The bidder must provide Certification that all employees expected to perform work on the project at the project site have completed 10-hour or greater OSHA safety program in the last 5 years. Only workers who have satisfactorily completed a 10-hour or greater OSHA safety program will be allowed to participate in the project at the project site. The bidder must have copies of employee OSHA cards on file and the Township may request that the bidder provide copies of employee OSHA cards. Failure to produce employees’ OSHA cards may result in determination that a bidder is not a responsible bidder;

- G. All bidders are required to turn in certified payroll records as specified in Illinois Public Act 94-0515, and follow all provisions of the Employee Classification Act, 820 ILCS 185/1 *et seq.*;
- H. All Bidders must demonstrate a good faith effort toward providing equal opportunity employment opportunities for residents to work as crafts persons, consistent with the racial, ethnic and gender demographics of the labor force available in the Township; and written certification by the bidder and each subcontractor of compliance with the applicable provisions of the Illinois Human Rights Act and the rules of the Illinois Human Rights Commission, including adoption of a written sexual harassment policy and express averment of application of same to all of its workers involved with the project for which the bid is submitted;
- I. All bidders must provide evidence of relevant experience that indicates the necessary capacity to perform the project and must provide adequate reference(s) verify the quality of work performed;
- J. All bidders must provide disclosure of any outstanding and previously issued and resolved federal, state or local tax liens or tax delinquencies against the contractor or any officers of the contractor in the last (5) years.

Section 3. Additional Criteria Available

If all of the above criteria are otherwise satisfied, the Township may also consider the following factors in its discretion in awarding the project if such information is requested:

- A. Statements as to past performance, which shall give an accurate and complete record of all public works projects completed in the past three (3) years by the contractor. Such statements shall include the name of the public body and the project, original contract price, final contract price, and the names of all subcontractors used, if applicable, and a statement as to compliance with completion deadlines; and/or
- B. Any determination by a court or governmental agency for violation of federal, state, or local laws including but not limited to violations of contracting or antitrust laws or licensing laws, environmental laws, the Occupational Safety and Health Act (OSHA), the National Labor Relations Act (NLRA), or federal Davis-Bacon Act.
- C. The Township may also request evidence of and/or consider the following factors when identifying the responsible bidder for the purpose of awarding contracts under this section: (a) The ability, capacity and skill of the bidder to perform the contract; (b) The capacity of the bidder to perform the contract promptly and efficiently, or within the time specified, without delay or interference; (c) The character, integrity, reputation, and experience of the bidder based upon and including among other relevant matters or evidence: (i) The quality of the bidder's past performance, including performance of the previous contracts, whether or not such contract was with the Township; (ii) The previous and existing compliance by the bidder with laws and ordinances relating to the contract; (iii) The financial ability of the bidder to perform the contract; (iv) Any findings

of non-responsibility by federal, state or local agencies; (v) Any additional factors the Township determines relevant for the contract.

Section 4. Subcontractors

Disclosure of the names and addresses of each subcontractor from whom the contractor had accepted a bid and/or intends to hire on any part of this project, together with written submission of all items required of such subcontractors to establish full compliance with all provisions set forth herein is required of all bidders.

Section 5. Incomplete Submission by Bidders

It is the sole responsibility of the contractor to comply with all submission requirements at the time it submits its bid to the Township. Contractor submissions deemed inadequate or incomplete may result in a determination that the contractor is not a responsible bidder.

Section 6. Lowest Bidder Not Chosen

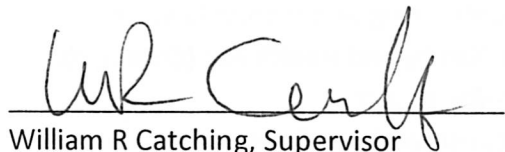
When an award is not recommended to be given to the lowest bidder, a statement of the reason for such recommendation shall be prepared by the purchasing agent.

Section 7. Effective Date

This Ordinance shall be in full force and effect from and after its passage, signing and recording as provided by law.

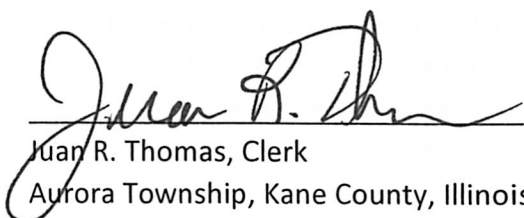
PASSED this 12th day of November, A.D. 2020.

APPROVED this 12th day of November, A.D. 2020.



William R Catching, Supervisor
Aurora Township, Kane County, Illinois

ATTEST:



Juan R. Thomas, Clerk
Aurora Township, Kane County, Illinois