

RESPONSIBLE CONTRACTOR RESOLUTION

Section 1. Purpose

The County of Pueblo, Colorado (hereinafter referred to as "County") recognizes that there is a need to ensure that all work on public construction and maintenance contracts is performed by responsible, qualified firms that maintain the capacity, expertise, personnel, and other qualifications and resources necessary to successfully perform public contracts in a timely, reliable, and cost-effective manner.

To effectuate the purpose of selecting responsible contractors for public contracts and to protect the County's investments in such contracts, prospective contractors and subcontractors, should be required to meet pre-established, clearly defined, minimum standards relating to contractor responsibility, including requirements and criteria concerning technical qualifications, competency, experience, adequacy of resources, and satisfactory records regarding past project performance, safety, law compliance and business integrity.

Further, due to the critical impact that skilled craft labor has on public works projects, and due to the limited availability of skilled craft labor and imminent craft labor skill shortages, it is necessary to encourage contractors and subcontractors to participate in established, formal apprenticeship training programs, for both promoting successful project delivery and ensuring future workforce development. The County also recognizes that it is beneficial to the local community to ensure that firms receiving public contracts provide adequate wages and benefits to their employees and utilize fair business, employment, and training practices that have a positive impact on local communities affected by such contracts.

Therefore, the County shall require compliance with the provisions of this resolution by business entities seeking to provide services to the County of Pueblo as specified herein. The requirements of this resolution are intended to supplement, not replace, existing contractor qualification and performance standards or criteria currently required by law, public policy, or contracting documents.

Section 2. Responsible Contractor Requirements

a. The requirements of this resolution apply to all contractors, and their subcontractors, that bid to perform work estimated to be valued at over \$125,000.00 on any public facility or public works project, including construction, demolition, alteration, renovation, repair, and contract service or contract maintenance work.

b. All firms engaged in contracts covered by this resolution 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, 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.

Section 3. Contractor Responsibility Certifications.

a. As a condition of performing work on a public works contract subject to this resolution, a general contractor, construction manager, or other lead or prime contractor seeking award of a contract shall submit (1) a Contractor Responsibility Certification, (2) Subcontractor List, and (3) Contractor Responsibility Certificates for each subcontractor at the time it submits its bid for a contract.

b. The Contractor Responsibility Certification shall be completed on a form provided by the County and shall reference the project for which a bid is being submitted by name and contract or project number. A Contractor Responsibility Certificate shall contain the following affirmations:

1. 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 be 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.

2. 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, automobile liability insurance, workers compensation insurance, and unemployment insurance.

3. The firm has not been debarred or suspended by any federal, state or local government agency or authority in the past five years.

4. The firm has not defaulted on any project in the past five years.

5. The firm has not had any type of business, contracting or trade license, registration, or other certification revoked or suspended in the past five years.

6. The firm and its owners have not been convicted of any crime relating to the contracting business in the past ten years.

7. The firm has not within the past five 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.

8. The firm will pay all skilled craft workers that it employs on the project the current wage rates and fringe benefits as required under applicable federal, state or local wage laws. For purposes of this resolution, “skilled craft worker” means a manual worker of relatively high skill level having a thorough and comprehensive knowledge of the processes involved in his or her work who exercises considerable independent judgment and usually receives an extensive period of training.

9. All skilled craft workers that will be employed by the firm for the project have completed at least the OSHA 10-hour training course for safety established by the U.S. Department of Labor, Occupational Safety & Health Administration.

10. The firm will employ skilled craft workers in all classifications and individual trades required to successfully perform the work related to this project.

11. Whether the firm maintains, participates, and/or contributes to a Class A Apprenticeship Program for each separate trade or classification in which it employs skilled craft workers, and if so, for how long and whether the firm shall continue to participate in such program or programs for the duration of the project.

- a) For purposes of this section, a Class A Apprenticeship Program is an apprenticeship program that is currently registered with and approved by the U.S. Department of Labor or a state apprenticeship agency.
- b) The firm shall provide, with this certification, a list of all trades or classifications of skilled craft workers it will employ on the project and documentation verifying whether it participates in a Class A Apprenticeship Program for each trade or classification listed.

12. 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.

13. The firm will maintain all qualifications, resources, and capabilities referenced in this certification throughout the duration of the project.

14. The firm shall notify the County within seven days of any material changes to all matters attested to in this certification.

15. 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.

c. Execution of the Contractor Responsibility Certification required by this resolution shall not establish a presumption of contractor responsibility and the County 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 County may require that such information be included in a separate Statement of Qualifications and Experience or as an attachment to the Contractor Responsibility Certification.

d. A Subcontractor List shall contain the names of 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. Contractor Responsibility Certifications submitted for subcontractors 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.

e. 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.

f. 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 County because of its refusal to accept a bid for failing to provide information required by this section.

Section 4. Notice of Intent to Award Contract.

a. After it has received bids for a project, the County shall issue a Notice of Intent to Award Contract to the firm offering the lowest responsive bid. Among otherwise equal bids, the County shall give preference to those firms that maintain, participate, and/or contribute to a Class A Apprenticeship Program for each separate trade or classification in which it employs skilled craft workers.

b. Such Notice shall be issued immediately or as soon as practicable after bids are submitted and shall stipulate that the contract award will be conditioned on the issuance of a written Contractor Responsibility Determination, as required by section 5 of this resolution and any other conditions determined appropriate by the County.

Section 5. Contractor Responsibility Review and Determination.

- a. At the time or after a Notice of Intent to Award Contract has been issued, the County shall determine whether the prospective awardee is a qualified, responsible contractor in accordance with the requirements of this resolution and other applicable laws and regulations and has the resources and capabilities to successfully perform the contract.
- b. As part of this review process, the County shall ensure that the Contractor Responsibility Certification, the Subcontractor List and the Subcontractor Responsibility Certifications, as required by this resolution, have been submitted and properly executed.
- c. The County 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 County may seek relevant information from the firm, its prior clients or customers, its subcontractors, or any other relevant source.
- d. If at the conclusion of its internal review, the County 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 shall issue a written Contractor Responsibility Determination verifying that the prospective awardee is a qualified, responsible contractor. In the event a firm is determined to be non-responsible, the County shall advise the firm of its finding in writing and proceed to conduct a responsibility review of the next lowest, responsive bidder or, if necessary, rebid the project.
- e. The Responsibility Determination may be revoked or revised in any manner at any time if the County obtains relevant information warranting any such revocation or revisions.
- f. The Contractor Responsibility Certification for a firm identified in a Notice of Intent to Award Contract, Subcontractor Lists, and Subcontractor Responsibility Certifications shall be made available to the public for inspection after the Responsibility Determination has been made. Nothing shall prevent members of the public from submitting comments relating to the Responsibility Determination.
- g. If the County 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 County for a period of three years and shall be subject to any other penalties and sanctions, including

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

Section 6. Subcontractor Responsibility Review Requirements.

a. 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 County unless it has identified the subcontractor on its Subcontractor List and provided a Subcontractor Responsibility Certification.

b. A subcontractor listed on a firm's Subcontractor List shall not be substituted unless written authorization is obtained from the County and a Subcontractor Responsibility Certification is provided for the substitute subcontractor.

c. In the event that the County determines that a prospective subcontractor listed by the apparent low bidder does not meet the responsibility standards of this Section, it may, after informing the prospective awardee, exercise one of the following options:

1. permit the awardee to substitute a qualified, responsible subcontractor in accordance with the requirements of this section;
2. 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
3. disqualify the prospective awardee.

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

Section 7. Severability, Effective Date.

a. If any provision of this resolution shall be held to be invalid or unenforceable by a court of competent jurisdiction, any such holding shall not invalidate any other provisions of this resolution and all remaining provisions shall remain in full force and effect.

b. This resolution shall become effective _____, but the County shall take such anticipatory administrative action in advance as shall be necessary for the implementation of this resolution.

c. The requirements of this resolution shall not apply to contracts executed prior to the effective date of this act.