

TOWNSHIP OF WARMINSTER  
BUCKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 785

**AN ORDINANCE OF THE TOWNSHIP OF WARMINSTER, BUCKS COUNTY, PENNSYLVANIA, AMENDING THE WARMINSTER TOWNSHIP CODE AND SPECIFICALLY AMENDING CHAPTER 4 (BUILDINGS), PART 1 (RESPONSIBLE BUILDING CONTRACTORS) CHANGING THE PROJECT VALUE THRESHOLD, PROVIDING FOR A PRE-BID QUALIFICATION PROCESS AND ADDING ADDITIONAL REQUIREMENTS FOR RESPONSIBLE CONTRACTORS**

**WHEREAS**, on May 5, 2016, the Warminster Township Board of Supervisors adopted Ordinance 729 (“Responsible Contractor Ordinance”) setting forth the requirements for responsible contractors bidding on public works projects; and

**WHEREAS**, the Responsible Contractor Ordinance has been successful in protecting the interests of the Township and the public with respect to public works projects; and

**WHEREAS**, on July 14, 2022, the Warminster Township Board of Supervisors adopted Ordinance 767, amending the Responsible Contractor Ordinance; and

**WHEREAS**, the Warminster Township Board of Supervisors further amended the Responsible Contractor Ordinance on April 4, 2024, through the adoption of Ordinance 773; and

**WHEREAS**, the Warminster Township Board of Supervisors seeks to build on the success of the Responsible Contractor Ordinance, as amended, to increase the number of public works projects subject to the responsible contractor requirements, providing for a pre-bid qualification process and update the requirements for responsible contractors and their subcontractors;

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED**, Ordinance 729, as amended, codified as Chapter 4, Part 1 of the Code of the Township of Warminster is amended to read as follows:

**Section 1.** Sections 4-101, 4-102, 4-104 and 4-105 are amended as set for in Exhibit “A” attached hereto.

**Section 2.** Sections 4-107 and 4-108 are renumbered 4-108 and 4-109, respectively.

**Section 3.** New Section 4-107 is added as set forth in Exhibit “A” attached hereto.

**Section 4.** Severability.

The provisions of this Ordinance are severable. If any section, clause, sentence, part or provisions hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair any of the remaining sections,

clauses, sentences, parts of provisions of this Ordinance or prior Ordinances. It is hereby declared to be the intent of the Warminster Township Board of Supervisors that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence, part or provision had not been included.

**Section 5. Effective Date.**

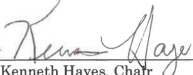
This Ordinance shall become effective five (5) days after the date of enactment, listed below.

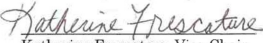
**ORDAINED AND ENACTED** by the Board of Supervisors of Warminster Township this 9<sup>th</sup> day of April, 2026.

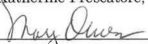
Attest:

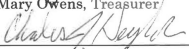
  
Tom Scott,  
Township Manager



  
Kenneth Hayes, Chair

  
Katherine Frescatore, Vice-Chair

  
Mary Owens, Treasurer

  
Chuck Heybach, Secretary

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Janice Charlton, Member

## EXHIBIT "A"

### § 4-101. Responsible contractor requirements.

1. All contractors and **their** subcontractors of any tier that perform work valued at over ~~\$75,000~~\$175,000 on any public facility or public works project, including construction, demolition, alteration, renovation, repair and contract service or contract maintenance work, shall meet the requirements of this Part 1.
2. All firms engaged in contracts covered by this Part 1 shall be qualified, responsible contractors or subcontractors that have sufficient capabilities in all respects to successfully perform contracts on which they are engaged, including the necessary experience, equipment, technical skills, **craft labor and craft training** ~~and qualifications~~ and organizational, financial and personnel resources. Firms bidding on public contracts shall also be required to have a satisfactory past performance record and a satisfactory record of law compliance, integrity and business ethics.
3. The Township's 2019 Five Ponds Golf Course Irrigation Project is expressly excluded from the requirements of this Part 1.

### § 4-102. Contractor responsibility certifications.

1. As a condition of performing work on a public works contract subject to this Part 1, a general contractor, construction manager or other lead or prime contractor seeking award of a contract shall submit a contractor responsibility certification **as follows**: ~~at the time it submits its bid for a contract.~~
  - A. **Each firm subject to the requirements of this Ordinance must submit the contractor responsibility certification at least fourteen (14) calendar days before the specified bid submission deadline. Failure to submit a contractor responsibility certification by the aforesaid deadline will automatically disqualify any firm from submitting a bid or proposal for a contract.**
  - B. **Upon the receipt of the pre-qualification contractor responsibility certification, the Township shall determine whether a firm meets the requirements set forth in this Part. Notice of the Township's determination shall be sent to the proposed firm no less than seven calendar days before the specified bid submission deadline. All firms that are determined by the Township to meet the qualification requirements of this Ordinance shall be entitled to submit a bid or proposal for the project.**
  - C. **If a company fails to provide a subcontractor responsibility certification required by this Part, it shall be disqualified from bidding.**

**No action of any nature shall lie against the Township because of its refusal to accept a bid for failing provide information required by this Part.**

2. The contractor responsibility certification shall be completed on a form provided by the Township and shall reference the project for which a bid is being submitted by name and contract or project number.
3. In the contractor responsibility certification the construction manager, general contractor or other lead or prime contractor shall confirm the following facts regarding its past performance and work history and its current qualifications and performance capabilities:
  - A. The firm and its employees have all valid, effective licenses, registrations or certificates required by federal, state, county, or local law, including, but not limited to, licenses, registrations or certificates required to: (a) do business in the designated locale; and (b) perform the contract work it seeks to perform. These shall include, but not limited to, licenses, registrations or certificates for any type of construction or maintenance trade work or specialty work which the firm proposes to self-perform.
  - B. The firm meets the bonding requirements for the contract, as required by applicable law or contract specifications and any insurance requirements, as required by applicable law or contract specifications, including general liability insurance, workers' compensation insurance and unemployment insurance.
  - C. The firm has not been debarred or suspended by any federal, state or local government agency or authority in the past three years.
  - D. The firm has not defaulted on any project in the past three years.
  - E. The firm has not has any type of business, contracting or trade license, registration, or other certification revoked or suspended in the past three years.
  - F. The firm and its owners have not been convicted of any crime relating to the contracting business in the past 10 years.
  - G. The firm has not within the past three years been found in violation of any law applicable to its contracting business, including, but not limited to, licensing laws, tax laws, prompt payment laws, wage and hour laws, prevailing wage laws, environmental laws or others, where the result of such violation was the payment of a fine, back pay damages or any other type of penalty in the amount of \$1,000 or more.

- H. The firm will pay all craft employees that it employs on the project the current wage rates and fringe benefits as required under applicable federal, state or local wage laws. These wages shall also be paid to employees performing any custom fabrication work for the project. For purposes of this subsection, custom fabrication shall mean the fabrication, assembly, modification or other production of non-standard goods, or materials, including components, fixtures, or parts thereof, that are fabricated, assembled or modified offsite, but produced specifically for a project covered by this Part 1. This requirement shall include, but not be limited to, custom fabrication for electrical, plumbing, mechanical, refrigeration, heating, cooling, ventilation, sheet metal or other duct systems, mechanical insulation, ornamental iron work or boiler systems. Fabrication shall also include the fabrication, assembly or other production of components or structures prefabricated to specifications for a particular project covered by this Part 1.
- I. All craft labor that will be employed by the firm for the project have completed at least the OSHA ten-hour training course for safety established by the United States Department of Labor, Occupational Safety and Health Administration. If the firm is a prime **or lead** contractor, it shall also ensure that at least one person on the project has completed the OSHA thirty-hour construction training course established by the U.S. Department of Labor.
- J. The firm will employ **a sufficient number of** craft employees in all classifications and individual trades required to successfully perform the work related to this project.
- K. The firm **and all its listed subcontractors participate** ~~participates~~ in a Class A apprenticeship program for the past three years, at a minimum, for each separate trade or classification in which it employs craft employees and shall continue to participate in such program or programs for the duration of the project.
- (1) For purposes of this section, a "Class A apprenticeship program" is an apprenticeship program that is currently registered with and approved by the United States Department of Labor or **the Commonwealth of Pennsylvania Department of Labor and Industry, Bureau of Labor Law Compliance and the rules governing the Apprentice Training Act or similar authoritative departments from the states of New Jersey or Delaware** ~~a state apprenticeship agency~~ and has graduated apprentices to journey person status for at least three of the past five years.
  - (2) To demonstrate compliance with this section, the firm shall provide, with this certification, a list of all trades or classifications of craft employees it will employ on the project and documentation

- verifying it participates in a Class A apprenticeship program for each trade or classification listed.
- (3) The construction manager, general contractor or other lead or prime contractor responsible for the project shall ensure that at least 70% of the **entire workforce of craft/ trade** labor workers employed on the project shall be comprised of either journeyperson workers who have successfully completed a Class A apprenticeship program as defined above or apprentices registered in such programs. The apprenticeship participation must be in the same trade or craft for which the workers are employed on the project. **Apprentice ratios shall comply with the Prevailing Wage Act, the Pennsylvania Apprentice Training Act and other applicable laws.**
  - (4) **Craft labor workers shall be comprised of either journeyperson workers who have successfully completed a Class A Apprenticeship Program as defined herein, or apprentices registered in such programs. The apprenticeship participation must be the same trade or craft for which the workers are employed on the project.**
  - (5) **If no Class Apprenticeship Program exists that has been approved by the United States Department of Labor, The Commonwealth of Pennsylvania Department of Labor and Industry, Bureau of Labor Law Compliance and the rules governing The Apprentice Training Act, or by similar authoritative governmental departments from the States of New Jersey or Delaware, for the specific trade or labor classification, the Board of Supervisors may waive the Class A Apprenticeship Program requirement for an otherwise qualified bidder.**
  - (6) **Apprentice ratios shall be in strict compliance with all applicable Federal, State and local laws including but not limited to the Pennsylvania Prevailing Wage Act and the Pennsylvania Apprentice Training Act.**
- L. The firm has all other technical qualifications and resources, including equipment, personnel and financial resources, to perform the referenced contract, or will obtain same through the use of qualified, responsible subcontractors.
- M. The firm **and all its subcontractors** will maintain all qualifications, resources and capabilities referenced in this certification throughout the duration of the project.
- N. The firm **and all its subcontractors** shall notify the Township within seven **calendar** days of any material changes to all matters attested to in this certification.

- O. The firm understands that the contractor responsibility certification required by this section shall be executed by a person who has sufficient knowledge to address all matters in the certification and shall include an attestation stating, under the penalty of perjury, that the information submitted is true, complete and accurate.
4. Execution of the contractor responsibility certification required by this Part 1 shall not establish a presumption of contractor responsibility, and the Township may require any additional information it deems necessary to evaluate a firm's status as a responsible contractor, including technical qualifications, financial capacity or other resources and performance capabilities. The Township may require that such information be included in a separate statement of qualifications and experience or as an attachment to the contractor responsibility certification.
  5. The submitting firm shall stipulate in the contractor responsibility certification that, if it receives a notice of intent to award contract, it will provide a subcontractor list and required subcontractor information as specified in § 4-105 of this Part 1.
  6. If the submitting firm has ever operated under another name or controls, is controlled by another company or business entity or in the past five years controlled or was controlled by another company or business entity, whether as a parent company, subsidiary or in any other business relation, it shall attach a separate statement to its contractor responsibility certification that explains in detail the nature of any such relationship. Additional information may be required from such an entity if the relationship in question could potentially impact contract performance.
  7. If a firm fails to provide a contractor responsibility certification required by this section, it shall be disqualified from bidding. No action of any nature shall lie against the Township because of its refusal to accept a bid for failing to provide information required by this section.
  - 8. The Township Board of Supervisors has the discretion to reject any bid for failing to fulfill one or more of the requirements set forth in this Section.**

§ 4-103. Notice of intent to award contract.

1. After it has received bids for a project, the Township shall issue a notice of intent to award contract to the firm offering the lowest responsive bid.
2. Such notice shall be issued immediately or as soon as practicable after bids are opened and after the Board of Supervisors shall vote to authorize issuance of a notice to the apparent low bidder. The notice shall stipulate that the contract award is conditioned on the issuance of a written contractor responsibility determination,

as required by § 4-105 and any other conditions determined appropriate by the Township.

§ 4-104. Subcontractor lists; subcontractor responsibility certifications.

1. ~~Within five days from the date of notice of intent to award contract, a~~ **All bidders** ~~prospective awardee~~ shall submit to the Township a subcontractor list containing the names of any subcontractors that will be used for the referenced project, their addresses and a description of the work each listed subcontractor will perform on the project **at the time of their bid submission**.
2. At the time a **bidder** ~~prospective awardee~~ submits the subcontractor list it shall also submit subcontractor responsibility certifications for all listed subcontractors to the Township. Subcontractor responsibility certifications shall be executed by the respective subcontractors on forms prepared by the Township and shall contain the same information and representations required in contractor responsibility certifications, including verification of apprenticeship qualifications as required by § 4-102, Subsection 3K, for each trade or classification of craft workers it will employ on the project.
3. Subcontractor responsibility certifications shall be executed by persons having sufficient knowledge to address all matters in the certification and shall include an attestation stating, under the penalty of perjury, that all information submitted is true, complete and accurate.

§ 4-105. Contractor responsibility review and determination.

1. After a notice of intent to award contract has been issued, the Township shall undertake a review process to determine whether the prospective awardee is a qualified, responsible contractor in accordance with the requirements of this Part 1 and other applicable laws and regulations and has the resources and capabilities to successfully perform the contract. The time of the review process shall be as determined necessary by the Township, but in no event less than five calendar days.
2. As part of this review process, the Township shall ensure that the contractor responsibility certification, the subcontractor list and the subcontractor responsibility certifications, as required by this Part 1, have been submitted and properly executed.
3. The Township may conduct any additional inquiries to verify that the prospective awardee and its subcontractors have the technical qualifications and performance capabilities necessary to successfully perform the contract and that the firms have a sufficient record of law compliance and business integrity to justify the award of a public contract. In conducting such inquiries, the Township may seek relevant

information from the firm, its prior clients or customers, its subcontractors or any other relevant source.

4. If at the conclusion of the review process the Township determines that all responsibility certifications have been properly completed and executed and if it concludes that the qualifications, background and responsibility of the prospective awardee and the firms on its subcontractor list are satisfactory, it may issue a formal, written contractor responsibility determination verifying that the prospective awardee is a qualified, responsible contractor. In the event a firm is determined to be **not responsible** ~~nonresponsible~~, the Township shall proceed to conduct a responsibility review of the next lowest, responsive bidder or, if necessary, rebid the project.
5. A contractor responsibility determination may be issued after the conclusion of the review process under Subsection 1. A responsibility determination may be revoked or revised in any manner at any time if the Township obtains relevant information warranting any such revocation or revisions.
6. **No action of any nature shall lie against the Township because of its determination that a contractor is not responsible, or refusal to accept a bid for failing to provide information that is required by this section.**

§ 4-106. Subcontractor responsibility review requirements.

1. A construction manager, general contractor or other lead or prime contractor shall not be permitted to use a subcontractor on any work performed for the Township unless it has identified the subcontractor on its subcontractor list and provided a subcontractor responsibility certification in accordance with the requirements of § 4-104.
2. A subcontractor listed on a firm's subcontractor list shall not be substituted unless written authorization is obtained from Township and a subcontractor responsibility certification is provided for the substitute subcontractor.
3. In the event that the Township determines that a prospective subcontractor listed by the apparent low bidder does not meet the responsibility standards of this Part 1, it may, after informing the prospective awardee, exercise one of the following options:
  - A. Permit the awardee to substitute a qualified, responsible, subcontractor in accordance with the requirements of this Part 1;
  - B. Require the awardee to self-perform the work in question if the firm has the required experience, licenses and other qualifications to perform the work in question; or
  - C. Disqualify the prospective awardee.

4. In the event that a subcontractor is disqualified under this Part 1, the general contractor, construction manager or other lead or prime contractor shall not be permitted to make any type of contractual claim against the Township on the basis of a subcontractor disqualification.

#### **§4-107. Labor relations.**

1. All contractors and their listed subcontractors of any tier under contract with the Township shall at all times maintain harmonious labor relations in the execution and performance of their work on all projects for the Township to prevent strikes or any other labor disputes.
2. Should a labor-related dispute arise, (1) work stoppages, strikes and/or picket lines are strictly prohibited on all projects for the Township; and (2) all contractors and their listed subcontractors of any tier shall immediately notify the Township in writing of such a dispute and rectify the dispute within 48 hours of such notice. Failure to do so will be deemed a material breach of contract.
3. All contractors and their listed subcontractors of any tier shall fully abide by the terms of all labor agreements and jurisdictional decisions presently in force or subsequently executed with or by the Township.
4. All contractors and their listed subcontractors of any tier shall indemnify and hold the Township harmless from and against any claim and costs incurred by the Township, including court costs and attorney's fees, resulting from or in any manner related to a failure to fulfill all the requirements of this section.
5. Failure of the contractor or any of its listed subcontractors of any tier to comply with all provisions of this section will result in termination of the contract.
6. No action of any nature shall lie against the Township for termination of a contract due to a violation of the requirements of this Section.

#### **§ 4-108. False or misleading responsibility certifications.**

If the Township determines that a contractor or subcontractor responsibility certification contains false or misleading material information that was provided knowingly or with reckless disregard for the truth or omits material information knowingly or with reckless disregard of the truth, the firm for which the certification was submitted shall be prohibited from performing work for the Township for a period of three years and shall be subject to any other penalties and sanctions, including contract termination, available to the

Township under law. A contract terminated under these circumstances shall further entitle the Township to withhold payment of any monies due to the firm as damages.

**§ 4-109. Execution of final contract.**

A contract subject to this Part 1 shall not be executed until all requirements of this Part 1 have been fulfilled and until contractor and subcontractor responsibility certifications have been issued by the Township under § 4-105, Subsection 4. Upon completion of all requirements under this Part 1, the Township may execute a final contract based upon the notice of intent approved by the Board of Supervisors without further Board action.

