

Ordinance #6, 2025

Responsible Business Practices and Submission Requirements for Projects Receiving Economic Incentives from the City of Valparaiso

WHEREAS, for the same sound exercise of fiduciary duty the Common Council of Valparaiso, Indiana (the "Council") saw fit to pass Ordinance No. 06, 2016 establishing adherence to "Responsible Bidding Practices and Submission Requirements" for contractors submitting bids to perform construction work on public works projects, this Ordinance is to ensure Recipients approved by the City to receive taxpayer subsidized economic incentives on construction projects are responsible businesses.

WHEREAS, the Council is authorized to approve various economic incentives to support and encourage economic development in the City;

WHEREAS, development in the City remains robust and on a growth trajectory indicative of continued utilization of economic incentives; and

WHEREAS, the Council has determined that establishing criteria to enhance its ability to identify responsible businesses applying for economic incentives will promote the City's economic health and welfare, public safety, robust workforce development, jobs for local workers, and is in the public interest of local taxpayers.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of Valparaiso, Porter County, Indiana that:

SECTION 1. This Ordinance No. 6, 2025 entitled "Responsible Business Practices and Submission Requirements for Projects Receiving Economic Incentives," is enacted and shall read as follows:

I. Application and Process

- (a) This ordinance shall apply to all projects seeking City provided economic development incentives valued in the amount of **\$350,000.00** or more ("Projects"), including but not limited to property tax abatement, tax increment financing, tax credit, tax deduction, tax exemption, a grant, loan, or loan guarantee (collectively "Economic Incentives").
- (b) Commencing with Projects described in subsection (a) above, the Council shall require, unless a Project is specifically exempted, the contractor and subcontractors performing construction and/or redevelopment for the Recipient of economic incentives described above to accept certain reasonable conditions for Responsible Bidding in the same way, as though they were bidding on a City project as specified in Municipal Code § 35.85.
- (c) In determining whether to exempt a Project from certain conditions outlined in Section II(a), the Council will consider in each case, among any other factors it deems relevant, whether these conditions would be helpful in assuring an adequate supply of skilled labor for the Project, whether requiring these conditions is necessary in view of a recipient's prior contracting history and history of cooperation with the City or labor organizations, as well as

whether requiring these conditions will have a positive or negative effect on the economic viability of the Project. The Council may exempt certain conditions required under Section (II)(a) in its sound discretion.

- (d) Unless exempted by the Council, all conditions shall be completed after final Council action on the Economic Incentives Agreement. The reasonable conditions required will be noted under item "G" ("Other limitations or conditions (specify)") of page two (2) of State Form SB-1 (Statement of Benefits Personal Property or Statement of Benefits Real Estate Improvements).
- (e) The process for managing, tracking, and verifying documents submitted under this Ordinance shall be established by the Council with the cooperation of the Mayor and Building Commissioner.
- (f) Definitions.
 - (1) "Contractor" shall be defined pursuant to Municipal Code § 150.01(D) and Indiana Code § 22-11-3.1-1.

II. Requirements

- (a) Prior to approving any Economic Incentives that qualify under Section I(a), the Council shall require certain reasonable conditions be accepted by the Recipient to help ensure workplace safety, the proper classification of workers and that price competitive local suppliers, contractors, and laborers are given an opportunity to participate in the proposed Project. The specific conditions will be inserted in the approved Economic Incentives Agreement. Absent an exemption granted pursuant to Section I, reasonable conditions shall include, but are not limited to the following items being submitted by the Recipient prior to the commencement of the Project:
 - (1) The names and addresses of all contractors and the subcontractors of contractors, including independent contractors, who will perform work on the Project;
 - (2) A copy of the Indiana Secretary of State's on-line records for the Project contractors and subcontractors dated within sixty (60) days of the submission of said document showing that the Project contractor/subcontractor is in existence, current with the Indiana Secretary of State's Business Entity Reports, and eligible for a certificate of good standing;
 - (3) A list identifying all former business names of all Project contractors and subcontractors;
 - (4) Evidence of a written plan for drug testing, that covers all employees of the Project contractors/subcontractors who will perform work that meets or exceeds the requirements set forth in IC 4-13-18-5 or IC 4-13-18-6;
 - (5) Proof of any professional or trade licensing required by law for any trade or specialty area in which the Project 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 Project contractors and subcontractors, or of any director, officer, or manager employed by the Project contractors and subcontractors;

(6) Any determinations by a governmental court or 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 within the last five (5) years;

(7) A statement from each contractor and subcontractor that individuals who will perform work on the Project will be properly classified as either (i) an employee or (ii) an independent contractor, under all applicable state and federal laws and local ordinances;

(8) Evidence from each Project contractor and subcontractor 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 is not required for apprenticeable crafts dedicated exclusively to the transportation of material and equipment to and from the project worksite. Requests for exemption or waiver of this subsection (8) by Project contractors and subcontractors whose principal place of business is located in Lake, Porter, or LaPorte County and who are hired for the purpose of satisfying the requirement of subsection (10) below shall be considered favorably;

(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 (5) years by the Project contractors and subcontractors;

(10) A written statement confirming the Recipient reviewed the Indiana Department of Administration's directory of certified MBE, WBE and IVOSB businesses in Lake, Porter and LaPorte counties, and assessed the capabilities and availabilities of these qualified local subcontractors for their Project;

(11) Other reasonable conditions that further the interest of the Council in ensuring workplace safety, the proper classification of workers and that price competitive local suppliers, contractors and laborers are given an opportunity to participate in the Project.

(b) Recipient may request a waiver from one or more of the Section II(a) requirements via written request, submitted timely to the Council with a detailed explanation for the request and reference to the specific item(s). The Council recognizes some of the unique economic conditions that currently impact the construction of apartments and residential developments. Limited reasonable waivers may be granted to the conditions provided in Section II(a)(8) for the construction of these projects upon a showing of good cause. Further, should conditions materially change from when the Economic Incentives Agreement is approved until the start of construction on the Project, the Recipient may request a waiver from one or more of the conditions established under Section II(a) via written request, submitted timely to the Council with a detailed explanation for the request and reference to the specific condition(s).

- (c) Consistent with the building permit process, the Building Commissioner shall not issue a building permit for the Project until the Recipient submits all documentation requested in the applicable Economic Incentives Agreement.
- (d) Recipient shall notify the Council of any changes to the list of Project contractors/subcontractors within five (5) business days of such change and shall provide the Council with the necessary documentation required under the applicable Economic Incentives Agreement within ten (10) business days of such change.
- (e) Upon request from the Council, Recipient will provide the information required in Section II (a) for any subcontractor not otherwise covered by Section II(a) within ten (10) business days.
- (f) Upon request from the Council, Recipient shall secure payroll information from any Project contractor/subcontractor and provide the information to the Council within five (5) business days of being requested. Recipient may redact any confidential information prior to providing payroll information to the City Council. Nothing in this provision shall limit the obligations of any Project contractors/subcontractors under the City's Anti-Payroll Fraud ordinance as provided under Municipal Code § 150.06.

III. Public Records

Except as otherwise provided by Indiana law, the documentation submitted pursuant to this Ordinance, including payroll records, are considered public records subject to review pursuant to the Indiana Access to Public Records Act.

IV. Termination and Repayment

Consistent with any Economic Incentive Agreement, the Council may terminate such agreement and require repayment of all or a portion of the Economic Incentives should the Recipient fail to comply with the requirements stipulated in Section II.

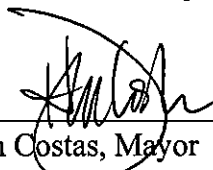
V. Severability

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. These other provisions of this Ordinance shall remain in full force and effect with the invalid provision.

SECTION 2. 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 Code, as amended.

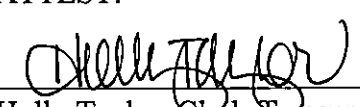
SECTION 3. This Ordinance shall be in full force and effect from and after the date of adoption by the Common Council of the City of Valparaiso, Porter County, Indiana.

PASSED by the Common Council of the City of Valparaiso, Indiana by a 4-2 vote of all members present and voting on this 24th day of MARCH, 2025.



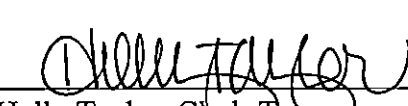
Jon Costas, Mayor

ATTEST:



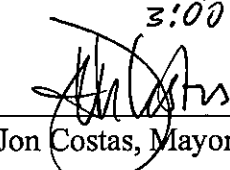
Holly Taylor, Clerk-Treasurer

Presented by me to the Mayor of Valparaiso, Indiana, this 24th day of MARCH, 2025 at the hour of 7:19 o'clock P.M.



Holly Taylor, Clerk-Treasurer

This Ordinance was approved and signed by me this ~~24th~~ day of ~~MARCH~~, 2025 at the hour of ~~7:19~~ o'clock P.M. (H) 2nd APRIL
3:00



Jon Costas, Mayor