

TOWN OF SCHERERVILLE, LAKE COUNTY, INDIANA

ORDINANCE NO. 2025

AN ORDINANCE TO ESTABLISH RESPONSIBLE BIDDING PRACTICES AND SUBMISSION REQUIREMENTS ON PUBLIC WORKS PROJECTS IN THE TOWN OF SCHERERVILLE, LAKE COUNTY, INDIANA, REPEALING ALL ORDINANCES AND TOWN CODE PROVISIONS, OR PARTS THEREOF, IN CONFLICT HERewith, AND ALL MATTERS RELATED THERETO.

WHEREAS, the Town of Schererville, Lake County, Indiana, is a unit of local government and Municipal Corporation located in Lake County, Indiana, and exercises governmental jurisdiction of the subject municipality property; and

WHEREAS, the Town of Schererville, Lake County, Indiana (hereinafter, the "Town"), is governed by a duly elected legislative body, known as the "Town Council"; and

WHEREAS, the Town Council of the Town of Schererville has been informed and advised that said Town is required by applicable law to award capital improvement projects to "lowest Responsive and Responsible" bidders under applicable Indiana law; and

WHEREAS, the Town Council of the Town of Schererville, based upon its experience, has determined that quality workmanship, efficient operation, safety, and timely completion of projects requires all bidders to meet certain minimum requirements in order to be a "Responsive and Responsible" bidder under applicable Indiana Law; and

WHEREAS, the Town Council has been further informed and advised that applicable State law further requires that bidders meet certain minimum requirements in order to be a "Responsive and Responsible" bidder on public work projects in the Town; and

WHEREAS, the Town Council now seeks to enhance its ability to identify "Responsive and Responsible" bidders on all Town public works construction projects by institution of more comprehensive submission requirements which are in compliance with applicable Indiana State law; and

WHEREAS, the Town Council concurs and agrees that current "Responsible Bidding Practices and Submission Requirements" legislation will enhance and preserve administrative resources by ensuring that only qualified contractors and subcontractors are awarded contracts on public works construction projects in the Town; and

WHEREAS, the Town Council agrees that update and establishment of current Responsible Bidding Practices and Submission Requirements will assure efficient use of taxpayers' dollars, as well as promote public safety, and as such, is in the best interests of the resident taxpayers of the Town; and

WHEREAS, the Responsible Bidding Practices and Submission Requirements update and establishment Ordinance will assist to ensure that no contract or award of work under said Ordinance, or any subcontractor at any tier working on a project awarded pursuant to the terms and provisions of this Enabling Ordinance 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 filling or refusing to

pay overtime and earned wages as required by applicable law.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SCHERERVILLE, LAKE COUNTY, INDIANA, AS FOLLOWS:

SECTION ONE: That this Responsible Bidding Practices and Submission Requirements for Submission of bids to perform construction work on public works projects in the Town of Schererville is hereby declared to be, and the same shall be as set forth hereafter as follows, namely:

I. Bid Submission Requirements

Contractors proposing to submit bids on any Town of Schererville ("Town") project estimated to be in an amount of at least two hundred thousand dollars (\$200,000.00), or any amounts specified under the Indiana bidding statutes, in order to be considered a responsible bidder, and prior to the opening of bids, shall be required to submit a statement made under oath and subject to the applicable laws for perjury, on a form or forms designated by the Town, which forms must include, at a minimum, the following, namely:

- (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 names;
- (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-Bacon and related Acts;
- (D) A statement on staffing capabilities, including labor sources;
- (E) Evidence of participation in apprenticeship 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; and evidence that any applicable apprenticeship program has graduated at least five (5) apprentices in each of the past five (5) years for each of the construction crafts the bidder will perform on the project. Evidence of graduation rates are not required for apprenticeable crafts dedicated exclusively to the transportation of material and equipment to and from the public works project.

The required evidence includes but is not limited to a copy of all applicable apprenticeship standards and Apprenticeship Agreement(s) for any apprentice(s) who will perform work on the public works project; and documentation from each applicable apprenticeship program certifying that it has graduated at least five (5) apprentices in each of the past five (5) years for each construction craft the bidder will perform on the project.

Additional evidence of participation and graduation requirements may be requested by the Town at its discretion.

- (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 works project; and (ii) meets, or exceeds, the requirements set forth in I.C. §4-13-18-5 or I.C. §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 applicable 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 (5) years of any professional or trade license held by the company, or of any Director, Officer or Manager employed by the bidder;
- (I) Evidence that the bidder is utilizing a surety company on the United States Department of Treasury's Listing of Approved Sureties;
- (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) 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;
- (L) 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 on which the bid is due;
- (M) For contracts estimated to cost at least three hundred thousand dollars (\$300,000.00), Certification that the bidder and all subcontractors are qualified under I.C. §4-13.6-4 or I.C. §8-23-10; and
- (N) A written list that discloses the name, address, and type of work for each subcontractor the bidder intends to employ on any part of the public works project, including individuals performing work as independent contractors.

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

II. Post-Bid Submissions from Subcontractors

Each subcontractor of any tier shall be required to adhere to the requirements of Section I of this Ordinance, but subcontractors shall submit the required information to the successful bidder, who shall then submit said information to the Town prior to the subcontractor's first day of work on the public works project.

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 or breach by the successful bidder. However, payment shall be withheld from any subcontractor who fails to timely submit said information until such information is submitted and approved by the Town. Additionally, the Town may require the successful bidder and/or relevant subcontractor to remove a subcontractor from the project and replace it with a responsive and responsible subcontractor.

The disclosure of a subcontractor by a bidder or a subcontractor shall not create any rights in the disclosed subcontractor. Thus, a bidder and/or a subcontractor may substitute another subcontractor for a disclosed subcontractor by giving the Town written notice of the name, address, and type of work the substitute subcontractor will perform. The substitute subcontractor is subject to all of the obligations of a subcontractor under this Ordinance.

III. Validity of Pre-Qualification Classification

Upon designation by the Town that a bidder's or subcontractor's submission is complete and timely, and upon any further consideration deemed necessary by the Town, the bidder or subcontractor may be pre-qualified for future Town public works projects. Pre-qualification shall exempt the bidder or subcontractor from the comprehensive submission requirements contained herein for a period of twelve (12) months. Thereafter, bidders or subcontractors who are pre-qualified must submit a complete application for continuation of pre-qualified standing, on a form provided by the Town, (i.e. a "short form") 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, the removed bidder or subcontractor shall still be permitted to bid on or perform work on Town public works projects.

Any material changes to a contractor's status, at any time, must be reported in writing within ten (10) days of its occurrence to the Town. The pre-qualification designation is solely within the discretion of the Town and the Town specifically reserves the right to change or revoke the designation for a stated written reason(s).

Denial of pre-qualification shall be in writing and shall be forwarded to the contractor within seven (7) working days of such decision. Any contractor denied or losing pre-qualification status may request reconsideration of the decision by submitting such request in writing to the Town within five (5) business days of receipt of notice of denial.

IV. Incomplete Submissions by Bidders

It is the sole responsibility of the bidder to comply with all submission requirements herein no later than the public bid opening. Submissions deemed inadequate, incomplete, or untimely by the Town shall result in the automatic disqualification of the bid.

V. Responsive and Responsible Bidder Determination

After its review of complete and timely submissions, taking into account all information in the submission requirements, the Town shall, in its sole discretion, determine whether a bidder or subcontractor is responsive and responsible. The Town reserves the right to utilize all information provided in the bidder or subcontractor's submission or any

information obtained by the Town through its own independent verification of the information provided.

VI. Certified Payroll

For projects in which the cost is at least one-hundred fifty thousand dollars (\$150,000), the successful bidder and all subcontractors working on a public works project shall submit a certified payroll report utilizing federal form WH-347 or its successor form, which must be prepared on a weekly basis and submitted to the Town within ten (10) calendar days after the end of each week in which the successful bidder or subcontractor performed on the public works project. Certified payroll reports shall identify the job title and craft of each employee on the project, e.g. journeyman electrician or apprentice electrician. In the event any successful bidder or subcontractor uses independent contractors to perform work on the project, such individual must be identified on the federal form WH-347 or successor form with the same information as is required for employees.

The Town may withhold payment due for work performed by a successful bidder or subcontractor for failure to timely submit their respective certified payroll reports until such time as the reports are submitted. The Town shall not withhold payment to a successful bidder or subcontractor for failure of the successful bidder or one (1) or more other subcontractors to timely submit their certified payroll reports.

VII. 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 (I.C. §5-14-3).

VIII. Penalties for False, Deceptive, or Fraudulent Statements/Information

Any bidder or subcontractor 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 Town shall be disqualified from bidding or working on all Town projects for a period of three (3) years.

IX. 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; such provisions shall remain in full force and effect.

SECTION TWO: That all remaining terms and provisions of Town Ordinance No. 1900 adopted by the Town Council, not amended hereby, are herein ratified and reaffirmed in the entirety. That all terms in Town Ordinance No. 1900 in conflict with this current and Amendatory Ordinance are repealed regarding these specific terms and provisions.

SECTION THREE: That all existing Ordinances and Town Code Sections, or parts thereof, in conflict with the provisions of this Ordinance, are hereby deemed null, void, and of no legal effect, and are specifically repealed.

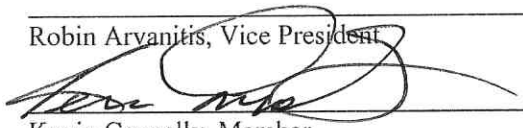
SECTION FOUR: This Ordinance shall be in full force and effect from and after the date of adoption by the Town Council of Schererville, Lake County, Indiana.

**ALL OF WHICH IS PASSED AND ADOPTED THIS 11 DAY OF JUNE, 2025,
BY THE TOWN OF SCHERERVILLE, LAKE COUNTY, INDIANA. .**

**TOWN OF SCHERERVILLE,
LAKE COUNTY, INDIANA,
a Municipal Corporation**

Rob Guetzloff, President

Robin Arvanitis, Vice President



Kevin Connelly, Member




Thomas J. Schmitt, Member



Caleb S. Johnson, Member

ATTEST:



Michael A. Troxell, IAMCA, CMC, ACPFIM, CPFA, CMO,
Clerk-Treasurer

