

# NEWTON COUNTY RESPONSIBLE BIDDER ORDINANCE

NO. . . .07

COMES NOW THE NEWTON COUNTY BOARD OF COMMISSIONERS, UNDER AUTHORITY OF INDIANA CODE 36-1-3-1, ET SEQ, AND HEREBY ORDAINS:

## Sec. 1. Legislative findings; declaration of necessity.

WHEREAS, Indiana Code Sections 36-1-3-1 et seq. permit any County in the state of Indiana to exercise any power or perform any function necessary to the public interest in the context of its County or internal affairs, which is not prohibited by the Constitution of the United States or of the State of Indiana, or denied or preempted by any other law, or is not expressly granted by any other law to another governmental entity; and

WHEREAS Newton County government expends substantial municipal funds for public construction projects; a portion of that money being derived from taxes paid by county residents; it is in the public interest, health, welfare and safety to let all public construction projects to the lowest, responsive, responsible bidder;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Newton County, Indiana, as follows:

## Sec. 2. Definitions.

For the purpose of this chapter, certain words and phrases used herein are defined as follows:

The term "work" shall mean the following: any repair, maintenance, construction, installation or labor provided in furtherance of any repair, construction or installation.

The term "lowest responsible bidder" shall mean a bidder who meets all of the following applicable criteria and submits evidence of such compliance:

1. Compliance with all applicable laws pre-requisite to doing business in Indiana
2. Evidence of compliance with
  - i) Federal employer tax identification number or social security number (for sole proprietors)
  - ii) Provision of Section 2000(e) of Chapter 21, Title 42 of the United States Code and Federal Executive Order No. 11246 as amended by Executive Order No. 11375 (known as the Equal Opportunity Employer provisions)
3. Certificates of insurance indicating the following coverage necessary for the project and in amounts specified in the bid specifications:
  - i) General liability (\$1 million minimum coverage)

- ii) Worker's compensation (\$ minimum coverage)
  - iii) Completed operations (\$ minimum coverage)
  - iv) Automobile (\$ minimum coverage)
  - v) Hazardous occupation (\$ minimum coverage)
  - vi) Product liability (\$ minimum coverage)
  - vii) Professional liability (\$ minimum coverage)
4. Compliance with all provisions of the Indiana Common Construction Wage, including wages, medical and hospitalization insurance and retirement for those classifications of labor as covered in the Act
  5. Participation in apprenticeship and training programs approved and registered with the United States Department of Labor's Bureau of Apprenticeship and Training for all trades that will be in the contractor's (or his subcontractor's) employment, with each worker receiving the required apprenticeship/training appropriate to his trade.
  6. All labor shall be covered by an approved health and hospital plan and an approved pension plan. A statement of employee benefits must be completed and made part of the bid in order for the bid to be accepted.
  7. Proof of any professional or trade license required by law for any trade or specialty area in which the bidder is seeking a contract award. Additionally, bidder must disclose any suspension or revocation of such license held by the company, or of any director, officer or manager employed by the bidder

Failure to produce these items within five business days of the date of written request by the County shall result in bidder's disqualification.

### **Sec. 3. Applicability**

Employee Misclassification. Contractors shall swear under oath that employees on such projects are classified according to the law.

Common Construction Wage Requirements.

1. A bidder who has been found by the Indiana Department of Labor to be in violation of the Common Construction Wage Act twice within a 3 year period shall be deemed not to be a responsible bidder for 2 years from the date of the latest finding.
2. All Bidders must file with the county a signed statement that the bidder has reviewed the Common Construction Wage Act (or Davis-Bacon Act), that the bidder has reviewed and agrees to pay the applicable common construction wage (or prevailing wage rate) as set forth in the common construction wage rate schedule attached to the bid specifications, and that the bidder will strictly comply with IC 5-16-7 *as amended* (or Federal Davis-Bacon and related requirements).

#### **Sec. 4. Additional Criteria Available.**

If all of the above criteria are otherwise satisfied, the county may also consider the following factors, in its discretion, in awarding the project if such information is requested:

1. Statements as to past performance, which shall give an accurate and complete record of all public work completed in the past three years by the contractor. Bidder shall give the names and addresses of the projects, original contract price, final contract price, and the names of all subcontractors used, if applicable, and a statement as to compliance with completion deadlines
2. Any determinations for violations of federal, state or local laws including but not limited to violations of OSHA, the National Labor Relations Act, federal Davis-Bacon Act

#### **Sec. 5. Lowest Bidder Not Chosen.**

When the award is not recommended to be given to the lowest bidder, a statement of the reasons for such award recommendation shall be prepared by the purchasing agent.

#### **Sec. 6. Multiple Low Bids.**

When two or more responsible bidders submit the same low bid, the contract award shall be determined by drawing lots in public at a meeting of the county commissioners; unless one bidder is a local bidder and one is a non-local bidder, in which event the local bidder shall be awarded the contract.

#### **Sec. 7. Materiality.**

Compliance with the requirements of this Ordinance is a material part of any contract awarded and the successful bidder shall include reference to this Ordinance in all subcontracts.

#### **Sec. 8. Severability.**


If any portion of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other portions or applications of this Ordinance which can be given effect without the invalid portions or applications, and to this end, the portions of this Ordinance are severable.

**BE IT FURTHER ORDAINED** that any prior ordinance or portion thereof in conflict with this ordinance is hereby revoked.

**THIS ORDINANCE** shall take effect upon passage by the Board of County Commissioners and after proper notice and posting as required by law.

ALL OF WHICH IS DULY ORDAINED AND APPROVED BY THE NEWTON  
COUNTY COMMISSIONERS THIS 4<sup>th</sup> DAY OF Sept., 2007.

NEWTON COUNTY COMMISSIONERS

  
Russell Collins, Jr.

  
James Pistello

  
Roxanna Hanford

ATTEST: Sharon Dewing, deputy

Patricia Carlson, Auditor