City of Evansville, Indiana

**RESPONSIBLE BIDDING ORDINANCE FORM**

 Municipal Code 3.95.040

All bids submitted in the amount of $150,000.00 or more shall comply with the requirements of Evansville Municipal Code (EMC) 3.90.040 (the “Responsible Bidding Ordinance”). It is the bidding contractor’s sole responsibility to review the Responsible Bidding Ordinance and provide all required documentation, statements and information no later than the public bid opening. Failure to comply with the Responsible Bidding Ordinance will result in rejection of the contractor’s bid.

All bidders shall provide a written list that discloses the name, address, and type of work for each first-tier subcontractor from which 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. In accordance with EMC 3.90.110, all bidders shall adhere to City policy and procedures pertaining to minority-owned business and women-owned business utilization. Submittal requirements of subcontractors, listed in Section 3.90.040(B) may be provided immediately after bid award, but prior to the execution of a contract.

**Section (A) - Bid Submission Requirements**

The following items shall be submitted by the contractor either prior to a particular bid opening or included with a sealed bid:

1. A copy of a print-out of the Indiana Secretary of State’s online records for the bidder dated within 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 section (A) shall not apply.
2. A list identifying all former business names.
3. 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.
4. A statement on staffing capabilities, including labor sources from which labor will be derived on the public works project.
5. Evidence that the contractor is in compliance with Indiana Code (IC) 5-16-13-12 and its requirements pertaining to participation in apprenticeship and training programs applicable to the work to be performed on the public work project.
6. A copy of a written plan for employee drug testing that: (a) covers all employees of the bidder who will perform work on the public work project; and (b) meets, or exceeds, the requirements set forth in EMC 3.95.020 and IC 36-1-12-24.
7. 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.
8. Proof of any professional or trade license required by law and EMC 3.95.030 for any trade or specialty area in which bidder is seeking a contract award, disclosure or 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.
9. Evidence that the contractor is utilizing a surety company, which is on the United States Department of Treasury’s listing of approved sureties.
10. The contractor shall provide 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.

The City reserves the right to require supplemental information from the bidder for verification of any of the information provided by the bidder and may also conduct random inquiries of the bidder’s current and prior customers. Notwithstanding the foregoing, this section shall not apply to a public work project performed by the City in accordance with IC 36-1-12-3(b), which addresses the use of a municipality’s workforce.

**Section (B) - Submissions from Subcontractors**

Subcontractors are not required to be pre-qualified like the prime contractor, however, prior to a particular bid opening the following information must be provided for each subcontractor immediately after a bid is awarded, but prior to the execution of a contract between the City and the primary contractor.

1. Each first-tier subcontractor to be utilized on a particular project shall be required to adhere to the requirements of subsection (A) above, 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 prime bidder and the prime 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.
2. Upon request, the City may require any bidder to provide the required information (including name, address, type of work on the project and the name of the higher-tier subcontractor) about its second and lower-tier subcontractors. Payments shall be withheld from any bidder who fails to timely submit this information until this information is submitted and approved by the City. Additionally, the City may require the successful prime bidder to remove the relevant subcontractor or second or lower-tier subcontract from the project and replace it with a responsive and responsible subcontractor.
3. The City may withhold all payments otherwise due to a bidder for work performed by a subcontractor until such subcontractor submits the information required pursuant to this chapter and such information is reviewed and approved by the City. Successful bidders shall only be permitted to use approved subcontractors who have provided required information to the City about the applicable responsive and responsible subcontractor.
4. The disclosure of a subcontractor (“Disclosed Subcontractor”) by a bidder or a subcontractor shall not create any rights in the disclosed subcontractor. A bidder and/or subcontractor may not substitute another subcontractor (“Substitute Subcontractor”) for a disclosed subcontractor without written approval of the City. The contractor shall provide written notice of the name, address, and type of work of the substitute subcontractor. The substitute subcontractor shall be subject to all of the obligations of a subcontractor under the Responsible Bidding Ordinance.

**Section (C) - Prequalification Classification**

1. Upon designation by the City that a contractor’s or subcontractor’s submission in anticipation of a bid is complete and timely, and upon further consideration deemed necessary by the City, the contractor or subcontractor may be prequalified for future City public works projects. A contractor’s classification as “prequalified” shall exempt the contractor or subcontractor from the comprehensive submission requirements contained herein for a period of 12 months. Thereafter, contractors or subcontractors who are prequalified must submit a request for continuation of “prequalified” standing on a form provided by the City (also referred to as the “short form”) by December 31st for the upcoming calendar year. Failure by any prequalified contractor or subcontractor to timely submit its complete application for continuation of “prequalified” standing shall result in automatic removal of the designation, effective January 1st of the upcoming year. However, the “removed” contractor or subcontractor shall still be permitted to bid on City public works projects as long as the information required in Section A is submitted with that particular bid response.
2. Any material changes to the contractor’s status, at any time, must be reported in writing within 10 days of its occurrence to the City. The prequalification designation is soley within the discretion of the City and the City specifically reserves the right to revoke the designation for any reason.
3. Denial or revocation of prequalification shall be in writing and shall be forwarded to the contractor within seven (7) business days of such decision. Any contractor denied or losing prequalification status may request reconsideration of the decision by submitting such request in writing to the City within five (5) business days of receipt of notice of denial.
4. Contractors wishing to prequalify for compliance with the Responsible Bidding Ordinance may do so by submitting all required forms to the City Purchasing Department located at 323 of the Civic Center Complex, 1 NW Martin Luther King Jr. Blvd., Evansville, IN 47708.

**Section (D) – Responsive and Responsible Bidder Determination**

The City, after review of complete and timely submissions, shall, in its sole discretion, after taking into consideration all information in the submission requirements, determine whether a bidder is responsive and responsible pursuant to IC 36-1-12-4. The City specifically reserves the right to utilize all information provided in the contractor or subcontractor’s submission or any information obtained by the City through its own independent verification of the information provided by the contractor.

**Section (E) – Certified Payroll**

For public work projects in which the cost is at least $250,000, the successful bidder and all subcontractors working on a public work project shall, upon request by the City, identify the job title, work classification, rate of pay, tax deductions, and craft of each employee on the project, e.g., journeyman electrician or apprentice electrician. The successful bidder and all subcontractors may satisfy the requirements of this section, if requested by the City, by providing the Federal form WH 347.

**Section (F) – Public Records**

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

**Section (G) – 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 City shall be disqualified from bidding on all City projects for a period of three years and may be enforced pursuant to EMC 1.05.170 and 1.05.180, or as otherwise provided by statute.

City of Evansville, Indiana

**RESPONSIBLE BIDDING ORDINANCE FORM**

 Municipal Code 3.95.040

Contractor agrees to abide by the responsible bidding practices and submission requirements outlined in Evansville Municipal Code (EMC) 3.95.040. All contractors proposing to submit bids on any City public works project estimated to be at least $150,000 or more must submit this statement, made under oath and subject to perjury laws.

Has the bidder previously submitted the items listed below and been “Prequalified” as a Responsible Bidder as related to EMC 3.95.040?

Yes \_\_\_\_\_\_\_ No \_\_\_\_\_\_\_\_\_

If yes, please attach a copy of your notification letter stating you have been prequalified.

If no, please submit the following items either prior to the bid opening or included with the sealed bid:

\_\_\_\_\_\_\_ (1.) Evidence from the Indiana Secretary of State showing bidder’s company is in existence and current with the Indiana Secretary of State’s Business Entity Reports, and eligible for a certificate of good standing.

\_\_\_\_\_\_\_ (2.) A list identifying all former business names

\_\_\_\_\_\_\_ (3.) List 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

\_\_\_\_\_\_\_ (4.) A statement on staffing capabilities, including labor sources from which labor will be derived on the public works project

\_\_\_\_\_\_\_ (5.) List all apprenticeship and training programs bidder utilizes applicable to the work to be performed on the public work project

\_\_\_\_\_\_\_ (6.) A written plan for employee drug testing that: (a) covers all employees of the bidder who will perform work on the public work project; and (b) meets, or exceeds, the requirements set forth in Evansville Municipal Code (EMC) 3.95.020 and IC 36-1-12-24

\_\_\_\_\_\_\_ (7.) List of bidder’s project managers and superintendents, including name and description of each employee’s management experience

\_\_\_\_\_\_\_ (8) Proof of any professional or trade license required by law and EMC 3.95.030 for any trade or specialty area in which bidder intends to seek 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 any director, office or manager employed by the bidder

\_\_\_\_\_\_\_ (9) Evidence that the contractor is utilizing a surety company, which is on the United States Department of Treasury’s listing of approved sureties

\_\_\_\_\_\_\_ (10) 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

For each separate bid, all bidders shall provide a written list that discloses the name, address, and type of work for each first-tier subcontractor from which 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. Responsible Bidder submittal requirements of subcontractors may be provided immediately after bid award, but prior to the execution of a contract.

In accordance with EMC 3.90.110, all bidders shall adhere to City policy and procedures pertaining to minority-owned business and women-owned business utilization.

This form must be included in the Bid, without alteration.

**Date**

**Company Representative** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Company Name** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Company Address** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Representative email** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Phone** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Signature** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Any material changes to the contractor’s status, at any time, must be reported in writing within 10 days of its occurrence to the City. The prequalification designation is made in the sole discretion of the City and the City reserves the right to revoke the designation for any reason.