

**CITY OF FRANKLIN COMMON COUNCIL**

**ORDINANCE NO. 23-12**

**AN ORDINANCE OF THE CITY OF FRANKLIN AUTHORIZING ADVANCE PAYMENT OF CERTAIN EXPENSES**

**WHEREAS**, P.L. 181-2023 (SEA 317), SEC. 1, effective May 4<sup>th</sup>, 2023 amended Indiana Code § 5-11-10-1 to authorize political subdivisions to make advance payments for goods or services before the goods are delivered or services are completed if the fiscal body of the political subdivision authorizes making advance payments; and

**WHEREAS**, there are times when contractors are required to purchase material needed for a public works project of the political subdivision and provide information to the political subdivision regarding the expenses to be incurred; and

**WHEREAS**, the City of Franklin (the "City") is a political subdivision as defined in Indiana Code § 36-1-2-13; and

**WHEREAS**, pursuant to Indiana Code, the City of Franklin Common Council is the City's fiscal body; and

**WHEREAS**, allowing advanced payments for goods and services purchased by the City in certain instances would enhance the operating efficiency of the public works projects.

**NOW, THEREFORE, BE IT RESOLVED AND ORDAINED**, by the Common Council of the City of Franklin, Indiana, as follows:

**Section 1.** The foregoing Recitals are fully incorporated herein by this reference.

- a. The Clerk Treasurer of the City of Franklin is authorized to make an advanced payment to a contractor performing work under a contract for a public works project under Indiana Code § 36-1-12 to enable the contractor to purchase materials needed for the public works project.
- b. Request for a prepayment shall be made in writing to the Clerk's office on a form substantially similar to that identified as Exhibit "A" attached hereto or as otherwise approved by the State Board of Accounts.
- c. An advance payment may be made only if the solicitation or bid for the public works project contains all of the following information:
  1. That the City of Franklin will make advanced payments to a contractor to enable the Contractor to purchase materials to be used in the construction of the public works project.

2. No advanced payment will be made in amount that exceeds the amount specified in the contractor's bid for the purchase of materials. If a change order requires purchase of additional materials, no advance payment will be made for materials if the change order changes the scope of public works project.
3. Each request for an advance payment must include:
  - a) Documentation containing the amount specified in the contractor's bid for the purchase of materials;
  - b) Any purchase contract or purchase order executed by the contractor for the purchase of the materials;
  - c) All invoices or receipts for materials purchases for which the contractor seeks advance payment;
  - d) A certified statement that the request for advance payment is true and accurate, is not for materials not specified in the contractor's bid and not for an amount exceeding the amount specified in the contractor's bid for the purchase of materials;
  - e) The certified statement must be signed by:
    - 1) the contractor for the public works project; and
    - 2) any subcontractor for the project if the materials to be purchased are for work to be completed by the subcontractor; and
    - 3) the architect or engineer the City of Franklin has retained with respect to the public works project, if any; and
    - 4) An employee for the City of Franklin including any consultant, responsible for the completion of the public works project.

**Section 2.** Advanced payments for goods or services before the goods are delivered or services are completed are hereby authorized by this Ordinance. However, advanced payments for goods or services may not exceed 50% of the cost of the entire cost of the contract.

**Section 3.** The Clerk Treasurer of the City of Franklin is authorized to make an advance payment for goods and services before the goods are delivered or the services are received in accordance with this Ordinance with the provision that the purchasing agency or purchasing agent must request the advance payment for materials or services which must include the contract award for the materials or services. A request must be made in writing and may not be for an amount that 50% of the entire cost of the contract.

**Section 4.** The Clerk Treasurer of the City of Franklin or the Clerk Treasurer is designee must do all of the following when advance payments are made:

- a. Track prepayments by defining the prepayment on the purchase order.
- b. Create a prepayment invoice that is associated with the purchase order.
- c. Require insurance or a surety bond in the amount of the prepayment if the amount of the prepayment is more than one hundred and fifty thousand dollars (\$150,000.00).

**Section 5.** All prior ordinances or parts thereof inconsistent with any provision of this Ordinance are hereby repealed, to the extent of such inconsistency only, as of the effective date of this Ordinance. However, the repeal or amendment to this Ordinance of any other ordinance does not affect any rights or liabilities accrued, penalties incurred or proceedings begun prior to the effective date of this Ordinance. Those rights, liabilities and proceedings are continued and penalties shall be imposed and enforced under such repealed and amended ordinance as if this Ordinance had not been adopted.

**Section 6.** If any portion of this Ordinance is for any reason declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance as long as enforcement of same can be given the same effect.

**Section 7.** This Ordinance shall take effective from and after.

All of which is adopted this 20 day of November, 2023.

**DULY PASSED** on this 20<sup>th</sup> day of November, 2023, by the Common Council of the City of Franklin, Johnson County, Indiana, having been passed by a vote of 7 in Favor and 0 Opposed.

**City of Franklin, Indiana, By its Common Council:**

Voting Affirmative:

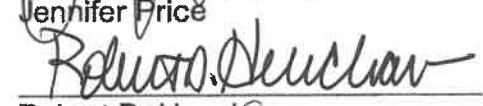
Voting Opposed:

  
Kenneth Austin, President

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Kenneth Austin, President

  
Jennifer Price

\_\_\_\_\_  
Jennifer Price

  
Robert D. Heuchan

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Robert D. Heuchan

  
Anne McGuinness

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Anne McGuinness

Irene Nalley  
Irene Nalley

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Irene Nalley

Josh Prine  
Josh Prine

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Josh Prine

Shawn Taylor  
Shawn Taylor

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Shawn Taylor

Attest:

Jayne Rhoades  
Jayne Rhoades  
City Clerk-Treasurer

Presented by me to the Mayor of the City of Franklin for his approval or veto pursuant to Indiana Code § 36-4-6-15, 16, this 20 day of November, 2023 at 6:37 o'clock a.m./p.m.

Jayne Rhoades  
Jayne Rhoades,  
City Clerk-Treasurer

This ordinance having been passed by the legislative body and presented to me [Approved by me and duly adopted, pursuant to Indiana Code § 36-4-6-16(a)(1)], this 20 day of November, 2023 at 6:37 o'clock a.m./p.m.

Steve Barnett  
Mayor Steve Barnett

Attest:  
Jayne Rhoades  
Jayne Rhoades,  
City Clerk-Treasurer

Prepared by:  
Lynnette Gray  
Attorney for the City of Franklin