

BOARD OF COMMISSIONERS OF VIGO COUNTY

ORDINANCE NO. 2-40.8

RESPONSIBLE BIDDER ORDINANCE

WHEREAS, Vigo County expends substantial funds for public works construction and maintenance, a portion of that money being derived from taxes paid by residents;

WHEREAS, Vigo County seeks to preserve administrative resources by ensuring that only qualified contractors and subcontractors are awarded County contracts;

WHEREAS, Vigo County endeavors to identify the lowest responsible bidder on all County contracts;

WHEREAS, Vigo County is entitled to state the specific requirements of County contracts and to establish criteria bidders must satisfy to be considered for County contracts;

WHEREAS, the "Vigo County Responsible Bidder Ordinance" will assure efficient use of taxpayer dollars and will promote public safety.

NOW THEREFORE, BE IT HEREBY ORDAINED by the Board of Vigo County Commissioners of Vigo County, Indiana, that:

Sec. ___ Purpose.

The Responsible Bidder Ordinance shall serve to define the term "responsible" as used in Indiana Code § 36-1-12-4, regarding competitive bidding.

Sec. ___ Applicability.

This Article of the Vigo County Code shall apply when:

- a. The County is seeking a contract or service to perform county work. County work, in this context, means the construction, reconstruction, alteration, or renovation of a County building, or other structure that is paid for out of a county fund or out of a special assessment. The term includes the construction, alteration, or repair of a highway, street, alley, bridge, sewer, drain, or other improvement that is paid for out of a county fund or out of a special assessment. The term also includes any county work leased by Vigo County under a lease containing an option to purchase; and
- b. The cost of the contract or service will be at least one-hundred fifty thousand dollars (\$150,000).

Sec. ___ Criteria.

A “responsible bidder: shall: meet all the bid and contract specifications, and shall:

- a. Affirm compliance with all applicable laws pre-requisite to doing business in Indiana;
- b. Produce evidence of a federal employer taxpayer identification number or social security number (for sole proprietors);
- c. Conform compliance with Section 2000(e) of Chapter 21, Title 42 of the United State Code and Federal Executive Order No. 11375 (known as the Equal Opportunity Employer Provision);
- d. Confirm that bidder shall not discriminate against an employee or applicant for employment because of race, color, religion, sex, or national origin and that the bidder shall take affirmative action to ensure that applicants are employed, and employees are treated during employment, without regard to their race, color, religion, sex or national origin. Further, bidders shall confirm compliance with any goals or affirmative action requirements, including implementation of an affirmative action plan, if and when such requirements are adopted by the County.
- e. Provide the County with certificates of insurance indicating the following coverage, when such is required in the bid or contract specifications, and in amounts stated in the bid specifications or contract:
 1. General liability;
 2. Worker’s compensation;
 3. Completed operations;
 4. Automobile;
 5. Hazardous occupation;
 6. Product liability;
 7. Professional liability;
 8. Pollution liability;
 9. Asbestos abatement liability;
 10. Property insurance; and
 11. Any additional insurance required by the bid specifications or contract;
- f. Affirm, where worker’s compensation insurance is required under the bid specifications, that all employees are (1) covered under a current worker’s compensation insurance policy and (2) property classified under such policy; and also, where worker’s compensation insurance is required under the bid specification, submit a copy of the “Declarations Page(s)” of the contractor’s worker’s compensation insurance policy if the contractor is insured with a carrier, and any continuation of the worker’s compensation insurance Declarations Page(s) which includes the name and address of the insured, as well as the class codes the compensation premium is based on and the total estimated remuneration per class code; and, upon the County’s request, submit a copy of any

worker's compensation insurance annual premium audit documents and (3) provide to the Board of Commissioners, on formal request from the Board of Commissioners a copy of the "declarations pages" of the contractor's workers compensation insurance policy which includes the name and addresses of the insured, as well as the class codes the compensation premium is based.

- g. Indicate compliance with Indiana Code § 5-16-7 *et seq.*, the Indiana Common Construction Wage Act;
- h. Submit proof of any professional or trade license required by law for any trade or specialty area in which a bidder is seeking a contract award; and disclose any suspension or revocation within the previous five (5) years of any professional trade license held by the company, or of any director, officer, or manager employed by bidder;
- i. At the time of submitting the bid, disclose 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, and disclose the amount of each subcontractor's bid to the general contractor; each subcontractor who will perform work valued in excess of the threshold set forth in Section _____ of this Article shall be required to adhere to the submission requirements set forth herein as though it were bidding directly to Vigo County, and must file the appropriate required documents at least five (5) days prior to commencement of work by the subcontractor;
- j. Upon bid opening by the Board of Commissioners, the bid recipient shall supply the following information relative to subcontractors:
 - 1. Business name and address;
 - 2. Type of work to be performed and bids submitted; and
 - 3. Statement of acknowledgment that subcontractor will comply with all applicable federal, state and local laws.
- k. State that individuals who will perform work on the county project on behalf of the contractor are properly classified as either (1) an employee or (2) an independent contractor under all applicable state and federal laws and local ordinances;
- l. Provide information as to the substance abuse policy that pertains to all of the bidder's employees working on the project; and
- m. Confirms that all apprentices to be used on the project are registered with an apprenticeship and training program approved and registered with the United States Department of Labor, Bureau of Apprenticeship and Training (or any state or federal successor agency).

Sec. _____ Certified Payroll.

All contractors and subcontractors are required to submit to the awarding agency, and General Contractor if applicable, an approved and detailed certified payroll on a weekly basis, unless different payroll reporting requirements are stated under the bid specifications or contract.

Sec. _____ Additional Criteria.

The County may also request evidence of and/or consider the following factors when identifying responsible bidders for the purpose of awarding contracts under this Article:

- a. The ability, capacity, and skill of the bidder to perform the contract;
- b. The capacity of the bidder to perform the contract promptly and efficiently, or within the time specified, without delay or interference;
- c. The character, integrity, reputation, and experience of the bidder;
- d. The quality of the bidder's past performance, including performance of previous contracts, whether or not such performance was with the County;
- e. The bidder's default under previous contracts, whether or not such contract was with the County;
- f. The bidder's failure to pay or satisfactorily settle bills due on former contracts, whether or not such contract was with the County;
- g. The previous and existing compliance by the bidder with laws and ordinances relating to the contract;
- h. The financial ability of the bidder to perform the contract;
- i. A statement regarding and/or disclosure of:
 1. Any determination by a court or government agency for violations of federal, state or local laws including but not limited to violations of contracting or antitrust laws, tax or licensing laws, environmental laws, the Occupational Safety and Health Act (OSHA), the National Labor Relations Act (NLRA), Common Construction Wage Law, or the federal Davis-Bacon Act;
 2. Any findings of "non-responsibility" by federal, state, or local departments;
- j. Any additional factors the County determines relevant for the contract.

Sec. _____ Lowest Bidder Not Chosen.

When a contract is awarded to a bidder other than the lowest bidder, a statement of the reasons for such award shall be prepared by the County Commissioners or entity awarding the contract.

Sec. _____ **Multiple Low Bids.**

When two (2) or more responsible bidders submit the same low bid, the contract shall be granted to the bidder whose headquarters are geographically closest to Vigo County's corporation boundary; but if both low bidders are headquartered within Vigo County's corporation boundary, then the winning bid shall be determined by drawing lots in public at a meeting of the Board of Commissioners.

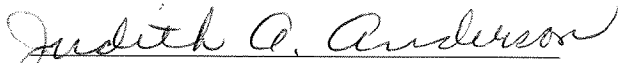
Sec. _____ **Access to Public Records Act.**

All requests made by the public for submissions tendered under this Article by a contractor or sub-contractor shall be public record subject to disclosure pursuant to Indiana Code § 5-14-3-1 *et seq.*, the Indiana Access to Public Records Law.


- Section 2. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.
- Section 3. If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.
- Section 4. This ordinance shall be in full force and effect from and after its passage by the Vigo County Board of Commissioners and upon publication pursuant to Indiana Law.

ALL OF WHICH IS ORDAINED by the Board of Commissioners of Vigo County, Indiana, this 21st day of September, 2010.

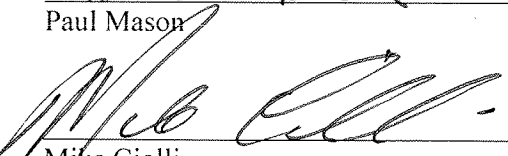
BOARD OF COMMISSIONERS OF VIGO COUNTY



Judith A. Anderson



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