

ORDINANCE NO. 966

**AN ORDINANCE
ESTABLISHING RESPONSIBLE
BIDDER REQUIREMENTS ON
PUBLIC WORKS PROJECTS**

WHEREAS, the Fox River Water Reclamation District (the “District”) is charged with the construction and maintenance of facilities for the purification and treatment of sewage within its territorial boundaries, and outlets for the drainage thereof into the Fox River, conducive the preservation of the public health, comfort, and convenience; and

WHEREAS, the grants the Board of Trustees of the District (the “Board”) full power to pass all necessary ordinances, rules, and regulations for the proper management and conduct of the business of the Board and the District, and for carrying into effect the objects for which the District was formed;

WHEREAS, the Board seeks to preserve administrative resources by ensuring that only qualified bidders and subcontractors are awarded contracts on public works construction projects, and based upon its 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 low bid; and

WHEREAS, the District has a compelling proprietary interest in awarding contracts for public works construction projects in a manner that will yield successful project delivery in terms of work that is performed safely, at the lowest possible cost, and in accordance with the highest possible standards of quality and efficiency; and

WHEREAS, securing successful delivery of public works construction projects presents significant challenges due to the complex, unpredictable, and inherently dangerous nature of the construction industry, wherein errors in project planning or execution, including those caused by inexperienced or unqualified craft labor personnel, can result in serious safety risks, excessive cost overruns, flawed or inferior project quality, and disruptions in project schedules that may delay the use of critical government facilities; and

WHEREAS, the Board necessary for the proper management and conduct of the business of the District to ensure the efficient use of public funds and promote public safety by adopting this Ordinance No. 966, “An Ordinance Establishing Responsible Bidder Requirements on Public Works Projects”;

NOW, THEREFORE, BE IT ORDAINED by the Board of Trustees of the Fox River Water Reclamation District (the “District”), Kane and Cook Counties, Illinois, as follows:

SECTION I: PUBLIC WORKS. As used herein, the term “Public Works Projects” shall mean District construction projects (construction of new facilities, renovation of existing facilities, and road construction projects) which are subject to mandatory competitive bidding procedures pursuant to the Sanitary District Act of 1917, 70 ILCS 2405/1 *et seq.*, as amended from time-to-time.

SECTION II: BID REQUIREMENTS.

(A) For purposes of determining whether a bidder is a “responsible bidder” for the award of a contract for a Public Works Project, the bidder must submit:

- (1) A copy of the Illinois Secretary of State’s Department of Business Services online records evidencing that the bidder has a current corporate annual report on file. If the bidder is an individual, sole proprietor, or partnership, this Subsection (A)(1) shall not apply.
- (2) Documents evidencing current registration with the Illinois Department of Revenue, if the bidder has employees (*e.g.*, document with Account Number, Illinois Business Tax Number).
- (3) Documents evidencing current registration with the Illinois Department of Employment Security, if the bidder has employees (*e.g.*, document with Unemployment Insurance Account Number).
- (4) Disclosure of any federal, state, or local tax liens or tax delinquencies against the bidder or any officers of the bidder in the last five (5) years.
- (5) Certificates of insurance indicating insurance coverages as set forth in the applicable bid specifications, including, but not limited to workers’ compensation, employer’s liability, general liability, contractual liability, pollution liability, completed operations, automobile, hazardous occupations, products liability, professional liability, and umbrella/excess liability.
- (6) A statement that all employees are (i) covered under a current workers’ compensation insurance policy and (ii) properly classified under such policy. If the bidder is insured with a carrier, the evidence of workers’ compensation insurance shall be a copy of the “Information Page” of the bidder’s workers’ compensation policy and any continuation of that Information Page which includes the name and address of the insured, as well as the class codes the compensation premium is based on and the total estimated remuneration per class code.
- (7) A statement of compliance with all provisions of the Illinois Prevailing Wage Act, 820 ILCS 130/1 *et seq.*, and all rules and regulations therein, for the past five (5) years. Such statement shall also provide that the bidder has reviewed the Illinois Prevailing Wage Act, has reviewed and agrees to pay the applicable prevailing wage rates as set forth in a bid specification, and will strictly comply with all

applicable Illinois Prevailing Wage Act and related requirements. A bidder who has been found by the Illinois Department of Labor to be in violation of the Illinois Prevailing Wage Act twice within a three (3) year period shall be deemed not to be a responsible bidder for two (2) years from the date of the latest finding.

- (8) A copy of the written program for the prevention of substance abuse to be filed with a public body pursuant to the Substance Abuse Prevention on Public Works Projects Act, 820 ILCS 265/1 *et seq.*
- (9) A copy of the written sexual harassment policy in compliance with the provisions of the Illinois Human Rights Act, 775 ILCS 5/2-105(A)(4).
- (10) A statement that individuals who will perform work on the Public Works Project on behalf of the bidder are properly classified as either an employee or independent contractor under all applicable state and federal laws and local ordinances.
- (11) Documents evidencing any professional or trade license required by law or local ordinance for any trade or specialty area in which the bidder is seeking a contract award. Additionally, the bidder must disclose any suspension or revocation of such license held by it or any of its directors, officer, or managers.
- (12) Evidence of participation in apprenticeship training programs applicable to the work to be performed on the Public Works Project, which are approved by and registered with the United States Department of Labor's Office of Apprenticeship and Training, or its successor organization, and evidence that any applicable apprenticeship program has graduated at least two (2) apprentices in the past three (3) years for the construction crafts which the bidder will perform on the Public Works Project.

The required evidence includes, but is not limited to, a copy of all applicable apprenticeship standards and apprenticeship agreements for any apprentices who will perform work on the Public Works Project. Additional evidence of participation and graduation requirements may be requested by the District at its discretion. Evidence of graduation rates is not required for apprenticeable crafts dedicated exclusively to the transportation of material and equipment to and from the Public Works Project.

- (13) A statement that the bidder will maintain an Illinois office as the primary place of employment for the persons employed in the construction authorized by the contract.
- (14) Disclosure of the name and address of each subcontractor from whom the bidder has accepted a bid or intends to hire on any part of the Public Works Project. Further, any such subcontractor that will complete either (i) ten percent (10%) or more of the work on the Public Works Project, or (ii) at least \$10,000 of the work on the Public Works Project, shall be required to adhere to all the requirements set

forth herein as though it were bidding directly to the District. Each bidder shall submit all subcontractor information and supporting documentation to the District prior to the subcontractor commencing work on the Public Works Project.

It shall be the responsibility of the bidder to ensure its subcontractors comply with all requirements set forth herein, including the timely and complete submittals of all required documentation and the full compliance with all obligations and project specifications. Failure of a successful bidder to submit the required subcontractor information or documentation may constitute a contractual default and/or breach by the bidder and may disqualify a bidder from performing work on future Public Works Projects.

- (15) Evidence of relevant experience on projects of similar size and scope which indicates the necessary capacity to perform the Public Works Project and adequate references verifying the quality of work performed.
- (16) A statement 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 bidder. Such statements shall include the name of the public body and the project, the original contract price, the final contract price, the names of all subcontractors used, if applicable, and a statement as to compliance with completion deadlines.
- (17) Any determination against the bidder by a court or governmental agency for violations of federal, state, or local laws, including, but not limited to, serious, willful, or repeated violations of the Occupational Safety and Health Act ("OSHA"), 29 U.S.C. § 651 *et seq.*, violations of contracting or antitrust laws, tax or licensing laws, environmental laws, the Illinois Prevailing Wage Act, or other applicable laws.

(B) Any material changes to the bidder's status, at any time, must be reported to the District in writing within fourteen (14) calendar days of its occurrence. Failure to comply with this requirement is grounds for the bidder to be deemed a non-responsible bidder.

SECTION III: INCOMPLETE SUBMISSIONS.

(A) It is the sole responsibility of the bidder to comply with all submission requirements at the time it submits its bid to the District. Any submission deemed inadequate or incomplete shall result in a determination that the bidder is not a responsive bidder.

(B) The submission requirements also apply to all subcontractors, except that the successful bidder shall submit all applicable subcontractor submissions, as outlined in Subsection (A)(14) above, prior to the subcontractor commencing work on the Public Works Project. Failure of a subcontractor to submit the required subcontractor information or documentation may constitute a contractual default and/or breach by the successful bidder and may disqualify a bidder from performing work on the Public Works Projects. In addition, the District may withhold all payments otherwise due for work performed by a subcontractor, until the subcontractor submits

the required information, and such information is approved by the District. The District may also require that the successful bidder remove the subcontractor from the Public Works Project and replace it with a responsive and responsible subcontractor.

SECTION IV: PRE-QUALIFICATION.

(A) Upon designation by the District that a bidder's or subcontractor's submission in anticipation of a bid is complete and timely, and upon any further consideration deemed necessary by the District, the bidder or subcontractor may be "pre-qualified" for future Public Works Projects. A bidder's or subcontractor's classification as "pre-qualified" shall exempt the bidder or subcontractor from the comprehensive submission requirements contained herein for a period of twelve (12) months; provided, however, that the District may request the bidder or subcontractor to submit additional documents during the time period in which it is pre-qualified. Thereafter, bidders and subcontractors who are pre-qualified must submit a complete application for continuation of "pre-qualified" standing, on a form provided by the District, by December 31st for the upcoming calendar year. Failure by any pre-qualified bidder or subcontractor to timely submit its complete application for continuation of "pre-qualified" standing shall result in automatic removal of the designation, effective January 1 of the upcoming year. However, any such bidder or subcontractor shall still be permitted to bid on Public Works Projects.

(B) Any material changes to a prequalified bidder's or subcontractor's status, at any time, must be reported to the District in writing within fourteen (14) calendar days of its occurrence. Failure to comply with this requirement is grounds for the bidder's or subcontractor's designation to be revoked and for the bidder or subcontractor to otherwise be deemed a non-responsible bidder or subcontractor.

(C) The designation of a bidder or subcontractor as prequalified under this Section IV is solely within the discretion of the District, and the District reserves the right to deny, change, or revoke such designation at any time, and for any reason, upon written notice to the bidder or subcontractor. Any bidder denied or losing pre-qualified status may request reconsideration of the decision by submitting such a request in writing to the District within seven (7) calendar days of its receipt of written notice from the District.

(D) The Executive Director, or his or her designee, may from time-to-time establish rules, regulations, and procedures for the prequalification of bidders and subcontractors as provided herein. The District expressly reserves the right to modify such rules, regulations, and procedures at any time, in its sole discretion, with or without notice, and directs the Executive Director, or his or her designee, to implement and update the same, as necessary.

SECTION V: SEVERABILITY. If any section, paragraph, or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining sections, paragraphs, or provisions of this Ordinance.

SECTION VI: REPEAL. All prior Ordinances and Resolutions in conflict or inconsistent with this Ordinance are hereby expressly repealed but only to the extent of such conflict or inconsistency.

SECTION VII: EFFECTIVE DATE. This Ordinance shall be in full force and effect upon its passage and approval, as provided by law, and shall be applicable to bids issued after the effective date of this Ordinance.

FOX RIVER WATER RECLAMATION DISTRICT



Benjamin P. Bernal, President

ATTEST:


Elizabeth A. Penesis, Clerk

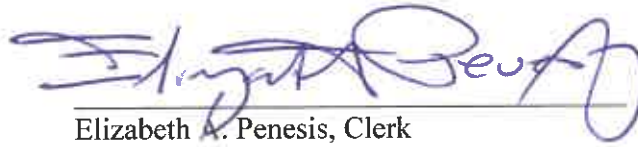
Passed this 11 th day of September, 2024.

VOTE: AYES 5 NAYS 0 ABSTAIN 0

CERTIFICATION

I, ELIZABETH A. PENESIS, Clerk of the FOX RIVER WATER RECLAMATION DISTRICT, Kane and Cook Counties, Illinois, do hereby certify that the attached is a true and correct copy of Ordinance No.966, An Ordinance Establishing Responsible Bidder Requirements on Public Works Projects, as duly adopted by the Board of Trustees of the FOX RIVER WATER RECLAMATION DISTRICT at a regular meeting of such Board, and that such resolution is in full force and effect.

Certified and sealed at South Elgin, Illinois, the 11 th day of Sept, 2024.

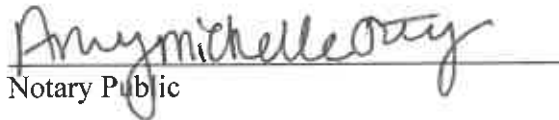

Elizabeth A. Penesis, Clerk

(Seal)



SUBSCRIBED AND SWORN to

Before me this 11 th day of September, 2024.


Notary Public