

GREENWOOD COMMON COUNCIL

ORDINANCE NO. 23-39

**AN ORDINANCE AUTHORIZING PURCHASING AGENTS OF THE CITY OF
GREENWOOD TO MAKE ADVANCE PAYMENTS ON CONTRACTS FOR PUBLIC
WORKS PROJECTS, GOODS AND SERVICES**

WHEREAS, the Indiana legislature recently enacted Public Law 181 which amends Ind. Code § 5-11-10-1.6 to permit political subdivisions to make advance payments for purchases of goods and services;

WHEREAS, Ind. Code § 5-11-10-1.6(d)(3) and (4) allow a political subdivision to make advance payments to contractors to enable them to purchase materials needed for a public works project and advance payments for goods or services before the goods or services are delivered or completed, if the fiscal body of the political subdivision authorizes making advance payments and the goods or services are otherwise purchased in accordance with applicable law;

WHEREAS, pursuant to Ind. Code § 5-11-10-1.6(e), an advance payment made for goods and services or to enable the purchase of materials for a public works project may not exceed the lesser of fifty percent (50%) of the entire cost of the contract or two million dollars (\$2,000,000.00);

WHEREAS, pursuant to Ind. Code § 36-1-2-6 the Greenwood Common Council is the fiscal body of the City;

WHEREAS, pursuant to Ind. Code § 36-4-6-2 the Greenwood Common Council is the legislative body of the City of Greenwood ("City"), and the Greenwood Common Council previously established and adopted rules for public purchases by designated purchasing agents of the City by Ordinance 98-19, as amended, as codified in Greenwood Municipal Code Sec. 2- 120 *et seq.*;

WHEREAS, it is determined that it is necessary and fiscally efficient to authorize City purchasing agents to make advance payments in accordance with applicable law for goods or services before they are delivered or completed,

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF GREENWOOD, INDIANA, THAT:

Section 1. A purchasing agent of the City of Greenwood, as defined and set forth in Greenwood Common Council Ordinance 98-19, codified as Greenwood Municipal Code (1993), as amended, Section 2-120 *et seq.*, may allow advance payment for the purchase of goods and services either directly or as part of a public works project consistent with and to the fullest extent permitted by law, and as further limited by the purchasing agent for the purchase.

Section 2. The solicitation for a public works contract providing for advance payments for contractors to purchase materials for public works projects under Indiana Code § 5-11-10-1.6 must include the following information:

- a. That the City of Greenwood will make advance payments to contractors to enable contractors to purchase materials;
- b. Any limitations on the amount of advance payments that will be made;
- c. Requirements for documentation relating to making advance payments to contractors for materials;
- d. Any other information about advance payment for materials the City of Greenwood considers useful to contractors that make offers.

Section 3. The City Fiscal Officer or the City Fiscal Officer's designee must do all of the following when advance payments are made for goods or services prior to delivery of goods or completion of service:

- a. Track prepayments by defining the prepayment on a purchase order;

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

Section 4. Advance payments made under Section 1 and Section 2 may not exceed the lesser of the following:

- a. Fifty percent (50%) of the entire cost of the contract; or
- b. Two million dollars (\$2,000,000.00).

Section 5. All other requirements for the payment of public works projects, goods, and services by the City of Greenwood remain in effect and ordinances not directly contradicted by the provisions of this ordinance remain in full force and effect.

Section 6. The sections, paragraphs, sentences, clauses, phrases and words of this Ordinance are separable, and if any section, paragraph, sentence, clause, phrase or word shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences or words of this Ordinance.

Section 7. This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

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Passed by the Common Council of the City of Greenwood, Indiana, this 8th day of November, 2023.

Michael Campbell
Michael Campbell, President
Greenwood Common Council

ATTEST:

I hereby certify that the foregoing within and attached ordinance was duly passed by the Common Council of the City of Greenwood, Indiana, at a meeting thereof held on the 8th day of November, 2023, by the following vote:

	AYE:	NAY:
Erin Betron	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ronald Bates	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Michael Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Linda S. Gibson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ezra J. Hill	<input checked="" type="checkbox"/>	<input type="checkbox"/>
J. David Hopper	<input checked="" type="checkbox"/>	<input type="checkbox"/>
David Lekse <u>Absent</u>	<input type="checkbox"/>	<input type="checkbox"/>
Bradley Pendleton	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Michael Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The foregoing within and attached ordinance passed by the Common Council of the City of Greenwood, Indiana, on the 8th day of November, 2023, is presented by me this 9th day of November, 2023, at 8:00 o'clock A.m., to the Mayor of the City of Greenwood, Indiana.

Jeannine Myers
Jeannine Myers, Clerk

The foregoing within and attached ordinance passed by the Common Council of the City of Greenwood, Indiana, on the 8th day of November, 2023, is approved by me this 9th day of November, 2023, at 8:00 o'clock A.m.

Mark W. Myers
MARK W. MYERS, Mayor of
the City of Greenwood, Indiana