

**ORDINANCE NO. 2008-01-06 AS AMENDED**

**An Ordinance to establish Responsible Bidding Practices and Submission Requirements for Submitting Bids to Perform Construction Work on City of Crown Point Public Works Projects**

**WHEREAS**, the City of Crown Point is required by law to award capital improvement contracts to the most “responsive and responsible” bidder;

**WHEREAS**, the City of Crown Point, based upon its experience, has determined that quality workmanship, efficient operation, safety, and timely completion of projects are not necessarily insured by awarding a construction contract solely on the basis of the lowest bid;

**WHEREAS**, the City of Crown Point seeks to enhance its ability to identify the “most responsive and responsible” bidders on all City of Crown Point public works construction projects by institution of more comprehensive submission requirements which are in compliance with Indiana State law;

**WHEREAS**, the “Responsible Bidding Practices and Submission Requirements” Ordinance will preserve administrative resources by insuring that only qualified contractors and sub-contractors are awarded contracts on City of Crown Point public works construction projects; and,

**WHEREAS**, the “Responsible Bidding Practices and Submission Requirements” Ordinance will assure efficient use of taxpayer dollars, will promote public safety and will be a benefit to the Citizens of Crown Point:

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF CROWN POINT THAT:**

**SECTION 1.** This Ordinance No. 2008-01-06 AS AMENDED which is entitled “Responsible Bidding Practices and Submission Requirements for Submitting Bids to Perform Construction Work on City of Crown Point Public Works Projects” is hereby enacted and shall read as follows:

**I. Submission Requirements:**

Contractors proposing to submit bids on any City of Crown Point project, the value of which meets or exceeds the threshold levels set by the State of Indiana in its Indiana Common Construction Wage Act, or its successors, must, prior to the opening of bids, submit a statement made under oath and subject to perjury laws, on a form designated by the City of Crown Point and must include:

- (A) A list identifying all former business names, if applicable. Bidder must identify any businesses which any owner, officer, director, manager or principal shareholder has at least a 25% interest, and must disclose the number of years the bidder has been in the construction business;
- (B) A statement as to past performance, which shall give an accurate and complete record of all public work completed in the past (3) years by the contractor, giving the names and addresses of the project, original contract price, final contract price, and the names of all subcontractors used, if any, and a statement as to compliance with completion deadlines.
- (C) A statement identifying and indicating the status of any litigation pending in state or federal court involving any governmental agency; also a statement identifying and indicating the status of any State or federal administrative proceeding or investigation including but not limited to matters involving the National Labor Relations Board, the United States Department of Labor or the Wage and Hour Division of any State; and disclosure of any and all unsatisfied judgments, injunctions or liens obtained by a governmental agency against bidder;
- (D) Disclosure of any determination for violation of federal, State or local laws, including OSHA violations, violations of any State prevailing wage laws, rules or regulations, or the federal Davis-Bacon Act, including a list of all citations, orders, or recommendations issued to or against the bidder within the previous six (6) years by any court, administrative or governmental tribunal. Bidder must include any and all federal, State or local departments' findings of "non-responsibility;"
- (E) A statement on staffing capabilities, including labor sources; staffing plans which verify bidder's ability to comply with the ratio requirements set forth on the Indiana Common Construction Wage Act wage rate schedule attached to the bid specification; and confirmation that all apprentices to be used on the project are registered with an apprenticeship training program approved by the United States Department of Labor, Bureau of Apprenticeship and Training (or its successor federal agency or any State of Indiana created agency or program);
- (F) A good faith estimate of the percentage of the bidder's project workforce that resides in the City of Crown Point and Northwestern Indiana. For the purpose of this Ordinance, Northwestern Indiana is defined as being the counties of: Lake, Porter, Newton and Jasper Counties.
- (G) The bidder shall also provide verified information as to the medical and retirement plans and the substance abuse policy that pertains to all of its employees working on the project;
- (H) Disclosure of the name and address of each subcontractor from whom the bidder has accepted a bid and/or intends to hire on any part of the project; each such subcontractor shall be required to adhere to the submission requirements set forth herein as though it were bidding directly to the City of Crown Point, at least 10 days prior to commencement of work by the subcontractor;
- (I) 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;

- (J) Proof of any professional or trade license required by law for any trade or specialty area in which bidder is seeking a contract award; and, disclosure of 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;
- (K) A signed statement that the bidder has reviewed the Indiana Common Construction Wage Act, that the bidder has reviewed and agrees to pay the applicable prevailing wage rate as set forth in the prevailing wage rate schedule attached to the project's bid specifications, and that the bidder will strictly comply with the Indiana Common Construction Wage Act (or federal Davis-Bacon Act and related requirements);
- (L) A signed statement of what surety companies the bidder has used in the last five years to provide performance bonds, wage and fringe benefits bonds, etc., the names addresses and phone numbers of these surety companies and the amount of the bond which the bidder can supply if given the contract; and,
- (M) 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 of Crown Point reserves the right to demand supplemental information, from the bidder, (additional) verification any of the information provided by the bidder and may also conduct random inquiries of the bidder's current and prior customers.

## **II. Validity of Pre-Qualification Classification**

Upon designation by the City of Crown Point's Board of Public Works and Safety that a contractor's or sub-contractor's submission in anticipation of a bid is complete and timely, and upon any further consideration deemed necessary by the City of Crown Point's Board of Public Works and Safety, the contractor or sub-contractor may be pre-qualified for future City of Crown Point Public Works Projects. A contractor's classification as "qualified" shall exempt the contractor or sub-contractor from the comprehensive submission requirements contained herein for a period of twelve (12) months. Thereafter, contractors or subcontractors who are pre-qualified must submit a complete application for continuation of "pre-qualified" standing, on a form provided by the City of Crown Point, (also referred to as the "short form") by December 31<sup>st</sup> for the upcoming calendar year. Failure by any pre-qualified contractor or sub-contractor to timely submit its complete application for continuation of "pre-qualified" standing shall result in automatic removal of the designation, effective January 1 of the upcoming year. However, the "removed" contractor or sub-contractor shall still be permitted to bid on City of Crown Point Public Works Projects.

Any material changes to the contractor's status, at any time, must be reported in writing within ten (10) days of its occurrence to the City of Crown Point's Board of Public Works and Safety. The pre-qualification designation is solely within the discretion of the City of Crown Point's Board of Public Works and Safety and the City of Crown Point specifically reserves the right to change or revoke the designation for a stated written reason(s).

Denial of pre-qualification shall be in writing and shall be forwarded to the contractor within seven (7) working days of such decision. Any contractor denied or losing pre-qualification

status may request reconsideration of the decision by submitting such request in writing to the City of Crown's Board of Public Works and Safety within five (5) business days of receipt of notice of denial.

### **III. Incomplete Submissions by Bidders and Sub-Contractors**

It is the sole responsibility of the potential bidder to comply with all submission requirements including all information on the bidder's sub-contractors, signed and notarized, by no later than the public bid opening. The requirements as to sub-contractors (which are the same as for contractors) shall apply to all sub-contractors, whatever their tier. Submissions deemed inadequate or incomplete by the City of Crown Point's Board of Public Works and Safety may result in the automatic disqualification of the bid.

Any undisclosed sub-contractors hired after an award is made to a pre-qualified general contractor must submit all information required herein to the City of Crown Point's Board of Public Works and Safety at least ten (10) days prior to the date the sub-contractor is set to commence work on site. No sub-contractor shall work on any City of Crown Point Public Works Projects, unless all submission requirements set forth herein are timely met and they are deemed to be "qualified" by the City of Crown Point's Board of Public Works and Safety.

### **IV. Most Responsive and Responsible Bid Determination**

The City of Crown Point, after review of complete and timely submissions, shall, in its sole discretion, after taking into account all information in the submission requirements, determine which contractor has submitted the most responsive and responsible bid. The City of Crown Point specifically reserves the right to utilize all information provided in the contractor or sub-contractor's submission or any information obtained by the City of Crown Point through its own independent verification of the information provided by the contractor.

### **V. Certified Payroll**

All contractors and sub-contractors working on a project of the City of Crown Point shall submit a certified monthly payroll identifying each of its employees, the employee's job classification working on the City of Crown Point's Project. The certified payroll shall be submitted to the City of Crown Point's Board of Public Works and Safety for Filing with the City of Crown Point's Clerk-Treasurer. Each contractor shall utilize the federal form now known as a WD-10 (or a successor form or a State of Indiana certified payroll form if and when such a form is adopted) which must be submitted on a monthly basis within (10) days after the end of each month which the contractor or sub-contractor performed its work on the Project.

### **VI. Open Records Request Act**

All submissions submitted by a contractor or sub-contractor pursuant to this Ordinance shall be subject to the public's review of such documents pursuant to the Indiana Open Records Request Act.

### **VII. Final Pay-Out/Retainage**

No Contractor or sub-contractor shall receive a final payment until such time as the City of Crown Point's Board of Public Works and Safety has determined that all wages, fringe benefits and deductions owed to the particular contractor's or subcontractor's employees have been paid. The City of Crown Point's Board of Public Works and Safety is entitled to hold retainage for the same purpose.

**VIII. Penalties for False, Deceptive or Fraudulent Statements/Information**


Any bidder that willfully makes, or causes to be made, a false, deceptive or fraudulent statement, or submits false, deceptive or fraudulent information in connection with any submission made to the City of Crown Point's Board of Public Works and Safety shall be permanently disqualified from bidding on all City of Crown Point projects and shall be charged with a Class A misdemeanor, which carries a maximum term of imprisonment of Three Hundred and Sixty Five (365) days and a maximum fine of \$5,000.00.

**SECTION 1.** It is hereby found and determined that all formal actions of this Council relating to the passage of this Ordinance were adopted in open meeting(s) of this Council and that all deliberations of this Council and its committees that resulted in such formal actions, were meetings open to the public, in compliance with all legal requirements and that the reading and adoption of this Ordinance complies with the City of Crown Point's City Code, as amended.


**SECTION 2.** This Ordinance shall be in full force and effect from and after the date of adoption by the Common Council of the City of Crown Point.

Ordinance No. 2008-01-06 AS AMENDED

PASSED AND ADOPTED this 7<sup>th</sup> day of April, 2008.

  
David Uran, Presiding Officer


ATTEST:

  
Patti Olson, IAMC/CMC Clerk Treasurer

Presented by me to David Uran, Mayor of the City of Crown Point, Indiana,  
this 7<sup>th</sup> day of April, 2008, at 7 p.m.

  
Patti Olson, IAMC/CMC Clerk-Treasurer

Approved, signed and returned by me to the Common Council of the City of  
Crown Point, Indiana, this 7<sup>th</sup> day of April, 2008.

  
David Uran, Mayor