

ORDINANCE No. 1823
of the
TOWN of HIGHLAND, INDIANA

AN ORDINANCE TO AMEND THE CURRENT CODE OF ORDINANCES FOR THE TOWN OF HIGHLAND, RENAMING CHAPTER 3.15, TO BE STYLED PUBLIC WORKS PROJECTS RECEIVING TOWN INCENTIVES – PROCEDURES FOR THE SELECTION OF PROFESSIONAL CONSULTING SERVICES AND REVISING AND MAKING TECHNICAL CORRECTIONS OR CLARIFICATIONS PARTICULARLY TO CHAPTER 3.15 OF THE MUNICIPAL CODE REGARDING RESPONSIBLE AND RESPONSIVE BIDDERS, ALL PURSUANT TO IC 36-1-4 AND IC 36-1-5 ET SEQ.

WHEREAS, Title 36, Article 1, Chapter 5 of the Indiana Code provides that the legislative body of a unit shall codify, revise, rearrange, or compile the ordinances of the unit into a complete, simplified code excluding formal parts of the ordinances

Whereas, The Town of Highland, is a Municipal Government which may pass and codify ordinances for the operation of the government, all pursuant to IC 36-1-4
and IC 36-1-5;

Whereas, The Town of Highland, is a municipality located in Lake County which operates a Government, which is governed by the provisions of IC 36-5 et seq.; and,

WHEREAS, The legislative body of the this unit, the Town of Highland, is the Town Council, pursuant to IC 36-1-2-9(5);

WHEREAS, The Town Council, has been advised that it is necessary to make certain technical corrections to the current code of ordinances in order to further perfect the operation of the municipally and to advance the public interest; and

Whereas, The Town of Highland, through its Town Council now wishes to still further perfect its own organization make certain amendments to the Highland Municipal Code, regarding public works projects receiving Town incentives – procedures for the selection of professional consulting services , pursuant to IC 36-1-12 and other relevant law,

WHEREAS, The Indiana Code further provides under IC 36-1-4 for the general powers of units to provide for the operation of a government;

WHEREAS, The Indiana Code still further provides under IC 36-1-3 certain powers granted expressly by statute and powers deemed necessary or desirable in the conduct of municipal affairs;

WHEREAS, The Town Council determines that certain technical corrections and enhancements to certain provisions of the Highland Code of Ordinances to be necessary or desirable in the conduct of municipal affairs and consistent with the laws of the state governing the operation of a government;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That Section 3.15.100 of the Highland Municipal Code is hereby deleted and repealed and be hereby amended by inserting the following replacement section, to be styled Section 3.15.100, which shall read as follows:

Section 3.25.100 Additional provisions regarding responsible and responsive bidders.

(A) **Bid Submission Requirements.** Contractors proposing to submit bids on any Town project estimated to be at least two-hundred thousand dollars (\$200,000.00) or amount specified under the Indiana bidding statute, in order to be considered a responsible bidder, prior to the opening of bids, submit a statement made under oath and subject to perjury laws, on a form designated by the Town and must include:

A copy of a print-out of the Indiana Secretary of State's on-line records for the bidder dated within sixty (60) days of the submission of said document showing that the bidder is in existence, current with the Indiana Secretary of State's Business Entity Rolls, and eligible for a certificate of good standing. If the bidder is an individual, sole proprietor or partnership, this subsection shall not apply;

- (1) A list identifying all former business names;
- (2) Any determinations by a court or governmental 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), or federal Davis-Bacon and related Acts;

- (3) A statement on staffing capabilities, including labor sources;
- (4) Evidence of participation in apprenticeship training programs applicable to the work to be performed on the project, which are approved by and registered with the United States Department of Labor's Office of Apprenticeship, or its successor organization; and evidence that any applicable apprenticeship program has graduated at least five (5) apprentices in each of the past five (5) years for each of the construction crafts the bidder will perform on the project. Evidence of graduation rates are not required for apprenticeable crafts dedicated exclusively to the transportation of material and equipment to and from the public works project.

The required evidence includes but is not limited to, a copy of all applicable apprenticeship standards and Apprenticeship Agreement(s) for any apprentice(s) who will perform work on the public works project; and documentation from each applicable apprenticeship program certifying that it has graduated at least five (5) apprentices in each of the past five (5) years for each construction craft the bidder will perform on the project. Additional evidence of participation and graduation requirements may be requested by the Town at its discretion.

- (5) A copy of a written plan for employee drug testing that: (i) covers all employees of the bidder who will perform work on the public works project; and (ii) meets, or exceeds, the requirements set forth in IC 4-13-18-5 or IC 4-13-18-6;
- (6) 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;
- (7) 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;

- (8) Evidence that the bidder is utilizing a surety company on the United States Department of Treasury's Listing of Approved Sureties;
 - (9) 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;
 - (10) A statement that individuals who will perform work on the public works project on behalf of the bidder will be properly classified as either (i) an employee or (ii) an independent contractor, under all applicable state and federal laws and local ordinances;
 - (11) A list of projects of similar size and scope of work that the bidder has performed in the State of Indiana within three (3) years prior to the date on which the bid is due;
 - (12) For contracts estimated to cost at least three hundred thousand dollars (\$300,000.00), certification that the bidder and all subcontractors are qualified under IC 4-13.6-4 or IC 8-23-10;
 - (13) A written list that discloses the name, address, and type of work for each subcontractor the bidder intends to employ on any part of the public works project, including individuals performing work as independent contractors, and;
 - (14) The Town reserves the right to demand supplemental information from the bidder, additional verification of any of the information provided by the bidder and may conduct random inquiries of the bidder's current and prior customers.
- (B) **Post-Bid Submissions from Subcontractors.** Each subcontractor of any tier shall be required to adhere to the requirements of Section I of this Ordinance, but subcontractors shall submit the required information to the successful bidder, who shall then submit said information to the Town prior to the subcontractor's first day of work on the public works project.

Failure of a subcontractor to submit the required information shall not disqualify the successful bidder from performing work on the project and

shall not constitute a contractual default or breach by the successful bidder. However, payment shall be withheld from any subcontractor who fails to timely submit said information until such information is submitted and approved by the Town. Additionally, the Town may require the successful bidder and/or relevant subcontractor to remove a subcontractor from the project and replace it with a responsive and responsible subcontractor.

The disclosure of a subcontractor by a bidder or a subcontractor shall not create any rights in the disclosed subcontractor. Thus, a bidder and/or a subcontractor may substitute another subcontractor for a disclosed subcontractor by giving the Town written notice of the name, address, and type of work the substitute subcontractor will perform. The substitute subcontractor is subject to all of the obligations of a subcontractor under this Ordinance.

- (C) **Validity of Pre-Qualification Classification.** Upon designation by the Town that a bidder's or subcontractor's submission is complete and timely, and upon any further consideration deemed necessary by the Town, the bidder or subcontractor may be pre-qualified for future Town public works projects. Pre-qualification shall exempt the bidder or subcontractor from the comprehensive submission requirements contained herein for a period of twelve (12) months. Thereafter, bidders or subcontractors who are pre-qualified must submit a complete application for continuation of pre-qualified standing, on a form provided by the Town, (i.e. a "short form") by December 31st for the upcoming calendar year. Failure by any pre-qualified bidder or subcontractor to timely submit a 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 bidder or subcontractor shall still be permitted to bid on or perform work on Town public works projects.

Any material changes to a contractor's status, at any time, must be reported in writing within ten (10) days of its occurrence to the Town. The pre-qualification designation is solely within the discretion of the Town and the Town 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 Town within five (5) business days of receipt of notice of denial.

After its review of complete and timely submissions, taking into account all information in the submission requirements, the Town shall in its sole discretion, determine whether a bidder or subcontractor is responsive and responsible. The Town reserves the right to utilize all information provided in the bidder or subcontractor's submission or any information obtained by the Town through its own independent verification of the information provided.

Any bidder or subcontractor that willfully makes, or willfully causes to be made, a false, deceptive or fraudulent statement, or willfully submits false, deceptive or fraudulent information in connection with any submission made to the Town shall be disqualified from bidding or working on all Town projects for a period of three (3) years.

Section 2. That Sections 3.15.110 and 3.15.120 of the Highland Municipal Code are hereby deleted and repealed and be hereby amended by inserting the following replacement section, to be styled Section 3.15.110, which shall read as follows:

Section 3.25.110 Incomplete Submissions by Bidder and Multiple Low Bids.

(D) Incomplete Submissions by Bidder and Multiple Low Bids.

It is the sole responsibility of the bidder to comply with all submission requirements herein no later than the public bid opening. Submissions deemed inadequate, incomplete, or untimely by the Town, shall result in the automatic disqualification of the bid.

(E) Multiple Low Bids.

When two or more responsible and responsive bidders submit the same low bid, the contract award shall be determined as set forth in HMC § 3.15.090(K), unless one bidder is a locally based contractor and one is a non-locally based bidder, in which event the locally based contractor shall be awarded the contract. (Ord. 1446 § 2, 2010. Code § 177.12).

Section 3. That Sections 3.15.130 of the Highland Municipal Code are hereby deleted and repealed and be hereby amended by inserting the following replacement section, to be styled Section 3.15.120, which shall read as follows:

Section 3.25.120 Certified Payroll.

(F) Certified Payroll. For projects in which the cost is at least one-hundred fifty thousand dollars (\$150,000.00), the successful bidder and all subcontractors working on a public works project shall submit a certified payroll report utilizing federal form WH-347 or its successor form, which must be prepared on a weekly basis and submitted to the Town within ten (10) calendar days after the end of each week in which the successful bidder or subcontractor performed on the public works project. Certified payroll reports shall identify the job title and craft of each employee on the project, e.g. journeyman electrician or apprentice electrician. In the event any successful bidder or subcontractor uses independent contractors to perform work on the project, such individual must be identified on the federal form WH-347 or successor form with the same information as is required for employees.

The Town may withhold payment due for work performed by a successful bidder or subcontractor for failure to timely submit their respective certified payroll reports until such time as the reports are submitted. The Town shall not withhold payment to a successful bidder or subcontractor for failure of the successful bidder or one or more other subcontractors to timely submit their certified payroll reports.

Section 4. That Sections 3.15.140 of the Highland Municipal Code are hereby deleted and repealed and be hereby amended by inserting the following replacement section, to be styled Section 3.15.130, which shall read as follows:

Section 3.25.130 Public Records, Conflicts and Severability.

(G) Public Records, Conflicts and Severability. All information submitted by a bidder or a subcontractor pursuant to this Ordinance, including certified payrolls, are public records subject to review pursuant to the Indiana Access to Public Records law (I.C. 5-14-3).

Any ordinance or provision of any ordinance or code provision in conflict with the provisions of Ordinance 1823 is hereby repealed, including but not limited to, Ordinance Number 1446.

If any provision of this Ordinance is found to be invalid, the remaining provisions of this Ordinance shall not be affected by such a determination; such provisions shall remain in full force and effect.

Section 5. That Sections 3.15.150 of the Highland Municipal Code are hereby deleted and repealed and be hereby amended by inserting the following replacement section, to be styled Section 3.15.140, which shall read as follows:

Section 3.25.150 Materiality.

The requirements set forth in HMC 3.15.100, HMC 3.15.110, HMC 3.15.120, HMC 3.15.130, HMC 3.15.140 and HMC 3.15.150 are a material part of the bid documents and the contract and the successful bidder shall insert those Chapters and/or a full copy of Ordinance 1823 in all subcontracts and a copy of these Chapters and/or a full copy of Ordinance 1823 shall be included in all bid specifications presented to potential contractors.[Ord. 1446 § 2, 2010. Code 2000 § 177.15].

Section 6. That Section 3.15.140 of the Highland Municipal Code is created by inserting the following section, to be styled Section 3.15.140, which shall read as follows:

Section 3.25.140 Application and Process for Projects Receiving Economic Incentives.

(A) Application and Process. This Section of the Ordinance shall apply to any construction project financed in whole or in part with economic development incentives, including but not limited to, tax increment financing, tax credit, tax deduction, tax exemption, property tax abatement, a grant, loan, loan guarantee, or other financial or economic development assistance; and

The process for managing, tracking, and verifying documents submitted under this Ordinance shall be established by the Town Council of the Town.

(B) Requirements. Upon approval of an application for an economic development incentive, and prior to issuing any building permit for the

project, the Applicant shall submit a list of contractors and subcontractors, including independent contractors, who will perform work on the project, along with documentation of the following, verified under oath by each contractor and subcontractor:

- (1) A copy of the Indiana Secretary of State's on-line records for the business dated within sixty (60) days of the submission of said document showing that the business is in existence, current with the Indiana Secretary of State's Business Entity Report, and eligible for a certificate of good standing;
- (2) A list identifying all former business names;
- (3) Any determinations by a court or governmental 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), or federal Davis-Bacon and related Acts;
- (4) A statement on staffing capabilities, including labor sources;
- (5) Evidence of participation in apprenticeship training programs, approved by and registered with the United States Department of Labor Office of Apprenticeship or successor organization, applicable to the work to be performed on the project; and evidence that all apprenticeship programs have graduated at least five (5) apprentices in each of the past five (5) years for each of the construction crafts the contractor or subcontractor will perform on the project. Evidence of graduation rates are not required for apprentice able crafts dedicated exclusively to the transportation of material and equipment to and from the public works project.

The required evidence includes but is not limited to a copy of all applicable apprenticeship standards and apprenticeship agreement(s) for any apprentice(s) who will perform work on the public works project; and documentation from each applicable apprenticeship program certifying that it has graduated at least five (5) apprentices in each of the past five (5) years for each construction craft the contractor or subcontractor will perform on the project. Additional evidence of participation and graduation requirements may be requested by the Town at its discretion.

- (6) A copy of a written plan for employee drug testing that: (i) covers all employees of the contractor/subcontractor who will perform work on the project; and (ii) meets, or exceeds, the requirements set forth in IC 4-13-18-5 or IC 4-13-18-6;
- (7) The name and description of the experience of each of the contractors or subcontractors project managers and superintendents expected to work on the project;
- (8) Proof of any professional or trade license required by law for any trade or specialty area in which a contractor or subcontractor will perform work; and disclosure of any suspension or revocation within the previous five (5) years of any professional or trade license held by the company, or of any director, officer, or manager employed by the company;
- (9) Evidence that the contractor or subcontractor is utilizing a surety company on the United States Department of Treasury's Listing of Approved Sureties;
- (10) 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 (5) years;
- (11) A statement that all individuals who will perform work on the project on behalf of contractors or subcontractors will be properly classified as either (i) an employee or (ii) an independent contractor under all applicable state and federal laws and local ordinances;
- (12) A list of projects of similar size and scope of work that the contractor or subcontractor has performed in the State of Indiana within three (3) years prior to the date on which the bid is due;
- (13) Applicant shall notify the Town of any change to the list of contractors and subcontractors performing work on the project within five (5) calendar days of such change, and shall provide the Town with the documentation required in section II (a) within ten (10) calendar days of such change.
- (14) Upon request by the Town, Applicant shall obtain payroll information from any contractor or subcontractor on the project and provide the information to the Town within five (5) days of being requested.

- (15) The Town shall not issue a building permit for the project until the Applicant submits all documentation requested in this Section and the Town has verified the information provided.
- (16) The requirements of this Section shall be included in the economic development incentive agreement, or similar document, entered into by the Town and Applicant.
- (C) **Public Records.** The documentation submitted pursuant to this Section, including payroll records, are public records subject to review pursuant to the Indiana Access to Public Records Law.
- (D) **Termination and Repayment.** The Town may terminate and require repayment of the economic incentive, where applicable, if Applicant fails to comply with the requirements of this Section. The Town shall follow the procedures set forth in the parties' economic development incentive agreement, or similar document, for termination and repayment of benefits, or other applicable agreement.
- (E) **Severability.** If any provision of this Chapter is found to be invalid, the remaining provisions of this Chapter shall not be affected by such a determination. The other provisions of this Chapter shall remain in full force and effect without the invalid provision(s).

Section 7. That Section 3.15.150 of the Highland Municipal Code is created by inserting the following section, to be styled Section 3.15.150, which shall read as follows:

Section 3.25.150 Materiality.

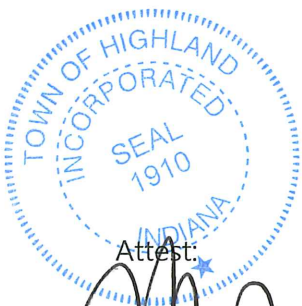
The requirements set forth in HMC 3.15.100, HMC 3.15.110, HMC 3.15.120, HMC 3.15.130, HMC 3.15.140 and HMC 3.15.150 are a material part of the bid documents and the contract and the successful bidder shall insert those Chapters and/or a full copy of Ordinance 1823 in all subcontracts and a copy of these Chapters and/or a full copy of Ordinance 1823 shall be included in all bid specifications presented to potential contractors.[Ord. 1446 § 2, 2010. Code 2000 § 177.15].

Section 8. That this ordinance and shall take upon its passage and adoption.

Introduced and Filed on the 13th day of October 2025. Consideration on same day or

at same meeting of introduction sustained a vote of in favor and opposed, pursuant to IC 36-5-2-9.8.

DULY ORDAINED and ADOPTED this 13th Day of October 2025, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.



Attest:

A handwritten signature in black ink, appearing to read "Mark Herak", written over a horizontal line.

Mark Herak

Clerk-Treasurer (IC 33-42-4-1; IC 36-5-6-5; IC 36-5-2-10.2)

TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA

A handwritten signature in black ink, appearing to read "George Georgeff", written over a horizontal line.

George Georgeff, President (IC 36-5-2-10)