

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE TOWNSHIP OF LOWER MAKEFIELD,  
BUCKS COUNTY, PENNSYLVANIA AMENDING CHAPTER 99  
("CONTRACTORS, RESPONSIBLE") OF THE CODE OF THE  
TOWNSHIP OF LOWER MAKEFIELD**

**WHEREAS**, the Township of Lower Makefield ("Township") is a municipality organized and existing under the Second-Class Township Code of the Commonwealth of Pennsylvania, 53 P.S. §§ 65101, et seq.; and

**WHEREAS**, the Second Class Township Code also provides that the Board of Supervisors ("Board") may adopt ordinances in which general or specific powers of the Township may be exercised, and by the enactment of subsequent ordinances, the Board may amend, repeal, or revise existing ordinances, 53 P.S. § 66601; and

**WHEREAS**, certain regulations and requirements of the Township relating and pertaining to the responsibility of contractors awarded public contracts were adopted by the Township on May 2, 2007 by Ordinance No. 369, and amended once thereafter on May 6, 2020 by Ordinance No. 422, and are codified in Chapter 99 ("Contractors, Responsible"), Sections 99-1 through 99-9 of the Code of the Township of Lower Makefield ("Code"); and

**WHEREAS**, the Board 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; and

**WHEREAS**, the proposed amendments to the Township's Code fulfill the Township's obligation to protect the public health, safety, and welfare of Township citizens; and

**WHEREAS**, the proposed amendments have been advertised, considered, and reviewed in accordance with the requirements of the Second Class Township Code, 53 P.S. § 66601.

**NOW THEREFORE**, in consideration of the foregoing, be it **ENACTED** and **ORDAINED** by the Board of Supervisors of Lower Makefield Township, Bucks County, Pennsylvania, as follows:

**I.** Chapter 99 ("Contractors, Responsible") of the Code of the Township of Lower Makefield ("Code") is hereby **AMENDED** as follows:

**A.** **AMEND** Section 99-1., "Purpose," as follows:

1. **AMEND** Section 99-1 to **STRIKE** it in its entirety and **REPLACE** it with the following so that it now reads as follows:

Lower Makefield Township 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 such contracts in a timely, reliable and cost-effective manner.

To effectuate the purpose of selecting responsible contractors for these public contracts and to protect Lower Makefield Township's investments in such contracts, prospective contractors and sub-contractors should be required to meet pre-established, clearly defined, minimum qualification standards relating to contractor responsibility, including requirements and criteria concerning technical qualifications and abilities, competency, experience, adequacy of resources, including equipment, financial and personnel, and satisfactory records regarding past performance, safety, law compliance and business integrity, in selecting responsible contractors for public contracts, as hereinafter more specifically set forth.

Further, due to the critical impact that skilled craft labor has on the execution of public works projects, and the increasingly limited availability of such labor, it is necessary to require contractors and subcontractors participate in proven, established, formal apprenticeship training programs, as a condition of bidding, for the purpose of promoting successful project delivery, cost-effectiveness, and future workforce development.

Therefore, Lower Makefield Township shall require compliance with the provisions of this ordinance by business entities seeking to provide services as specified herein. The requirements of this ordinance are intended to supplement, not replace, existing contractor qualification and performance standards or other criteria currently required by the Lower Makefield Township or required by law, public policy, or contracting documents. However, in the event that this ordinance conflicts with any law, public policy or contracting documents of Lower Makefield Township, the requirements of this ordinance shall prevail.

**B. AMEND** Section 99-2., "Responsible contractor requirements," as follows:

1. **AMEND** Section 99-2.A. to **STRIKE** the dollar value "\$75,000" and **REPLACE** it with "\$250,000," **ADD** the word "demolition" between "construction" and "alteration," **ADD** the word "modernization" in between the words "repair" and "service," and **ADD** two new final sentences so that it now reads as follows:

A. All contractors and subcontractors of any tier that perform work valued at or over \$250,000 on any public facility or public works project, including construction, demolition, alteration, renovation, repair, modernization, service or maintenance work, shall meet the requirements

of this chapter. Annually, the work value will be adjusted to reflect the annual change in the Consumer Price Index for All Urban Consumers (CPI-U) for the 12-month period ending each October as reported by the U.S. Bureau of Labor Statistics. Any increase in the work value amount shall be memorialized by the approval of a resolution by the Board of Supervisors.

**C. AMEND** Section 99-3., “Contractor responsibility certifications,” as follows:

1. **AMEND** Section 99-3.A. to **INSERT** a new final sentence so that it now reads as follows:

A. As a condition of performing work on a public works contract subject to this chapter, a general contractor, construction manager or other lead or prime contractor seeking award of a contract shall submit a contractor responsibility certification at the time it submits its bid for a contract. Subcontractors used on the contract are likewise required to provide similar subcontractor responsibility certifications as provided by § 99-5. of this chapter.

2. **AMEND** Section 99-3.B. to **STRIKE** the phrase “and the applicable departments within” so that it now reads as follows:

B. The contractor responsibility certification shall be completed on a form provided by Lower Makefield Township and shall reference the project for which a bid is being submitted by name and contract or project number.

3. **AMEND** Section 99-3.C.(1) to **STRIKE** the word “or” in between “registrations” and “certificates,” **INSERT** the phrase “or other credentials” in between “certificates” and “required by,” and **INSERT** the words “or construction” in between “trade” and “work” so that it now reads as follows:

(1) The firm has all valid, effective licenses, registrations, certificates or other credentials required by federal, state, county, or local law, including, but not limited to, licenses, registrations, or certificates required to do business in the designated locale; and perform the contract work it seeks to perform, including but not limited to licenses, registrations or certificates for any type of trade or construction work or specialty work which the firm proposes to self-perform.

4. **AMEND** Section 99-3.C.(3) to **INSERT** the word “suspended” between “debarred” and “defaulted” so that it now reads:

- (3) The firm has not been debarred, suspended or defaulted on any project by any federal, state or local government agency or authority in the past three years.
5. **AMEND** Section 99-3.C.(4) to **INSERT** the phrase “by any government agency or authority” in between “revoked” and “in the past three years” so that it now reads:
- (4) The firm has not had any type of business, contracting or trade license, registration or other certification suspended or revoked by any government agency or authority in the past three years.
6. **AMEND** Section 99-3.C.(6) to **INSERT** the words “principals or” in between “its” and “owners” so that it now reads:
- (6) The firm and its principals or owners have not been convicted of any crime relating to the contracting business by a final decision of a court or government agency for the past 10 years.
7. **AMEND** Section 99-3.C.(7) to **STRIKE** it in its entirety and **REPLACE** it with the following:
- (7) The firm has not within the past three years been found by a final decision of a court or government agency 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, environment laws or others, by a final decision of a court or government agency, 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. This may include violations of the Pennsylvania Human Relations Act, 43 P.S. §§ 951, et seq., the Occupational Safety and Health Act, 29 U.S.C. §§ 651, et seq., the Pennsylvania Minimum Wage Law, 43 P.S. §§ 333.101, et seq., the Pennsylvania Wage Payment and Collection Law, 43 P.S. §§ 260.1, et seq., the Pennsylvania Unemployment Compensation Law, 43 P.S. §§ 751, et seq., and the Pennsylvania Workers Compensation Act, 77 P.S. §§ 1, et seq.
8. **AMEND** Section 99-3.C.(8) to **STRIKE** it in its entirety and **REPLACE** it with the following:
- (8) The firm will pay all craft employees that it employs on the project, at a minimum, the applicable wage and fringe benefits rates, as established for the classification in which the worker is employed, in accordance with the Pennsylvania Prevailing Wage Act, 43 P.S. §§ 165-1, et seq., for the duration of the referenced project.

9. **AMEND** Section 99-3.C. to **INSERT** new subsections (10) through (16) that read as follows:

(10) The firm has been incorporated and conducting business in the trade or craft for which it is bidding for at least three years. The term "conducting business" shall mean having completed projects either the same or substantially similar to the project for which it is bidding. If queried on this paragraph, the firm shall produce legal documents, photographs and references as to the longevity of its business. The Township Manager or his/her designee shall conduct this review.

(11) All craft labor that will be employed by the firm for the project will have completed, prior to working on the project the OSHA 10-hour training course for safety established by the U.S. Department of Labor. If the firm is a prime contractor, it shall also ensure that at least one person on the project has completed the OSHA 30-hour construction training course established by the U.S. Department of Labor.

(12) The firm has participated in a Class A Apprenticeship Program for the past three years for each separate trade or classification in which it employs craft employees, and shall continue to participate in such program(s) for the duration of the project or contract, as defined below.

(a) For purposes of this section, a Class A Apprenticeship Program is an apprenticeship program registered with and approved by the U.S. Department of Labor or the Pennsylvania Apprenticeship and Training Council and has graduated apprentices to journey person status for at least three of the past five years. This may be an apprenticeship program subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001, *et seq.* ("ERISA"), or a non-ERISA program. To permit development of recently registered programs, the graduation requirement of this provision shall not apply to: an apprenticeship training program registered within the past five years; or an apprenticeship program registered within the past 10 years, if the program provides apprenticeship training for a craft or trade that was not recognized as an apprenticeship craft or trade by the U.S. Department of Labor or the Pennsylvania Apprenticeship and Training Council at the time that the program was registered.

(b) 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.

(c) The requirements of this section and § 99-3.C.(13) of this Ordinance help ensure that the bulk of the craft labor workforce employed on the project will have sufficient skills and training to correctly perform work assigned to them.

(13) The construction manager, general contractor or other lead or prime contractor responsible for the project shall ensure that at least 70 percent of the craft labor workers employed on the project shall be comprised of either journeyperson workers who have successfully completed a Class A Apprenticeship Program as defined in § 99-3.C.(12) of this ordinance or apprentices registered in such programs. The apprenticeship participation of specified by this section must be in the same trade or craft for which the workers are employed on the project.

(14) The firm shall employ a sufficient number of craft labor personnel required to successfully perform any project work it self-performs or shall use qualified subcontractors to meet this requirement. The firm shall assign craft labor personnel to perform only work in the craft or trade in which they are employed or have sufficient skills or training or shall use qualified subcontractors to meet this requirement.

(15) The firm has all other technical qualifications and resources, including equipment, personnel and financial resources, to successfully perform the referenced contract and shall maintain such capabilities throughout the duration of the project.

(16) The firm shall notify Lower Makefield Township within seven days of any material changes in its operation that relate to any matter attested to in this certification.

10. **AMEND** Section 99-3.D. to **STRIKE** the phrase “prospective contractor” and **REPLACE** it with “firm’s status as a responsible contractor, including,” so that it now reads as follows:

D. Lower Makefield Township and its designated departments may require any other 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. Lower Makefield Township and its designated departments may require that such information be included in a separate statement of qualifications and experience or as an attachment to the contractor responsibility certification.

11. **AMEND** Section 99-3. to **INSERT** new Sections I. through L. that read as follows:

I. If the submitting firm is or was in the past five years related to any other company or business entity that provided or provides contractual services in the construction, maintenance, service or repair industries, whether as a parent company, subsidiary or any other business relationship, it shall submit a detailed written explanation of such relationship and provide a contractor/developer responsibility certification for the related company if requested.

J. If any person or entity that is a shareholder, owner or partner of the submitting firm owns an interest of 20% or more in another entity that provides or has provided contractual services in the construction, maintenance, service or repair industries, it shall submit a detailed written explanation of such relationship and provide a contractor/developer responsibility certification for such other entity if requested.

K. Lower Makefield Township may require that contractor/developer responsibility certifications and other information required by this article be submitted electronically.

L. Lower Makefield Township may charge firms submitting bids or proposals a reasonable fee to defray costs for processing and evaluating contractor/developer responsibility certifications and related information and documents.

**D. AMEND** Section 99-4., “Notice of intent to award contract,” as follows:

1. **AMEND** Section 99-4.B. to **INSERT** the phrase, “compliance with subcontractor certifications required by § 99-5.,” in between “chapter” and “and,” and to insert a new final sentence so that it now reads as follows:

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 § 99-6. of this chapter, compliance with subcontractor certifications required by § 99-5., and any other conditions determined appropriate by Lower Makefield Township and its designated departments. Lower Makefield Township reserves the right to reject any defective bid, to waive any nonmaterial defect in a bid, to reject all bids, as the Township determines such actions to be in its best interest.

**E. AMEND** Section 99-5., “Subcontractor lists; subcontractor responsibility certifications,” as follows:

1. **AMEND** Section 99-5.B. to **AMEND** the spelling of the word “Subcontract” to “Subcontractor,” to **INSERT** the phrase “including verification of apprenticeship qualifications required by § 99-3.C.(12) for each trade or classification of craft workers it will employ on the project” after “certifications,” and to **INSERT** a new final sentence so that it now reads as follows:

B. At the time a prospective awardee submits the subcontractor list it shall also submit subcontractor responsibility certifications for all listed subcontractors to Lower Makefield Township or its designated

departments. Subcontractor responsibility certifications shall be executed by the respective subcontractors and contain the same information and representations required in the contractor responsibility certifications, including verification of apprenticeship qualifications required by § 99-3.C.(12) for each trade or classification of craft workers it will employ on the project. The prospective awardee shall not be permitted to use a subcontractor on any work performed for Lower Makefield Township unless it has identified the subcontractor on its subcontractor list and provided a subcontractor responsibility certification in accordance with the requirements of § 99-5.

2. **AMEND** Section 99-5. to **INSERT** a new Section 99-5.C. that reads as follows:

C. A prospective awardee shall determine whether any firm on its subcontractor list is organized as a sole proprietorship owned and operated by a single person. This shall apply to subcontractors at any tier. For any such entity, the prospective awardee shall ensure that the sole proprietorship subcontractor is a legitimate business entity and not a misclassified employee by requiring the subcontractor to supplement its subcontractor certification with its Employer Identification Number (“EIN”) and copies of any license, certificate or registration it is required to maintain in to do business in the state in which it is located.

3. **AMEND** Section 99.5. to **RE-NUMBER** existing Section 99-5.C as new Section 99-5.D.

- F. **AMEND** Section 99-6., “Contract responsibility review and determination,” as follows:

1. **AMEND** Section 99-6.B. to **ADD** the phrase “and all applicable supporting information and documents,” in between the words “certifications” and “as required” so that it now reads as follows:

B. As part of this review process, Lower Makefield Township and its designated departments shall ensure that the contractor responsibility certification, the subcontractor list and subcontractor responsibility certifications, and all applicable supporting information and documents, as required by this chapter, have been submitted and properly executed.

2. **AMEND** Section 99-6.C. to **ADD** a new final sentence so that the entire section now reads as follows:

C. Lower Makefield Township and its designated departments may conduct any additional inquiries to verify the prospective awardee and its subcontractors have the technical qualification 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, Lower Makefield Township and its designated departments may seek relevant information from the firm, its prior clients or customers, its subcontractors or any other relevant source. In conducting this evaluation, Lower Makefield Township may also consider relevant information on any business entities that are found to be related to the firm.

3. **AMEND** Section 99-6.E. to **ADD** a new final sentence so that the entire section now reads as follows:

E. The contractor responsibility determination shall be issued no later than 30 days after the date of the notice of intent to award contract. The responsibility determination may be revoked or revised in any manner at any time during the project in the event Lower Makefield Township and its designated departments obtains relevant information warranting any such revocation or revisions. If Lower Makefield Township determines that a prospective awardee does not meet the qualification standards of this article, it shall issue a determination stating that it finds the firm nonresponsible.

- G. **AMEND** Section 99-7., “Subcontractor responsibility review requirements,” as follows:

1. **AMEND** Section 99-7.B. to **INSERT** the phrase “a construction manager, general contractor, other lead or prime contractor demonstrates compelling reasons for the substitution and” in between “unless” and “written authorization” so that it now reads as follows:

B. A subcontractor listed on a firm's subcontractor list shall not be substituted unless a construction manager, general contractor, other lead or prime contractor demonstrates compelling reasons for the substitution and written authorization is obtained from Lower Makefield Township and its designated departments and a subcontractor responsibility certification is provided for the substitute subcontractor.

2. **AMEND** Section 99.7.C. to **INSERT** the phrase “or is otherwise determined to be nonresponsible” in between the words “section” and “it may,” so that it now reads as follows:

C. In the event that Lower Makefield Township and its designated departments determines that a prospective subcontractor listed by the apparent low bidder does not meet the responsibility standards of this section or is otherwise determined to be nonresponsible, it may, after informing the prospective awardee, exercise one of the following options:

3. **AMEND** Subsection 99-7.C.(1) to **INSERT** the phrase “upon submission of a completed Subcontractor Certification for the substitute and approval of the substitute by Lower Makefield Township” after the word “section” so that it now reads as follows:

(1) Permit the awardee to substitute a qualified, responsible, subcontractor in accordance with the requirements of this section, upon submission of a completed Subcontractor Certification for the substitute and approval of the substitute by Lower Makefield Township;

4. **AMEND** Section 99-7. to **INSERT** a new Section 99-7.E. that reads as follows:

E. Lower Makefield Township shall not approve an unlisted subcontractor, unless it executes a subcontractor responsibility certification as required by this article at least 30 days prior to commencing work. This thirty-day requirement may be waived in emergency situations. Any such certification shall be made available to the public as specified in § 99-8. of this article.

**H. AMEND** Section 99-8., “Public review process,” as follows:

1. **AMEND** Section 99-8.C. to **INSERT** the phrase “shall be disqualified from the project and” in between the words “submitted” and “shall” so that it now reads as follows:

C. If Lower Makefield Township determines that a contractor's or subcontractor's responsibility certification contains false or misleading material information that was provided knowingly or with reckless disregard for the truth or omits material information that was omitted knowingly or with reckless disregard of the truth, the firm for which the certification was submitted shall be disqualified from the project and shall be prohibited from performing work for Lower Makefield Township for a period of three years and subject to any other penalties and sanctions, including termination, available to Lower Makefield Township under law. A contract terminated under these circumstances shall further entitle Lower Makefield Township to withhold payment of any monies due to the firm as damages.

2. **AMEND** Section 99-8.D. to **INSERT** the phrase “including a contractor responsibility determination” in between the words “fulfilled” and “and until” so that it now reads as follows:

D. A procurement contract subject to this chapter shall not be executed until all requirements of this chapter have been fulfilled, including a

contractor responsibility determination, and until contractor and subcontractor responsibility certifications and subcontractor lists have been made available for public inspection for at least 21 days.

**II. Partial Repealer**

All other provisions of the Lower Makefield Township Code of Ordinances, as amended, shall remain in full force and effect. All other Ordinances or provisions of the Township’s Code of Ordinances inconsistent herewith or in conflict with any of the terms hereof are, to the extent of said inconsistencies or conflicts, hereby specifically repealed.

**III. Severability**

The provisions of this ordinance are severable. If any section, clause, sentence, part or provision thereof shall be held illegal, invalid, or unconstitutional by a court of competent jurisdiction, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and such decision of the court shall not affect or impair any of the remaining sections, clauses, sentences, parts or provisions of this ordinance. It is hereby declared to be the intent of the Board of Supervisors that this ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence or part of a provision had not been included herein.

**IV. Effective Date**

All provisions of this ordinance shall be in full force and effect five (5) days after the approval and adoption.

**ENACTED AND ORDAINED** this \_\_\_\_\_ day of \_\_\_\_\_, 2026.

ATTEST:

**LOWER MAKEFIELD TOWNSHIP  
BOARD OF SUPERVISORS**

\_\_\_\_\_  
David W. Kratzer Jr.,  
Township Manager

\_\_\_\_\_  
Name: \_\_\_\_\_  
Vice Chair