



**CHARTER REVIEW COMMISSION 2017 - JOSEPH BIZJAK
THURSDAY MAY 25, 2017**

MEETING: 6:00 PM

**PLACE: COUNCIL CONFERENCE ROOM
7232 E. MAIN STREET, 1ST FLOOR, REYNOLDSBURG, OH 43068**

1. Call to Order
2. Approval of Agenda
3. Minutes Approval
 - a. Charter Review Commission 2017 – Meeting – May 19, 2017
4. Discussion
 - a. Proposed Charter Amendments - Competitive Bidding

R CITY OF REYNOLDSBURG

CHARTER REVIEW COMMISSION 2017 - JOSEPH BIZJAK FRIDAY MAY 19, 2017

MEETING: 5:30 PM

PLACE: COUNCIL CONFERENCE ROOM
7232 E. MAIN STREET, 1ST FLOOR, REYNOLDSBURG, OH 43068

I. Call to Order

PRESENT: Wallace, Bizjak, Saylor, Johns
ABSENT: King

II. Approval of Agenda

Agenda stands approved.

Mr. Bizjak outlined the plan for the evening to address the items that have come before them thus far and to give them a final discussion and decide whether to send them forward to council or reject them.

III. Minutes Approval

- a. Charter Review Commission 2017 – Meeting – May 12, 2017
Minutes stand approved.

IV. Discussion

- a. MOTION TO REJECT SUGGESTIONS TO CHANGE CHARTER SECTION 6.02
AUDITOR

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Orvell Johns
SECONDER:	Craig Saylor
AYES:	Wallace, Bizjak, Saylor, Johns
ABSENT:	King

- b. MOTION TO APPROVE LANGUAGE AS AMENDED AND SEND TO COUNCIL
TO CHANGE CHARTER SECTION 4.14 PUBLICATION

Mr. Bizjak asked if there any changes.

Mr. Saylor asked if they were striking the entire 4.14 as previously written.

Ms. Wallace pointed out that it looks like a line needed to be continued on (stricken).

Minutes Acceptance: Minutes of May 19, 2017 5:30 PM (Minutes Approval)

Mr. Bizjak asked if the line needed to be stricken.

The Commission determined that the line (last line in the section) did need to be stricken.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Orvell Johns
SECONDER:	Craig Saylor
AYES:	Wallace, Bizjak, Saylor, Johns
ABSENT:	King

c. MOTION TO APPROVE LANGUAGE AS AMENDED AND SEND TO COUNCIL TO CHANGE CHARTER SECTION 7.01 PLANNING COMMISSION

Mr. Bizjak stated that he recalled from a previous discussion that they mentioned leaving the Board membership at 5 members. The Commission members agreed.

Mr. Bizjak stated that Motion would be for language to reflect that the Board membership requirement would reflect 5 members and not 7.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Craig Saylor
SECONDER:	Orvell Johns
AYES:	Wallace, Bizjak, Saylor, Johns
ABSENT:	King

d. MOTION TO APPROVE LANGUAGE AS AMENDED AND SEND TO COUNCIL TO CHANGE CHARTER SECTION 7.02 BOARD OF ZONING & BUILDING APPEALS

Mr. Bizjak stated that Motion would be for language would reflect that the Board membership requirement would reflect 5 members and not 7.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Libby Wallace
SECONDER:	Orvell Johns
AYES:	Wallace, Bizjak, Saylor, Johns
ABSENT:	King

e. MOTION TO APPROVE LANGUAGE AND SEND TO COUNCIL TO CHANGE CHARTER SECTION 4.11 ZONING MEASURES

Mr. Bizjak asked if this was an item that would warrant bringing the public notice portion in line with the public notice guideline changes as for uniformity.

Mr. Hood stated that while he was all for uniformity, but with zoning measures there are special notice requirements to those that are affected by the proposed measure. There are

Minutes Acceptance: Minutes of May 19, 2017 5:30 PM (Minutes Approval)

usually reasons to keep these special requirements. He continued that we get the most public participation in those sort of actions often because of the notices.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Libby Wallace
SECONDER:	Orvell Johns
AYES:	Wallace, Bizjak, Saylor, Johns
ABSENT:	King

f. Proposed Charter Amendments - Competitive Bidding

Mr. Hood presented documents regarding proposed changes to Charter Section 8.04. The documents included Changes to the actual Section 8.04 which would be broader and a proposed ordinance which Council would pass that has specific grants of authority to the administration and Council themselves. Mr. Hood stated that all of the scenarios are ones that have been dealt with previously and the competitive bidding procedure did not change at all, but was re-stated into the ordinance. So it was stricken from the Charter and added to the Ordinance. He continued that he didn't change the procedure at all but proposed alternatives (cooperative measures, state bid lists etc...). Mr. Hood added that he did leave the number crossed out because the number shouldn't be fixated upon because it is the overall process that needs looked at.

Mr. Bizjak asked if the Commission would like to hold off on voting on this item until comments have been received by the Mayor to see if there are any additional insights.

Mr. Hood said that the Mayor would have only have gotten it on Wednesday.

Mr. Saylor asked if the Commission could just wait until next week and see what kind of feedback came back.

Mr. Hood stated that if this is a document that the Commission supports, the language can be tightened up, and if the voters approve the Charter amendment, then Council would be required to pass an ordinance of some type to exercise the authority under the Charter.

Ms. Wallace said she felt that the Commission felt they were all on the record to do what makes it easier and more efficient for the City while retaining the checks and balances and that this document hits those points.

Mr. Saylor added that it makes it so it won't need addressed again in Charter Review.

Mr. Bizjak said this is as flexible as it can be.

Mr. Hood stated that he would send this information out to be disseminated by others for comment because he wants it to be a collaborative effort and he wants to make sure it works for them and that they understand how it would work.

City Attorney's Office**Jed Hood****7232 E. Main Street****Reynoldsburg OHIO 43068****phone****Memo**

DATE: May 25, 2017

TO: Charter Review Commission

CC:

RE: Proposed Charter Amendments - Competitive Bidding

Charter Review Information on Competitive Bidding Processes



VILLAGE OF OBETZ
RECORD OF ORDINANCES

ORDINANCE: _____

PASSED: _____

AN ORDINANCE TO ESTABLISH CONTRACTING PROCEDURES, AND DECLARING AN EMERGENCY.

WHEREAS, under Section 8.02(B) of the Obetz Charter, Council shall establish a threshold amount, notice provisions, and other procedures for competitive bidding; and

WHEREAS, Council has established a bidding threshold of \$150,000; and now desires to establish notice provisions and other procedures for competitively bidding contracts fairly estimated to exceed the \$150,000 threshold:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF OBETZ, OHIO, THAT:

Section 1. That a new Chapter 157, "Contracting and Competitive Bidding," of the Codified Ordinances of the Village of Obetz, be and the same hereby is enacted to read and provide, in its entirety, as follows:

CHAPTER 157: CONTRACTING AND COMPETITIVE BIDDING

§157.01 HOME RULE AUTHORITY.

As a home rule charter Village, Obetz shall not be obligated to follow Ohio statutory procedures regarding contracting including, but not limited to, O.R.C. §§7.12, 9.31, 9.311, 9.312, 9.313, 9.315, 9.32, 9.33 through 9.335, 153.12-.14, 153.50-.52, 153.54, 153.56, 153.57, 153.571, 153.63, 153.67-.71, 153.80, 735.05-.09, 735.074, and other applicable sections within the O.R.C. and its Chapter 153 and Title 7.

§157.02 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply, unless the context clearly indicates or requires a different meaning:

BEST VALUE. The bid award standard used by the Village to select the contractor that provides the best combination of price and qualifications

CONTRACTING. The process of entering into a deliberate verbal or written agreement between the Village and competent parties in accordance with the Ohio Ethics Law for the purchase of goods and/or services.

COMPETITIVE BIDDING. A contracting method by which the Village develops bid specifications, performance criteria, and/or documents, publishes notices and/or advertisements soliciting

bids by a stated deadline, accepts or rejects bids, and awards a contract to the bidder providing the best value in the sole discretion of the Village.

COMPETITIVE BARGAINING. A contracting method by which the Village solicits proposals and/or quotes, negotiates the terms, conditions, and other relevant factors, and enters into a contract advantageous and beneficial to the Village.

COOPERATIVE PURCHASING PROGRAMS. A contracting method by which the combined and collective efforts of governmental entities share the advantages and benefits of volume purchasing programs and reduced administrative expenses including, without limitation, the local government purchasing programs sometimes referred to as SWOP4 G, COOPP, a separate program through the Office of State Purchasing (part of the Ohio Department of Administrative Services) pursuant to O.R.C. §150.04, and the program arranged by the Ohio Department of Transportation pursuant to O.R.C. §5513.01; or any other similar program whether operated by a public or private entity.

PROFESSIONAL SERVICES. Services that usually require education, training or expertise to an advanced, specialized or significant degree, including, without limitation, such services as those performed by attorneys, architects, engineers, accountants, physicians, insurance brokers/agents, and/or third party administrators.

PRODUCT. Any material, equipment, supplies, commodities or any similar items purchased by the Village in order to fulfill the operating and/or capital responsibilities of the Village.

RECYCLED MATERIAL. Material the components of which, in whole or in part, would otherwise have been destined for permanent disposal.

§157.03 COMPETITIVE BIDDING AND NOTICE REQUIREMENTS.

Pursuant to Revised Charter section 8.02(b) and Ordinance _____, a threshold amount of \$150,000 is established for competitive bidding.

(A) Current competitive bidding threshold or more. For the award of contracts reasonably anticipated by the Village to involve expenditures equal to or greater than the current competitive bidding threshold, competitive bidding and legislative authorization shall be required, unless an exception or alternative is otherwise provided by Council.

(1) In estimating the anticipated expenditure to determine whether the competitive bidding threshold will be exceeded, the labor portion of the expenditure may be calculated without the use of prevailing wage rates.

(B) Less than the current competitive bidding threshold. The Village Administrator may, without competitive bidding or further legislative authorization, enter into contracts for expenditures of less than the current competitive bidding threshold for which Village funds have been appropriated, provided that price quotes are obtained and documented as required by administrative order based upon the amount of the estimated expenditure.

(C) Notice. All bid advertisements or other solicitations for Competitive Bidding shall be placed, on a timely basis, with a reasonable period allowed for response, at least once in any of

the following: a newspaper of general circulation within the Village; on the Village's website; or on any other website accessible to the public.

§157.04 EXCEPTIONS AND ALTERNATIVES TO COMPETITIVE BIDDING.

Pursuant to Revised Charter section 8.02(c), the exceptions and alternatives to the requirement for competitive bidding set forth in this chapter are deemed to be in the best interest of the Village.

(A) No or rejected bids. If no bids are received after the advertisements or other solicitations required by this chapter, or if all bids are rejected, the Village Administrator shall have the authority to either seek new, competitive bids, or to obtain the goods and/or services for which funds have been appropriated through competitive bargaining without further legislative authorization, whichever is deemed to be in the best interest of the Village.

(B) Used equipment or utilities. Regarding contracts for the purchase of used equipment or utilities such as gas, water, electricity, or telephone service for which funds have been appropriated, the Village Administrator shall have the authority to enter into contracts through competitive bargaining without further legislative authorization.

(C) Professional services. Contracts for professional services are not subject to competitive bidding requirements and shall not require further legislative authorization where the operating budget provides sufficient funding.

(D) Cooperative Purchasing programs. As an alternative to both competitive bidding and competitive bargaining, the Village Administrator shall have the authority to obtain goods and/or services for which funds have been appropriated through cooperative purchasing programs without further legislative authorization. As part of any cooperative purchasing program, the Village Administrator may agree that the Village will be bound by contract terms and conditions prescribed by that program, including, without limitation, payment of a reasonable fee by the Village to cover the administrative costs incurred by the program officials as a result of purchases by the Village. The Village Administrator may also agree that the Village will pay the vendor directly for items received by the Village. The Village Administrator may also purchase goods and services upon equivalent or better terms and pricing than a Cooperative Purchasing Program without legislative action, competitive bidding, or competitive bargaining.

(E) Reverse auction. Whenever the Village determines that the use of the reverse auction is advantageous to the Village, the Village Administrator or his designee may purchase goods or services by reverse auction.

(1) The Village, in establishing a reverse auction process, will:

(a) Determine the specifications and requirements of the goods or services to be acquired;

(b) Identify and provide notice to potential sellers concerning the proposed acquisition;

(c) Establish prequalification requirements to be met by a seller to be eligible to participate in the reverse auction.

(2) Before conducting a reverse auction, the Village shall establish a threshold amount which shall be the maximum amount that the Village is willing to pay for the goods or services to be acquired.

(3) The Village shall enter into a contract with a seller which meets the specifications or description of the goods or services to be procured and whose proposal the Village determines to be the most advantageous.

(F) Intergovernmental Purchases. The proposed purchase is from or with another political subdivision, the Ohio State Government, or the United States Government.

(G) Design-Build. The proposed purchase is a Design-Build Construction project let under the procedures established by Council.

(H) Construction-Administrator-At-Risk. The proposed purchase is a Construction-Administrator-At-Risk project let under the procedures established by Council.

(I) Purchases that do not exceed the bidding threshold set by Council.

(J) Real Estate. The Council may, by ordinance, provide for the purchase, sale or lease of real property, with or without public bidding, on such terms and for such value as Council, in the exercise of its discretion, may deem reasonable and in the best interest of the Village.

§157.05 EXECUTION AND MODIFICATION OF CONTRACTS.

Execution and modifications of competitively bid contracts shall not require competitive bidding.

(A) Limited to appropriations. No contract alteration or modification to a competitively bid contract shall be approved as set forth below, when the amount of the alteration or modification causes the contract sum for the project or purchase to exceed the amount appropriated by Council.

(B) No contract shall be enforceable against the Village unless it has been duly authorized, as provided for herein, and executed in the name of the Village by the Village Mayor or Administrator or designee, and bears the signature of the Fiscal Officer of the Village, as required by Section 5705.41 of the Ohio Revised Code, certifying the availability and appropriation of funds.

(C) Approval procedure. An alteration or modification to a competitively bid contract shall be approved only upon the order of the Village Administrator or designee. No order shall be effective until the sum to be paid under the altered or modified contract is agreed to in writing and signed by the contractor, the Village Administrator or designee, and the Finance Director or designee certifying the availability and appropriation of funds.

§157.06 AUTHORITY OF VILLAGE ADMINISTRATOR.

To implement Council policy and procedures as established within this chapter, the Village Administrator or designee shall have the authority to promulgate and amend written administrative rules, regulations, and procedures not inconsistent with this chapter or the Charter.

§157.08 DISPOSAL AND SALE OF SURPLUS PROPERTY. (Repealing and replacing Ord. 20-12)

The Village Administrator is authorized and directed to provide for the sale or trade-in of surplus equipment and supplies, including motor vehicles, in the following manner:

(A) At such times as equipment, including motor vehicles, and supplies of the Village serve no useful municipal purpose, the Village Administrator shall provide for the sale or trade-in of such equipment or supplies as provided in this Section.

(B) Sale or trade-in of surplus equipment, as determined under subsection (a) hereof, shall be sold or traded in by the Village Administrator by one or more of the following methods:

(1) Surplus property with an estimated value of twenty thousand dollars (\$20,000) or more shall be sold or traded in either of the following methods:

(a) By the acceptance of sealed bids, after advertising at least once in either a newspaper of general circulation or on the municipal website at least 14 days prior to the bid opening;

(b) By public auction, after advertisement at least once in either a newspaper of general circulation or on the municipal website at least 14 days prior to the auction;

(c) By internet auction.

(2) Surplus property having an estimated value less than twenty thousand dollars (\$20,000) shall be sold, traded in or disposed of by the Village Administrator at the highest attainable price as determined by the Village Administrator but without the necessity of sealed bid or public auction. Property not purchased and having no marketable value may be donated or destroyed or otherwise disposed of upon approval by the Village Administrator.

(3) The proceeds for the sale of surplus property shall be deposited in the Village Treasury to the credit of the General Fund.

(4) The Village Administrator shall keep full and accurate records of the sale or trade-in value of such property.

(5) The Village Administrator shall estimate the value of each piece of equipment or supplies to be sold or traded in under the provisions of this section. The sale or trade-in of the individual equipment or supplies having an estimated value in excess of twenty thousand dollars (\$20,000) each shall be authorized by Council before

the sale or trade-in as provided in subsection (B)(1) hereof and authorization shall be made by motion entered upon the minutes of Council.

§157.09 MISCELLANEOUS BIDDING PROCEDURES.

The following procedures shall apply to contracts that require competitive bidding.

(A) Procedures related to Bidding.

(1) Time between Notice and Bid Opening. There shall be no minimum time requirement between the publishing of the notice and the opening of the bids. The Village shall notify prospective bidders of the bid opening date and time in the Notice and shall adjust the same to meet the needs of the Village by issuing Addenda when necessary.

(2) Addenda Do Not Extend Bid Opening. The Village may issue such addenda to the bid documents as it feels necessary and such addenda may be issued up to and including the last business day before the bid opening without any extension of the bid opening date. Addenda issued the same day as the bid opening shall cause the bid opening date to be extended to the date and time set forth in such addenda.

(3) Estimate of Cost. The Village shall disclose the estimated cost of the project or purchase when it determines that doing so is in its best interest.

(4) Time for Award of Bids. In the Notice required for the bid solicitation, the Village shall establish the time limit for awarding a contract. Submitted bids may not be withdrawn during this period. The Village's failure to award and execute the contract within this period invalidates the entire bid proceedings and all bids submitted, unless the time for awarding and executing the contract is extended by mutual consent of the Village and the bidder whose bid the Village accepts and with respect to whom the Village subsequently awards and executes a contract. Such an agreed extension shall not entitle the contractor to delay costs.

(5) Withdrawal of Bids. Bidders may withdraw bids pursuant Section 9.31 of the Ohio Revised Code; such a withdrawal shall not modify the Village's right to award to the next lowest and best bidder.

(6) Bids in Excess of Estimate. The Village may award contracts regardless of the value of the bid as compared to the value of the estimated cost.

(7) Notice to Proceed. The contractor is not entitled to a Notice to Proceed with the work by the Village or its representative upon execution of the contract and no contractor shall begin work in the absence of a Notice to Proceed. The Village shall either issue the Notice to Proceed at a time that it determines is in its best interest or it shall terminate the contract for its convenience.

(8) Retainage. Retainage shall be withheld from payments to the contractor at the rate set forth in the Owner/Contractor agreement. Retainage shall not be held in

an escrow account. Retainage shall be released at such times and in such amounts as the Village determines to be equitable.

(9) General Contractor Permitted. The Village may advertise and award a single contract for constructing and managing an entire public improvement project.

(10) Extension of Bid Opening. The Village may issue an addendum or addenda modifying the plans and specifications for the project or the time for the bid opening at any time prior to the bid opening. If an addendum is issued within forty-eight hours before the bid opening, the bid opening shall be extended by at least three days.

(11) Combined Statement of Material and Labor. The Village at its discretion may accept a combined statement of labor and materials from bidders.

(12) Bonus and Liquidated Damages for Time. The Village may offer a bonus for completion of a contract prior to a specified date, or may exact liquidated damages for each day of delay beyond a specified date, or both. The amounts of the bonus and liquidated damages may be different.

(13) No Arbitration. The Village shall not enter into a contract that requires arbitration as a dispute resolution procedure unless the choice to arbitrate solely belongs to the Village.

(14) Return of Bid Guarantees. The Village shall return bid guaranties to bidders to which it does not award a contract in a reasonably timely manner.

Section 2. That the actions of this Council concerning and relating to the passage of this legislation were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements.

Section 3. That this Ordinance constitutes an emergency measure in that the same provides for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the Village of Obetz and, further, provides for the timely enactment of contract procedures necessary to provide for the effective and efficient operation of the Village; wherefore, this ordinance shall be in full force and effect immediately upon its passage by Council and its approval by the Mayor.

Passed this _____ day of _____, 2013

ATTESTS:

Stacey Boumis, Clerk of Council

D. Greg Scott, Mayor

Attachment: Hood Charter Review Info #1 (1745 : Proposed Charter Amendments Bidding)

Council Pres. Pro-Tem

APPROVED AS TO FORM

Eugene Hollins, Esq., Village Solicitor

CERTIFICATION OF PUBLICATION

Pursuant to the provisions of the Ohio Revised Code, Section 731.25, I, Stacey Boumis, Clerk of the Village of Obetz, published by posting the same on this _____ day of _____, 2013, at each of the five most public places in the Village of Obetz, as follows: Richardson’s Barbershop, Alum Creek Carry-Out, K & M Market, Obetz Hardware and Builders Supply, Inc., and the Obetz Municipal Building.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my seal of office this _____ day of _____, 2013.

Stacey Boumis, Clerk

Attachment: Hood Charter Review Info #1 (1745 : Proposed Charter Amendments Bidding)

Whitehall

CONTRACTING POWERS OF THE CITY

SECTION 62. BOARD OF CONTROL - CONTRACTS IN EXCESS OF ONE THOUSAND DOLLARS.

(a) The Mayor, the City Treasurer, and the City Auditor shall constitute a Board of Control.

(b) No expenditure, contract, or order involving an expenditure in excess of one thousand dollars shall be entered into without the prior approval of the Board of Control. Approval of the Board of Control shall be given by motion passed by a majority vote of the members of said Board. All bids shall be opened and recorded by the Board of Control.

(c) The Mayor shall be the Chairman of the Board of Control. Meetings of the Board of Control may be called by the Mayor upon written or oral notice thereof to the other members of the Board. The Board shall cause written minutes of the meetings of said Board to be made and preserved, and copies of such minutes, when certified by a Board member as "true copies", shall be received in evidence in any Court to prove the action of the Board of Control.

(d) Contracts approved by the Board of Control shall be in written form and shall be executed on behalf of the City by the Mayor, provided that such contracts shall not be effective until the City Auditor, or his duly authorized representative, shall certify and attach such certificate to said contract, that the amount required to meet the same has been lawfully appropriated for such purpose and is in the treasury or in the process of collection to the credit of an appropriate fund free from previous encumbrances. Every contract made without such a certificate shall be void and no warrant shall be issued in payment thereof, unless the Council shall, by motion passed by a majority vote of the members thereof, authorize the payment thereof. The City Auditor shall not arbitrarily withhold such certificate. Unless otherwise provided by this Charter, the laws of the State of Ohio governing the issuance of certificates of the availability of funds by fiscal officers of municipalities shall apply under this Charter.

(e) The Board of Control shall provide procedures whereby the heads of departments, and the Council and other Boards and Commissions may request that contracts, orders, or expenditures be authorized and approved by said Board.

(Amended 11-3-98)

SECTION 63. POWER OF THE MAYOR ON SMALL PURCHASES.

(a) The Mayor, or any officer or employee of the City designated by him, which designation shall be made and may be revoked in a written form filed with the Clerk of Council, may authorize an expenditure, contract or order not in excess of one thousand dollars without the approval of the Board of Control. Contracts, orders or expenditures authorized by this section shall be in written form and shall be executed by the Mayor or such other person designated by the Mayor, as hereinbefore provided, but such contracts or orders shall not be effective until the City Auditor, or his duly authorized representative, shall certify and attach such certificate to said contract or order that the amount required to meet the same has been lawfully appropriated for such purpose and is in the treasury or in process of collection to the credit of an appropriate fund free from previous encumbrances. Every contract or order or expenditure made without such a certificate shall be void and no warrant shall be issued in payment thereof, unless the Council shall, by motion passed by a majority vote of the members thereof, authorize the payment thereof. The City Auditor shall not arbitrarily withhold such certificate. Unless otherwise provided by this Charter, the laws of the State of Ohio governing the issuance of certificates of the availability of funds by fiscal officers of municipalities shall apply under this Charter.

(b) The procedures provided by the Board of Control whereby heads of departments and the Council and other boards and commissions may request that contracts, orders, or expenditures be authorized and approved shall apply under this section, except that such requests shall be filed with and approved by the Mayor or such other person designated by him under the provisions of paragraph (a) hereof.

SECTION 64. BIDDING AND ADVERTISING - SPLITTING CONTRACTS.

(a) When the expenditure of funds for the purchase of supplies or materials, or to provide labor for any work to be performed under a contract exceeds the amount specified by the laws of the State of Ohio for which such purchases or work may be accomplished without advertisement and competitive bidding, such expenditure shall first be authorized and directed by ordinance passed by the Council, and the Mayor, after approval by the Board of Control, as provided in Section 62 of this Charter, shall make a written contract

Attachment: Hood Charter Review Info #1 (1745 : Proposed Charter Amendments Bidding)

with the lowest and best bidder after advertisement on the same day of each week for not less than two nor more than four consecutive weeks in a newspaper of general circulation within the City.

(b) Compensation of persons and employees; contracts with persons, firms or corporations for services requiring specialized skill, knowledge, or training; and expenditures required because of a real and present emergency arising in connection with the maintenance, operation or repair of Municipal buildings, equipment and facilities, and Municipal services and improvements, when authorized by ordinance adopted by two-thirds vote of all members of the Council, need not be advertised and notices need not be published as provided hereinabove. Modifications and changes to contracts awarded under competitive bidding, and in excess of one thousand dollars, shall first be authorized by ordinance.

(c) The Board of Control or, in the case of contracts, orders or expenditures not in excess of one thousand dollars, the Mayor, or the person designated by him under the provisions of paragraph (a) of Section 63, shall not willfully cause or allow any contract or order to be split or divided into separate orders or contracts in order to avoid the requirements of competitive bidding as provided by this Charter.

(d) The Council may authorize, by a majority vote of the members thereof, expenditures, without bidding as required by this Charter, for the acquisition or lease of real property, for the discharge of noncontractual claims against the City, for the joint use of facilities or exercise of powers with other political subdivisions, or for the purchase of products or services of public utilities.

Attachment: Hood Charter Review Info #1 (1745 : Proposed Charter Amendments Bidding)

**Article IV
FINANCE**

Worthington

SECTION 4.01 FISCAL YEAR.

The fiscal year of the Municipality for budget, accounting, and all other similar purposes shall be the calendar year.

(Adopted November 6, 1956.)

SECTION 4.02 PREPARATION AND SUBMISSION OF BUDGET ESTIMATES.

The City Manager, at least sixty days prior to the beginning of each budget year, shall submit to the Council an operating budget estimate and an explanatory budget message after consultation with the head of each department or agency who shall fully cooperate with the City Manager in assisting in the preparation of the budget estimate and message. In addition, the City Manager shall prepare, at such time as Council directs, descriptions and budget estimates of needed capital expenditures. The Department of Finance shall furnish statements of balances available for appropriation, estimates of probable revenues from all sources, and expenditure estimates for debt service and other fixed items. The City Manager shall prepare, revise and adjust the budget estimates for the Council as may be required in order to produce a balanced budget.

SECTION 4.03 PUBLIC HEARING ON BUDGET ESTIMATES.

At the meeting of the Council at which the budget estimates are submitted by the City Manager, the Council shall schedule a public hearing on the budget. A notice of public hearing shall be published once in a newspaper of general circulation in the Municipality at least seven (7) days before the hearing. Such notice shall state that the budget estimates and message are on file for public inspection in the office of the Clerk of Council. On the date and at the time and place advertised, the Council shall hold a public hearing on the estimates as submitted and may continue such hearing. After the hearing, the Council shall adopt by ordinance the estimates as submitted, or as amended, as the appropriations budget of the Municipality for the ensuing budget year. Adoption of the budget ordinance shall require a majority vote of the members of Council.

SECTION 4.04 DATE OF FINAL ADOPTION: FAILURE TO ADOPT.

The appropriations budget ordinance for the ensuing fiscal year shall be adopted not later than December 26 of the current fiscal year. Should the Council fail to adopt said budget ordinance or an interim budget ordinance by such date, the budget shall be deemed to have been adopted finally by the Council as submitted by the City Manager.

SECTION 4.05 BUDGET AS AN APPROPRIATION.

Upon adoption, the appropriations budget ordinance shall become effective as of the first day of the budget year and shall constitute an appropriation of the items therein without further legislation. A copy of the budget ordinance, certified as correct by the City Manager and the Clerk of Council shall be filed with the Director of Finance and filed as may otherwise be required by law.

SECTION 4.06 APPROPRIATIONS.

The appropriations made by the budget ordinance for debt service and other fixed charges shall become available for expenditure upon the filing of the certified copy thereof with the Director of Finance. Appropriations for capital improvements shall become available as Council shall provide by Ordinance. Appropriations for current operations shall become available for encumbrance only when approved by the City Manager as being in conformity with the budget appropriations. Any unencumbered balance of any appropriation item shall lapse at the end of the budget year. Upon a showing of necessity by the City Manager, Council may reduce or revise appropriations during the course of the fiscal year or make transfers.

SECTION 4.07 TRANSFERS OF APPROPRIATIONS.

The Council, after consultation with the City Manager, may by resolution transfer any unencumbered balance of an appropriation as it deems necessary and proper. Further, the Council may at any time amend

or revise the budget by ordinance provided the budget as amended does not authorize the expenditure of more revenue than will be available.

SECTION 4.08 CERTAIN CONTRACTS AND EXPENDITURES PROHIBITED.

No officer, department or agency shall, during any fiscal year, expend or contract to expend any funds or incur any liability, or enter into any contract which by its terms involves the expenditure of money on behalf of the Municipality for any purpose in excess of the amounts appropriated for such expenditures or obligations. Any such obligation, oral or written, made in violation hereof shall be void. The officer or employee who knowingly attempts or purports to create such an obligation shall be removed and shall be disqualified from holding further office or employment with the Municipality. This section shall not prevent the making of contracts not to be fully performed within the fiscal year when such contract is authorized by the Council.

SECTION 4.09 FEES.

All fees received by any official, officer, or employee of the Municipality in connection with such person's employment or under color of such person's office with the Municipality shall be accounted for and paid immediately into the General Fund of the Municipality unless otherwise provided by this Charter or by law.

SECTION 4.10 PURCHASING.

The Council shall establish a purchasing procedure and assign responsibility therefore either to an independent office or a division of one of the departments. The office or department charged with responsibility for purchasing shall have the duty to contract for, purchase, store, and distribute all supplies, printing, materials and equipment required by the Municipality within the appropriations made by the Council. The Council may provide by ordinance a procedure for making emergency purchases by certain officers and employees of the Municipality.

SECTION 4.11 COMPETITIVE BIDDING.

Purchase of supplies, materials and equipment and the construction of public improvements for the Municipality shall be made pursuant to specifications and through open competitive bidding under such procedures, consistent with this Charter, as the Council shall determine by Ordinance. The acquisition of professional services and the purchase of used equipment may be, but are not required to be, obtained by competitive bidding. Competitive bidding and public opening and tabulation of bids shall be required where such purchases and construction are estimated to be equal to or greater than the amount required of the State for competitive bidding.

SECTION 4.12 EMERGENCY APPROPRIATIONS.

At any time during the fiscal year, the Council may make an appropriation to meet emergency needs for the protection of the public health, safety, or welfare of the inhabitants of the Municipality, even though such appropriation is in excess of available revenues. Such appropriation may be made only by the favorable votes of at least five of the members of Council and the ordinance shall set forth explicitly the character of the emergency and shall indicate clearly the source of the funds from which the expenditure is to be financed.

SECTION 4.13 SHORT TERM BORROWING.

At any time in the fiscal year when the Council determines that revenues will be insufficient, to meet authorized expenditures, it may, by ordinance, direct the issuance of notes of three different types: (1) those issued to finance emergency appropriations under Sec. 4.12 of this Charter, when unappropriated available revenues are insufficient for such purpose; (2) those issued in anticipation of the collection upon real and personal property; (3) those issued in anticipation of the collection of other types of revenue. The total amount of the notes issued in each case shall not exceed a reasonable estimate of the applicable revenues to be received during the fiscal year and the succeeding year and all such notes shall be redeemed not later than the end of the next fiscal year after their issuance, from current revenues.

SECTION 4.14 CHARACTERISTICS OF SHORT TERM NOTES.

Notes issued pursuant to the provision of Sec. 4.13 of this Charter shall be signed by the President of Council and the Director of Finance, shall be guaranteed by the full faith and credit of the Municipality, and shall be negotiable. They may be sold at public or private sale by the Director of Finance at the lowest net cost to the Municipality, shall be payable on demand or at fixed dates, no later than the end of the next fiscal year, and may in the latter case be either subject to redemption prior to maturity or non-callable at the option of the Municipality. No renewal or extension shall extend the maturity date beyond the end of the next fiscal year following their issuance.

SECTION 4.15 ACCOUNTING STANDARDS.

The Council shall establish by ordinance accounting concepts, principles, standards, and guidelines for the effective financial management of the Municipality taking into consideration current recommendations and practices established by the Office of the Auditor of the State of Ohio and by such other local, State or national agencies or organizations as will serve the fiscal needs of the Municipality.

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**CHAPTER 111
Purchasing Procedures**

- 111.01 Duties of Finance Director.**
- 111.02 Requisition preparation and contents.**
- 111.03 Processing of requisitions; competitive bidding amount.**
- 111.04 Formal bidding; notice and expenditure.**
- 111.05 Bid opening and tabulation; award of contract.**
- 111.06 Purchase orders.**
- 111.07 Emergency purchases.**
- 111.08 Inspection and testing.**
- 111.09 Disposal of surplus property.**
- 111.10 Inventory of property.**
- 111.11 Rules and regulations.**
- 111.12 Public improvement contracts.**
- 111.13 Electronic auction.**

CROSS REFERENCES

Purchasing - see CHTR. 4.10
 Competitive bidding - see CHTR. 4.11

111.01 DUTIES OF FINANCE DIRECTOR.

The Director of Finance shall perform the following duties:

- (a) Make all purchases required by the various departments, divisions, offices, sections and units of the City government in conformity with the control procedures established for that purpose.
- (b) Operate and maintain the storage facilities of the City and such stock control records as are necessary for the proper inventory.
- (c) Prepare or obtain and maintain standard specifications for materials, supplies and equipment whenever practicable.
- (d) Keep informed and maintain records as to the sources of supply for all classes of purchases, bids and price quotations, and other related items.
- (e) Cooperate with the City Manager in keeping inventory records of all equipment and major items of supplies owned by the City and in making periodic inventories.
- (f) Advise and assist the City Manager in the formulation of policies and procedures in connection with the purchasing activities of the City.
- (g) Conduct emergency purchasing in accordance with approved procedures when formal procurement is impracticable.
- (h) Sell unused or worn out, surplus or obsolete equipment and materials when identified as such by proper authority.
- (i) Perform such other duties as may be required by the City Manager.

111.02 REQUISITION PREPARATION AND CONTENTS.

Whenever it is deemed necessary or desirable by any department head to make any purchase of supplies, material, equipment or contractual services in order to promote the more efficient operation of the public service of the agency under his direction, he shall prepare and submit to the Director of Finance a requisition therefor. Such requisition shall specify the nature of the purchase desired, the quantity required and the performance requirements to be met. It shall also indicate the date on which delivery is needed and may propose the names and addresses of potential suppliers.

111.03 PROCESSING OF REQUISITIONS; COMPETITIVE BIDDING AMOUNT.

Whenever the Director of Finance receives a requisition where the probable cost of supplies, materials and equipment or the construction of public improvements for the municipality is equal to or greater than fifty thousand dollars (\$50,000.00) the Director of Finance shall institute the formal bidding procedure set forth in

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this chapter. The acquisition of professional services and the purchase of used equipment may be obtained by competitive bidding.

(Ord. 24-2013. Passed 7-15-13.)

111.04 FORMAL BIDDING; NOTICE AND EXPENDITURE.

Whenever it is determined that formal bidding is necessary because of the amount involved, the Director of Finance shall prepare or cause to be prepared specifications for the articles or services required and shall advertise the requirements of the City, once each week for two consecutive weeks in a newspaper of general circulation in the City, or in professional or trade magazines appropriate for the purpose, inviting suppliers to tender bids in writing for the furnishing of such requirements, such bids to be opened and tabulated publicly at a time and place specified in such published notice. The annual appropriation ordinance shall be sufficient authority for the expenditure without the passage of any supplementary or specific ordinance by Council. If, however, the contemplated purchase was not included in the annual budget and appropriation, a supplementary appropriation ordinance shall be required.

111.05 BID OPENING AND TABULATION; AWARD OF CONTRACT.

Where formal bidding is employed, the bids shall be opened and tabulated publicly by the Finance Director, at the time and place specified in the advertisement for bids. The tabulation shall be referred to the City Manager for his information and comment. Such investigation of the responsibility of the bidders as he shall deem necessary shall be made under his direction and he shall then award the contract to the lowest and best responsible bidder, unless he determines that the public interest would be better served by rejecting all bids and ordering a new advertisement, in which case he may so order. Before any contract is signed, it shall be submitted to the Director of Finance for encumbrance and certification, and approved as to form by the Director of Law.

111.06 PURCHASE ORDERS.

Whenever informal bidding is followed pursuant to this chapter, the Director of Finance shall prepare a purchase order addressed to the successful bidder, directing him to supply the goods or services required in accordance with the terms agreed upon. The Director of Finance shall provide for encumbrance and certification of the purchase order.

111.07 EMERGENCY PURCHASES.

In case of actual emergency, and with the consent of the City Manager, any using agency may purchase directly in the open market any supplies, materials, equipment or contractual services whose immediate procurement is essential to prevent delays in the work of the using agency which may vitally affect the life, health or convenience of citizens. The head of such using agency shall send to the Director of Finance a requisition and a copy of the delivery record together with a full written explanation of the circumstances of the emergency, which shall be filed by the Director of Finance as a permanent and public record. The Director of Finance shall by rules and regulations prescribe the procedure under which such emergency purchases may be made.

111.08 INSPECTION AND TESTING.

The Director of Finance shall inspect or supervise the inspection of all deliveries of supplies, materials, equipment or contractual services to determine their conformance with the specifications set forth in or referred to in the order or contract. The Director of Finance shall have authority to require the submission of samples with bids where appropriate, to test such samples and to test deliveries for comparison with the sample submitted. In the performance of such tests, the Director of Finance shall have authority, within budgetary limitations, to make use of the laboratory facilities of any city, county or state agency, or any private laboratory.

111.09 DISPOSAL OF SURPLUS PROPERTY.

(a) All Departments and Divisions shall submit to the Director of Finance, at such times and in such form as he shall prescribe, reports showing all supplies, materials and equipment (including vehicles) which are no longer in use or which have been damaged, worn out or are obsolete. The Director of Finance may order

such items transferred to another City Department or Division, or he may sell the item of property to another local, county or state governmental agency without competitive bidding. In addition, the Director of Finance, upon the concurrence of the appropriate Department Director or Division Chief, shall have the authority to discard surplus property if it has little or no value or use. Surplus property may be traded-in if in the sole discretion of the Director of Finance such trade-in would be advantageous to the City.

(b) The Director of Finance shall authorize and require competitive bidding for the sale of a single item of surplus property which has an estimated value of \$1,000.00 or more. The sale of a single item of surplus property, the value of which is \$5,000.00 or more shall require the approval of City Council by motion. Single items of surplus property which have an estimated value of less than \$5,000.00 but more than \$1,000.00 shall be sold through the competitive bidding process at such time and place and in such manner as the Director of Finance shall determine. The Director of Finance shall have sole discretion to conduct competitive bidding in such manner as he deems appropriate. Single items of surplus property which have an estimated value of less than \$1,000.00 may be sold or otherwise disposed through informal bidding or in such other manner as the Director of Finance deems appropriate.

(Ord. 03-2008. Passed 2-4-08.)

111.10 INVENTORY OF PROPERTY.

The Director of Finance shall establish and maintain a perpetual inventory record of all nonexpendable personal property belonging to the City and its various agencies. Thereafter, at least annually, the Director of Finance shall check such inventory and prepare a detailed report of all shortages and overages as well as of the condition of such property as is no longer suitable for use, which shall be delivered to the City Manager for his information and as a basis for administrative action.

111.11 RULES AND REGULATIONS.

The Director of Finance shall establish and may amend any rules and regulations which he deems necessary to the operation of the purchasing function. Such rules, and amendments thereto, shall be consistent with the Charter and these Codified Ordinances, and shall be subject to the approval of the City Manager.

111.12 PUBLIC IMPROVEMENT CONTRACTS.

The provisions of Ohio R.C. 153.50 through 153.52, inclusive, relating to the separate bid requirements for specific enumerated work and materials on municipal projects are hereby waived, and the City is authorized to bid all municipal projects in accordance with Ohio R.C. 153.50 through 153.52, inclusive, if Council determines such method of bidding to be in the best interest of the City.

(Ord. 13-2000. Passed 5-15-00.)

111.13 ELECTRONIC AUCTION.

(a) A single item of surplus property, the estimated value of which is \$1,000.00 or more, may be sold at electronic auction pursuant to the following requirements and the requirements of Section 111.09(b). The Director of Finance shall develop rules and regulations governing the sale of surplus property through electronic auction. Such auction shall be conducted by the Director of Finance with the assistance of the Department Director or Division Chief requesting such sale. An electronic auction may be by any means which the City Manager and Director of Finance approve. An item of surplus property whose value is \$5,000 or less may, upon concurrence of the City Manager and the Director of Finance, be sold by means of an electronic auction.

(b) Prior to the transfer of any property, the appropriate Department Director or Division Chief shall be responsible for the removal of logos, seals, emblems or other marks identifying the property as the property of the City. A list of items of property sold, their general condition at the time of sale, the name of the purchaser, the purchase price and the reason for declaring the items available for sale shall be maintained in the office of the Director of Finance and shall be available for public inspection. Items of surplus property shall be sold "as-is" to the highest bidder and, in the case of an electronic auction, the Director of Finance may establish a minimum bid for any item of surplus property.

(Ord. 03-2008. Passed 2-4-08.)

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8.04. CONTRACTING PROCEDURES.

(a) *AWARD AND EXECUTION OF CONTRACTS.*

Consistent with Section 5.04(j) of this Revised Charter and except as otherwise provided in this Section, the City Manager shall award and execute all contracts on behalf of the City.

(b) *COMPETITIVE BIDDING.*

Council, by ordinance, shall establish a threshold amount, notice provisions and other procedures for competitive bidding. When any contract for the construction of a public improvement or the purchase of equipment, supplies, or materials is estimated to exceed the threshold established by Council, the contract shall be competitively bid. Council shall award a contract to the lowest and best bidder, provided that Council may reject any and all bids in whole or by items. No contract shall be divided to avoid the requirements of competitive bidding.

(c) *WAIVER OF COMPETITIVE BIDDING.*

By a vote of no less than five members, Council may waive the competitive bidding requirement if the statutory or common law of the State of Ohio does not require competitive bidding; if Council determines that an item is available and can be acquired only from a single source; or if Council determines that a waiver of the competitive bidding requirement is in the best interest of the City.

(d) *PROFESSIONAL SERVICES.*

Contracts for professional services shall not be subject to the competitive bidding requirements of this Section and shall not require authorization by Council if the current operating budget provides sufficient funding for the scope of services in any such contract.

(e) *ALTERATIONS OR MODIFICATIONS OF CONTRACTS.*

Council shall establish procedures for alterations or modifications of contracts. Modifications or alterations of contracts shall not require competitive bidding.

(f) *CERTIFICATION OF FUNDS.*

No contract involving the expenditure of money shall be entered into or authorized by the City Manager unless the Director of Finance or designee shall first certify that:

- (1) funds required for the contract are in the City's treasury or in the process of collection; and
- (2) funds have been appropriated by Council for the specified purpose and remain unencumbered.

The Director of Finance shall file and record the certification of availability and appropriation of funds in the accounting records of the City and shall furnish a copy to the vendor or contractor. Without the certification, a contractual obligation shall be void and unenforceable against the City unless recognized by Council as a moral obligation.

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CHAPTER 37: CONTRACTING AND COMPETITIVE BIDDING

Section

- 37.01 Home rule authority
- 37.02 Definitions
- 37.03 Competitive bidding and notice requirements
- 37.04 Exceptions and alternatives to competitive bidding
- 37.05 Execution and modification of contracts
- 37.06 Authority of City Manager
- 37.07 Disposal and sale of surplus property
- 37.08 Miscellaneous bidding procedures

§ 37.01 HOME RULE AUTHORITY.

As a home rule charter city, Dublin shall not be obligated to follow Ohio statutory procedures regarding contracting including, but not limited to, R.C. §§ 7.12, 9.31, 9.311, 9.312, 9.313, 9.315, 9.32, 9.33 through 9.335, 153.12 through 153.14, 153.50 through 153.52, 153.54, 153.56, 153.57, 153.571, 153.63, 153.67 through 153.71, 153.80, 735.05 through 735.09, 735.074, and other applicable sections within the Revised Code and R.C. Chapter 153.

(Ord. 15-13, passed 2-25-13)

§ 37.02 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply, unless the context clearly indicates or requires a different meaning:

COMPETITIVE BARGAINING. A contracting method by which the city solicits proposals and/or quotes, negotiates the terms, conditions, and other relevant factors, and enters into a contract advantageous and beneficial to the city.

COMPETITIVE BIDDING. A contracting method by which the city develops bid specifications, performance criteria, and/or documents, publishes notices and/or advertisements soliciting bids by a stated deadline, accepts or rejects bids, and awards a contract to the lowest and best bidder.

CONTRACTING. The process of entering into a deliberate verbal or written agreement between the city and competent parties in accordance with the Ohio Ethics Law for the purchase of goods and/or services.

COOPERATIVE PURCHASING. A contracting method by which the combined and collective efforts of governmental entities share the advantages and benefits of volume purchasing programs and reduced administrative expenses including, without limitation, the local government purchasing programs

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sometimes referred to as SWOP4 G, COOPP, a separate program through the Office of State Purchasing (part of the Ohio Department of Administrative Services) pursuant to R.C. § 125.04, and the program arranged by the Ohio Department of Transportation pursuant to R.C. § 5513.01; or any other similar program whether operated by a public or private entity.

PRODUCT. Any material, equipment, supplies, commodities or any similar items purchased by the city in order to fulfill the operating and/or capital responsibilities of the city.

PROFESSIONAL SERVICES. Services that usually require education, training or expertise to an advanced, specialized or significant degree, including, without limitation, such services as those performed by attorneys, architects, engineers, accountants, physicians, insurance brokers/agents, and/or third party administrators.

(Ord. 15-13, passed 2-25-13)

§ 37.03 COMPETITIVE BIDDING AND NOTICE REQUIREMENTS.

Pursuant to Revised Charter section 8.04, a threshold amount of \$75,000 is established for competitive bidding.

(A) *Current competitive bidding threshold or more.* For the award of contracts reasonably anticipated by the city to involve expenditures equal to or greater than the current competitive bidding threshold, competitive bidding and legislative authorization shall be required, unless an exception or alternative is otherwise provided by Council.

(1) In estimating the anticipated expenditure to determine whether the competitive bidding threshold will be exceeded, the labor portion of the expenditure may be calculated without the use of prevailing wage rates.

(B) *Less than the current competitive bidding threshold.* The City Manager may, without competitive bidding or further legislative authorization, enter into contracts for expenditures of less than the current competitive bidding threshold for which city funds have been appropriated, provided that price quotes are obtained and documented as required by administrative order based upon the amount of the estimated expenditure.

(C) *Notice.* All bid advertisements or other solicitations for competitive bidding shall be placed, on a timely basis, with a reasonable period allowed for response, at least once in any of the following: a newspaper of general circulation within the city; on the city's website; or on any other website accessible to the public.

(Ord. 15-13, passed 2-25-13)

§ 37.04 EXCEPTIONS AND ALTERNATIVES TO COMPETITIVE BIDDING.

Pursuant to Revised Charter section 8.04, the exceptions and alternatives to the requirement for competitive bidding set forth in this chapter are deemed to be in the best interest of the city.

(A) *No or rejected bids.* If no bids are received after the advertisements or other solicitations required by this chapter, or if all bids are rejected, the City Manager shall have the authority to either seek new, competitive bids, or to obtain the goods and/or services for which funds have been appropriated through competitive bargaining without further legislative authorization, whichever is deemed to be in the best interest of the city.

(B) *Used equipment or utilities.* Regarding contracts for the purchase of used equipment or utilities such as gas, water, electricity, or telephone service for which funds have been appropriated, the City

Manager shall have the authority to enter into contracts through competitive bargaining without further legislative authorization.

(C) *Professional services.* Pursuant to Revised Charter section 8.04(d), contracts for professional services are not subject to competitive bidding requirements and shall not require further legislative authorization where the operating budget provides sufficient funding.

(D) *Cooperative purchasing programs.* As an alternative to both competitive bidding and competitive bargaining, the City Manager shall have the authority to obtain goods and/or services for which funds have been appropriated through cooperative purchasing programs without further legislative authorization. As part of any cooperative purchasing program, the City Manager may agree that the city will be bound by contract terms and conditions prescribed by that program, including, without limitation, payment of a reasonable fee by the city to cover the administrative costs incurred by the program officials as a result of purchases by the city. The City Manager may also agree that the city will pay the vendor directly for items received by the city.

(E) *Reverse auction.* Whenever the city determines that the use of the reverse auction is advantageous to the city, the City Manager or his or her designee may purchase goods or services by reverse auction.

(1) The city, in establishing a reverse auction process, will:

- (a) Determine the specifications and requirements of the goods or services to be acquired;
- (b) Identify and provide notice to potential sellers concerning the proposed acquisition;

(c) Establish prequalification requirements to be met by a seller to be eligible to participate in the reverse auction.

(2) Prior to conducting a reverse auction, the city shall establish a threshold amount which shall be the maximum amount that the city is willing to pay for the goods or services to be acquired.

(3) The city shall enter into a contract with a seller which meets the specifications or description of the goods or services to be procured and whose proposal the city determines to be the most advantageous.

(F) *Intergovernmental purchases.* The proposed purchase is from or with another political subdivision, the Ohio State Government, or the United States Government.

(G) *Design-build.* The proposed purchase is a design-build construction project let under the procedures established by the City Manager or his or her designee.

(H) *Construction-manager-at-risk.* The proposed purchase is a construction-manager-at-risk project let under the procedures established by the City Manager or his or her designee.

(I) Purchases that do not exceed the bidding threshold set by Council.

(J) *Real estate.* The Council may, by ordinance, provide for the sale or lease of real property, with or without public bidding, on such terms and for such value as Council, in the exercise of its discretion, may deem reasonable and in the best interest of the city.

(Ord. 15-13, passed 2-25-13)

§ 37.05 EXECUTION AND MODIFICATION OF CONTRACTS.

Pursuant to Revised Charter section 8.04, modifications or alterations of contracts shall not require competitive bidding.

(A) *Limited to appropriations.* No contract alteration or modification to a competitively bid contract shall be approved as set forth below, when the amount of the alteration or modification causes the contract

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sum for the project or purchase to exceed the amount appropriated by Council.

(B) No contract shall be enforceable against the city unless it has been duly authorized, as provided for herein, and executed in the name of the city by the City Manager or designee, and bears the signature of the Fiscal Officer of the city, as required by R.C. § 5705.41, certifying the availability and appropriation of funds.

(C) *Approval procedure.* An alteration or modification to a competitively bid contract shall be approved only upon the order of the City Manager or designee. No order shall be effective until the sum to be paid under the altered or modified contract is agreed to in writing and signed by the contractor, the City Manager or designee, and the Finance Director or designee certifying the availability and appropriation of funds.

(Ord. 15-13, passed 2-25-13)

§ 37.06 AUTHORITY OF CITY MANAGER.

To implement Council policy and procedures as established within this chapter, the City Manager or designee shall have the authority to promulgate and amend written administrative rules, regulations, and procedures not inconsistent with this chapter or the Revised Charter.

(Ord. 15-13, passed 2-25-13)

§ 37.07 DISPOSAL AND SALE OF SURPLUS PROPERTY.

(A) Surplus property owned by the city that is determined by the Finance Director, with the approval of the City Manager, to no longer be needed for municipal purposes may be declared surplus and disposed of by any of the following methods:

(1) By sale by sealed bid to the highest and best bidder, following notice at least one time in a newspaper of general circulation in the city and posting on the city website at least ten business days prior to the opening of bids.

(2) By live public auction.

(3) By internet auction. Notice of internet auction will be posted on the city website at least ten business days prior to commencement of bidding.

(4) By sale to another government jurisdiction without the requirement of competitive bidding.

(5) By trade-in for credit at the time of the purchase of replacement property, provided that trade-in value is established separately from the purchase price of the replacement property, and can be verified to represent fair market value for the traded property.

(6) By sale for scrap value, or discarding, if the property can be shown to have minimal or no residual market value in its current form.

(7) By destruction upon the determination by the City Manager that the surplus property must be destroyed for public safety reasons.

(8) By donation to an appropriate charitable organization with the approval of the City Manager.

(B) Disposal of all municipally-owned property that has been declared surplus and to no longer be needed for municipal purposes that has an estimated value of greater than \$5,000, or is a motor vehicle, may be disposed of by any of the above methods with the prior approval of City Council.

(C) The Finance Director will estimate the value of the property deemed by the user division to be surplus for purposes of determining the method to be used for the disposal of property. All property determined to be surplus and disposed of shall be fully documented and recorded for purposes of maintaining an accurate inventory of city-owned property.

(Ord. 15-13, passed 2-25-13)

§ 37.08 MISCELLANEOUS BIDDING PROCEDURES.

Pursuant to Revised Charter section 8.04, the following procedures shall apply to contracts that require competitive bidding.

(A) *Procedures related to bidding.*

(1) *Time between notice and bid opening.* There shall be no minimum time requirement between the publishing of the notice and the opening of the bids. The city shall notify prospective bidders of the bid opening date and time in the notice and shall adjust the same to meet the needs of the city by issuing addenda when necessary.

(2) *Addenda do not extend bid opening.* The city may issue such addenda to the bid documents as it feels necessary and such addenda may be issued up to and including the last business day before the bid opening without any extension of the bid opening date. Addenda issued the same day as the bid opening shall cause the bid opening date to be extended to the date and time set forth in such addenda.

(3) *Estimate of cost.* The city shall disclose the estimated cost of the project or purchase when it determines that doing so is in its best interest.

(4) *Time for award of bids.* In the notice required for the bid solicitation, the city shall establish the time limit for awarding a contract. Submitted bids may not be withdrawn during this period. The city's failure to award and execute the contract within this period invalidates the entire bid proceedings and all bids submitted, unless the time for awarding and executing the contract is extended by mutual consent of the city and the bidder whose bid the city accepts and with respect to whom the city subsequently awards and executes a contract. Such an agreed extension shall not entitle the contractor to delay costs.

(5) *Withdrawal of bids.* Bidders may withdraw bids pursuant to R.C. § 9.31; such a withdrawal shall not modify the city's right to award to the next lowest and best bidder.

(6) *Bids in excess of estimate.* The city may award contracts regardless of the value of the bid as compared to the value of the estimated cost.

(7) *Notice to proceed.* The contractor is not entitled to a notice to proceed with the work by the city or its representative upon execution of the contract and no contractor shall begin work in the absence of a notice to proceed. The city shall either issue the notice to proceed at a time that it determines is in its best interest or it shall terminate the contract for its convenience.

(8) *Retainage.* Retainage shall be withheld from payments to the contractor at the rate set forth in the owner/contractor agreement. Retainage shall not be held in an escrow account. Retainage shall be released at such times and in such amounts as the city determines to be equitable.

(9) *General contractor permitted.* The city may advertise and award a single contract for constructing and managing an entire public improvement project.

(10) *Extension of bid opening.* The city may issue an addendum or addenda modifying the plans and specifications for the project or the time for the bid opening at any time prior to the bid opening.

(11) *Combined statement of material and labor.* The city at its discretion may accept a combined statement of labor and materials from bidders.

(12) *Bonus and liquidated damages for time.* The city may offer a bonus for completion of a contract prior to a specified date, or may exact liquidated damages for each day of delay beyond a specified date, or both. The amounts of the bonus and liquidated damages may be different.

(13) *No arbitration.* The city shall not enter into a contract that requires arbitration as a dispute resolution procedure unless the choice to arbitrate solely belongs to the city.

(14) *Return of bid guarantees.* The city shall return bid guaranties to bidders to which it does not award a contract in a reasonably timely manner.

(Ord. 15-13, passed 2-25-13)

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ARTICLE V
FINANCE

SECTION 5.01 FISCAL YEAR.

The fiscal year of the City for budget, accounting and tax purposes shall be the calendar year.

SECTION 5.02 PREPARATION OF TAX BUDGET.

The Mayor shall submit to Council a budget estimate and an explanatory budget message on or before the twentieth day of June of each year for the fiscal year beginning on the first day of January following. For such purpose the Administrative Assistant to the Mayor shall obtain, at such date as he shall determine, from the head of each department, board or commission, plans for the work to be undertaken by each such agency during the ensuing fiscal year and estimates of the cost of personnel and material for doing such work, with complete justifications for each project, including all computations, and such other information as the Administrative Assistant may request. The City Planning Commission, in consultation with the organization units affected shall prepare estimates of needed capital outlays, indicating its judgment as to priorities among the projects proposed. The Department of Finance shall furnish statements of balances available for appropriation and estimates of probable revenue from existing sources, and when requested by the Administrative Assistant shall make estimates of probable yield from new sources of revenue. It shall also prepare expenditure estimates for debt service and other fixed items, including matured judgments. From the information thus assembled the Administrative Assistant shall prepare and furnish to the Mayor a consolidated budget estimate for the City's operations during the ensuing fiscal year, revising and adjusting the work programs and departmental estimates as required in order to produce a balanced budget.

SECTION 5.03 PUBLIC HEARING ON ESTIMATES.

Upon receipt of the budget estimates from the Mayor, the Council shall consider and approve them, with or without amendments, and forward them to the County Budget Commission on or before the twentieth day of July. It shall likewise cause at least two copies of the estimates to be filed in the office of the Director of Finance of the City for public inspection not less than ten days before the date fixed for Council consideration, which shall be not later than July 15 and at least one public hearing thereon shall be held, before the Council, of which public notice shall be given by one publication in a newspaper of general circulation in the City not less than ten days prior to such hearing.

SECTION 5.04 TAX LEVY.

Upon receipt from the County Budget Commission of the certificate of its action upon the tax budget, the Council shall levy the necessary taxes and certify them to the County Auditor on or before the first day of October.

SECTION 5.05 APPROPRIATION ORDINANCE.

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The Administrative Assistant to the Mayor, with the assistance of the Director of Finance, shall prepare the annual appropriation ordinance, based upon the work program of the City and the official certificate of estimated resources, received from the County Budget Commission, and deliver it to the Mayor on or before the first day of December of each year. The Mayor shall forward the ordinance to the Council, with such comments and explanations, in writing, as he may desire, not later than December 7. The Council shall cause at least 5 days public notice to be given of the meeting at which it proposes to consider and adopt the ordinance and at that time shall afford interested citizens an opportunity to be heard, after which the ordinance shall be adopted, with or without amendments. If amendments are made which increase authorized expenditures beyond estimated revenues, Council shall provide the additional revenue necessary to produce a balanced budget. The appropriation ordinance shall be adopted not later than December 24, and shall take effect on January 1 following. If the appropriation ordinance is not adopted by this date, it shall be deemed to have been adopted as submitted by the Mayor.

SECTION 5.06 EFFECT OF APPROPRIATION.

Upon adoption of the appropriation ordinance a copy thereof, certified as correct by the Mayor and Clerk, shall be filed with the Director of Finance who shall thereupon open a ledger account for each item thereof against which allotments may be made, as provided in the following section. Copies shall also be supplied to the head of each department, board or commission in the City government and as otherwise provided by law.

(Amended 11-2-82)

SECTION 5.07 ALLOTMENTS.

The appropriations made for debt service and other fixed charges shall become available for expenditure upon the filing of the certified copy of the appropriation ordinance with the Director of Finance. Appropriations for capital outlays for construction shall become available in two stages: (1) not more than ten per cent of each item shall be available for preparation of detailed plans and specifications, upon the filing of a certified copy of the appropriation ordinance with the Director of Finance; (2) the remaining ninety per cent shall become available for encumbrance upon approval of the plans and specifications by the Council, after report thereon by the Mayor. Appropriations for the current operation of the organization units of the City government shall become available for encumbrance only when allotted by the Mayor, or by his Administrative Assistant when the latter has been charged by the Mayor with such duty, based on currently valid work plans for each agency submitted at least five days before the end of each calendar quarter for the succeeding quarter. These allotments shall be filed with the Director of Finance on or before the first day of each quarter and shall authorize the Director of Finance to accept from the organization units involved, purchase orders, contracts and payrolls for encumbrance and payment to an aggregate amount not exceeding the quarterly allotment. The total annual allotment to any agency may not exceed the total appropriated to such agency for the current fiscal year. Any unallotted balance of an appropriation and any unencumbered balance of any allotment shall lapse at the end of the fiscal year at any time during the fiscal year, upon showing of necessity by the organization unit or on his own motion, the Mayor may increase, reduce or revise allotments during the course of any budget quarter, advising the Director of Finance of such action. If at any time during the budget year, the Mayor shall determine that the income for the year will not be at least equal to the estimates upon which the appropriations were made, he shall reconsider all work programs and allotments and recommend to Council that they be revised to prevent expenditures in excess of income. The Council may, after a public hearing held pursuant to a five day notice thereof, revise such items. If revenues exceed estimates the Council may, after a similar public hearing, adopt additional appropriations to finance additional work programs whose total cost will not exceed available funds.

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SECTION 5.08 TRANSFER OF FUNDS.

The Council, on recommendation of the Mayor may at any time, by resolution, transfer any unencumbered balance of an appropriation from one project to another under the jurisdiction of the same organization unit. During the last fiscal quarter of the year, Council may, by resolution or on recommendation of the Mayor, or the Mayor, may transfer any unencumbered balance of an appropriation from a project under one organization unit to a project under the jurisdiction of another organization unit. Transfer shall not be made from appropriations for debt service or other fixed budget items.

SECTION 5.09 CERTAIN CONTRACTS AND EXPENDITURES PROHIBITED.

No officer, department or agency shall, during any fiscal year, expend or contract to expend any money or incur any liability, or enter into any contract or agreement on behalf of the City which involves the expenditure by the City of any money in excess of that appropriated and allotted for such expenditures or obligations. Any purported obligation of the City, oral or written, made in violation hereof shall be void.

SECTION 5.10 CERTIFICATE OF FINANCE DIRECTOR.

Every contract, purchase order, or other document purporting to create a financial obligation against the City shall, in order to be valid and enforceable, bear a certificate signed by the Director of Finance stating that funds are available from which to pay it. Such certificates shall be affixed before the document is delivered by the City to the vendor or contractor and before any goods are delivered or services rendered. At the same time, the estimated amount of the obligation created thereby shall be entered as an encumbrance against allotted funds, which shall thereupon not be available to finance any other transaction, to the extent of such encumbrance.

SECTION 5.11 CONTRACTS NOT TO BE PERFORMED WITHIN ONE YEAR.

When it is necessary to enter into a contract which cannot be performed within a year, the Council shall authorize such contract specifically by ordinance. The portion to be paid during the current fiscal year shall be encumbered and the budgets for subsequent years shall include the amounts to be paid during such years as a fixed charge.

SECTION 5.12 FEES.

All fees received by any officer or employee of the City in connection with his employment with the City shall be accounted for and paid into the City treasury.

SECTION 5.13 CENTRAL PURCHASING.

The Council shall establish a purchasing agency either as an independent office or as a division of the Department of Finance, whose duty it shall be to contract for, purchase, store, and distribute to all agencies of the City the supplies, printing, material and equipment they require, within the appropriations made by Council and the allotments by the Mayor under this Charter. The Mayor may designate his administrative assistant as City Purchasing Agent.

SECTION 5.14 COMPETITIVE BIDDING.

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Purchase of supplies, materials, equipment and printing for the City shall be made pursuant to specifications through open competitive bidding under such rules, consistent with this Charter as the Council may establish by ordinance. Formal advertising, bidding and public opening and tabulation of bids shall be required for all purchases with estimated cost exceeding the limitations provided for by State law.

Attachment: Hood Charter Review Info #1 (1745 : Proposed Charter Amendments Bidding)

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Grove City, Ohio Code of Ordinances

139.05 BIDDING PURCHASES AND PROCEDURES.

(a) Except as otherwise provided for in the Charter, the Administrative Assistant shall award and execute all contracts on behalf of the city.

(b) When any contract for the construction of a public improvement or the purchase of equipment, supplies, or materials is estimated to be in excess of \$50,000, the contract shall be awarded through an open competitive bidding process unless an exception or alternative is otherwise provided by Council. The Administrative Assistant may, without competitive bidding, enter into contracts for expenditures of less than \$50,000 for which funds have already been appropriated. The City shall award a contract to the lowest and/or best bidder, provided that the City may reject any and all bids in whole or by items. No contract shall be divided to avoid the requirements of competitive bidding. (Ord. C36-12. Passed 8-6-12.)

(c) Provided that the current operating budget provides sufficient funds and in accordance with the procedure set forth below, where applicable, the following contracts shall not be subject to competitive bidding nor shall they require further legislative authorization.

(1) Professional Services. Contracts for professional services shall not be subject to the competitive bidding requirements of this section and shall not require authorization of Council.

(2) Cooperative Purchasing Programs. The Administrative Assistant shall have the authority to obtain goods and/or services through cooperative purchasing programs.

(3) Used Equipment. The Administrative Assistant shall have the authority to enter into contracts for the purchase of used equipment.

(4) Software. The Administrative Assistant shall have the authority to enter into contracts for the purchase of specific application software.

(5) Gas/Utilities. The Administrative Assistant shall have the authority to enter into contracts for the purchase of gas (fuel) and the following utilities: gas, water, electricity and/or telephone service.

(6) Insurance. The Administrative Assistant shall have the authority to enter into contracts for insurance.

(d) Council, by a majority vote, may waive the competitive bidding requirements if determined that it is in the best interest of the City.

(e) The Purchasing Agent or his/her designees shall authorize all purchases and contracts for the purchase of supplies, materials and equipment required by the Municipality and every department thereof. All shall be made in the following manner:

(1) Requested purchases for services or supplies shall be made by the department heads through a requisition form stating explicitly the items or services desired. Where a requisition exceeds \$10,000, it shall be accompanied by a minimum of two independent vendor quotations, which may include a quote from a purchasing group and/or consortium. This requirement may be waived at the discretion of the Purchasing Agent. The requisition form will be submitted to the Finance Director who will determine if unencumbered appropriations are available and sign a purchase order. The Administrative Assistant's signature on the purchase order shall constitute prima-facie approval of such procedure.

(2) Purchase order shall be on printed forms as determined by the Administrative Assistant. They shall bear consecutive numbers as to date of issue. After approval of requisitions, and after the certificate of the Finance Director stating that money is available for such purchase from the proper fund and account

Attachment: Hood Charter Review Info #1 (1745 : Proposed Charter Amendments Bidding)

the purchase order, with the price or quotation affixed, shall be issued to the vendor, supplier or person rendering service. Every purchase order shall be immediately posted to the encumbrance ledger and the sum shall be subtracted from the respective appropriation account.

(3) The notice of receipt of goods or the provision of services along with approval to pay for the goods shall bear the signature or other approval of the department head or his/her designee. The signature or other approval shall be affixed to invoice or saved in some other manner in the permanent requisition/purchasing order file.

(4) All vouchers and warrants for the disbursement of City funds, with the exception of expenditures for City personal services, shall bear the purchase order number authorizing such expenditure.

(5) When an emergency purchase by an authorized City employee is necessary outside of the normal operating hours of City Hall, the authorization for the expenditure must be obtained from the Purchasing Agent or his/her designee within two normal working days of City Hall. If the expenditure involves funds which have not been appropriated by Council, an appropriation ordinance must be passed.

(f) Notwithstanding any other provision hereunder, when City Council, by Resolution, determines that a Design-Build project delivery system shall be employed on a public improvement and the estimated cost of the project exceeds thirty thousand dollars (\$30,000), the Design-Build contract shall be let as follows:

(1) In addition to the project specific qualifications that the Design-Builder shall meet as set forth in the contract documents for a particular project, every Design-Builder, before entering a contract with the City, must demonstrate the following:

A. The architectural services provided under the Design-Build contract shall be provided and performed by an architect registered under Ohio R.C. Chapter 4703 or by a firm holding a certificate of authorization granted pursuant to Ohio R.C. Chapter 4703.

B. The Design-Builder shall meet the requirements of Ohio R.C. 153.70 when design-build services are provided to the City.

C. The Design Builder shall disclose to the City, in writing, the identity of the architect or architectural firm engaged by and contractually responsible to the Design-builder for project services.

D. The Design-Builder and architect shall agree that the architect will have direct supervision of the architectural work and that the architect's services will not be terminated on the project, without the immediate replacement by another architect.

(2) When the City Administrator determines the need to engage professionals to create Bridging Documents, such engagements shall be Professional Services Contracts not subject to competitive bidding.

(3) Once the Bridging Documents are complete and incorporated into a Request for Proposals for Design-Build Services, that Request for Proposals shall be advertised in the same manner as the City has, or may establish, for advertising competitive bids.

(4) The Request for Proposals shall require a project price to be submitted with the Design-Builders' proposals.

(5) The City Administrator shall evaluate and rank proposers according to the requirements set forth in the Request for Proposals.

(6) Once ranked, the City Administrator shall negotiate with the first-ranked proposer to ensure that the Design-Build contract meets the best interests of the City.

(7) Should Grove City fail to reach an agreement with the first-ranked proposer after ranking, it shall end negotiations with that proposer and begin negotiations with the proposer next in the order of rank. Grove City shall continue to negotiate with the proposers in their order of rank until a contract is approved by Council.

(8) The Bridging Designer shall be eligible to submit a proposal for the Design Build project for which it developed the Bridging Documents. (Ord. C14-11. Passed 4-18-11.)

(Ord. C30-60; Am. Ord. C6-83. Passed 2-21-83; Am. Ord. C56-08. Passed 6-2-08.)

Attachment: Hood Charter Review Info #1 (1745 : Proposed Charter Amendments Bidding)

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Codified Ordinances of New Albany, Ohio

123.12 COMPETITIVE BIDDING REQUIREMENT.

(a) The Administrator shall make contracts, purchase supplies and materials, and provide labor for any work under the Administrator's supervision involving not more than fifty thousand dollars (\$50,000.00) without requiring competitive bidding. When an expenditure, other than the compensation of persons employed by the Municipality, exceeds fifty thousand dollars (\$50,000.00), the expenditure shall first be authorized and directed by ordinance of the Council. When so authorized and directed, except where the contract is for equipment, services, materials, or supplies to be purchased under Ohio R.C. 125.04, 713.23(D), or 5513.01 or available from a qualified nonprofit agency pursuant to Ohio R.C. 4115.31 through 4115.35, or required to be purchased from a qualified nonprofit agency under Ohio R.C. 125.60 through 125.6012, the Administrator shall make a written contract with the lowest and best bidder after advertisement for not less than two nor more than four consecutive weeks in a newspaper of general circulation within the Municipality. The bids shall be opened and shall be publicly read by the Administrator or a person designated by the Administrator at the time, date and place specified in the advertisement to bidders or specifications. The time, date and place of bid openings may be extended to a later date by the Administrator, provided that written or oral notice of the change shall be given to all persons who have received or requested specifications no later than 96 hours prior to the original time and date fixed for the opening. All contracts shall be executed in the name of the Municipality and signed on its behalf by the Administrator and the Clerk.

(Ord. O-25-2012. Passed 10-16-12.)

(b) The Council may provide, by ordinance, for central purchasing for all offices, departments, divisions, boards, and commissions of the Municipality, under the direction of the Administrator who shall make contracts, purchase supplies or materials, and provide labor for any work of the Municipality in the manner provided by this section.

(ORC 731.141; Ord. 37-2001. Passed 8-21-01.)

(c) Each bid shall contain the full name of every person interested in the bid. If the bid is for a contract for construction, demolition, alteration, repair, or reconstruction of an improvement, it shall meet the requirements of Section 123.14. The Administrator may reject any and all bids. The contract shall be between the Municipality and the bidder.

(ORC 731.15.)

(d) If it is necessary to make alterations or modifications to the contract, the alterations or modifications shall be made in writing. The Administrator and the contractor shall sign the alteration or modification.

(ORC 731.16; Ord. 49-97. Passed 12-16-97.)

(e) Bids for the erection, repair, alteration, construction, reconstruction, improvement, enlargement, alteration or rebuilding of a public building, culvert, or improvement may require separate and distinct proposals to be made for furnishing materials or doing work for each of the following classes of work to be performed:

- (1) Plumbing and gas fitting;
- (2) Steam and hot-water heating, ventilating apparatus, and steam-power plant;
- (3) Electrical equipment.

If the architect designing a public improvement believes that the cost would be lower if bids are aggregated, then a single bid and contract award may be made for the entire project. The award shall be made to the lowest responsive and responsible bidder.

(ORC 153.50 and 153.51; Ord. 25-98. Passed 8-18-98.)

Attachment: Hood Charter Review Info #1 (1745 : Proposed Charter Amendments Bidding)

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Newark, OH Code of Ordinances

ARTICLE X
PURCHASING AND CONTRACTING

10.01. Contracting Officer.

(A) The Service Director shall be the contracting officer for the City, and all such contracts shall be awarded by the Board of Control. The Service Director shall sign all contracts on behalf of the City. All contracts shall be in written form.

(B) Bids for contracts with the City shall be opened at twelve noon on the last day for filing them in the presence of the Service Director and Auditor or their designated representatives. A record of the proceedings of each bid opening shall be maintained by the City Auditor or his or her representative, and a copy of all bids received and opened shall be attached to the proceedings.

(C) The Mayor may designate any other administrative officer or employee of the City as purchasing agent, and authorize such purchasing agent to make all contracts on behalf of the City, where advertising and bidding are not required. The Mayor may adopt such rules and regulations as he or she deems necessary concerning the purchasing and contracting policies and procedures of the City.

10.02. Bidding.

(A) The threshold amount for instituting and requiring formal bidding procedures is established at \$30,000.00 for each purchase. Council may establish a threshold exceeding that amount by ordinance. The threshold amount may be waived by a vote of at least six Council members.

(B) When any contract or expenditure for the construction of a public improvement or the purchase of equipment, supplies, or materials is estimated to exceed the threshold but not to exceed \$75,000.00, such contract shall not be subject to competitive bidding but shall be subject to review and approval by the Board of Control. When any contract or expenditure for the construction of a public improvement or the purchase of equipment, supplies, or materials is estimated to exceed \$75,000.00, such contract shall be competitively bid, which shall be authorized and directed by ordinance or resolution passed by Council.

(C) When authorized or directed by the Board of Control, the Service Director shall make a written contract with the lowest and best bidder following advertisement once a week for at least two consecutive weeks in a newspaper of circulation in the City, provided that the Service Director may reject any and all bids in whole or by item(s). By a vote of at least six members, Council may waive the competitive bidding requirements if the statutory or common law of the State of Ohio does not require competitive bidding; if Council determines that an item is available and can be acquired only from a single source; or Council determines that a waiver of the competitive bidding requirement is in the best interest of the City.

(D) Notwithstanding subsections (A) and (B), contracts for professional services shall not be subject to the competitive bidding requirements and shall not require authorization by Council if the current operating budget provides sufficient funding for the scope of services in any such contract. (November 6, 2007; November 6, 2012)

10.03. Certification of Availability of Funds.

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(A) No contract agreement, or other contractual obligation, involving the expenditure of money shall be entered into or authorized by any officer or employee of the City unless the City Auditor or his or her duly authorized representative shall first certify that the money required for such contract, agreement, obligation, or expenditure is in the Treasury or in the process of collection thereto, to the credit of the fund from which it is to be drawn, and appropriated for such purpose, which certificate shall be filed and immediately recorded in the accounting records of the City and a copy thereof shall be furnished to the contractor or person to whom such money will be payable. The sum so certified shall thereafter be considered encumbered until the City is discharged from the contract, agreement or obligation.

(B) All contracts, agreements, or other contractual obligations and orders entered into contrary to the provisions of subsection (A) of this section shall be void, and no person whatever shall have any claim or demand against the City thereunder, except that such claim may be paid in the manner and under the conditions provided by the general laws of Ohio pertaining to certifications by fiscal officers of cities, and such claims may be paid upon the authorization of an ordinance or resolution passed by Council as a moral obligation.

10.04. Splitting Contracts to Avoid Bidding.

The Service Director or any other person designated by the Mayor as purchasing agent shall not willfully cause or allow any contract or order to be split or divided into separate orders or contracts in order to avoid the requirements of competitive bidding as provided by this Charter.

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Codified Ordinances of Pickerington, Ohio

SECTION 7.11. COMPETITIVE BIDDING.

Council by ordinance shall establish notice provisions and other procedures for competitive bidding when the threshold amount established by the Ohio Revised Code is exceeded. When any contract for the construction of a public improvement or the purchase of equipment, supplies, or materials is estimated to exceed the threshold established by the Ohio Revised Code, the contract shall be competitively bid. Council shall award a contract to the lowest and best bidder, provided that Council may reject any and all bids in whole or by items. No contract shall be divided to avoid the requirements of competitive bidding.

SECTION 7.12. EMERGENCY APPROPRIATIONS.

At any time during the budget year, Council may make an appropriation to meet emergency needs for the protection of the public health, safety, morals or welfare of the inhabitants of the City, even though such appropriation is in excess of available revenues. Such appropriation may be made only by the affirmative vote of at least five (5) Council members, after consultation with the City Manager. The ordinance making the appropriation shall set forth explicitly the character of the emergency and shall indicate clearly the source of the funds from which the expenditure is to be financed.

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Westerville, OH Code of Ordinances

CHAPTER 132
Contracting Procedures; Competitive Procurement Process;
Purchase and Sale of Real Estate

- 132.01 Purpose.
132.02 Definitions.
132.03 Informal and formal source selection.
132.04 Exceptions and alternatives to formal source selection.
132.05 Procedure for formal source selection.
132.06 Award of bid or proposal in formal source selection.
132.07 Sale, trade-in or other disposition of surplus property.
132.08 Miscellaneous.
132.09 Purchase and sale of real property.

CROSS REFERENCES

Manager as purchasing agent - see CHTR. Art. IV, Sec. 2(k)
Public improvements - see Ohio R.C. Ch. 153
Authority of Council - see CHTR. Art. III, Sec. 12(b)

132.01 PURPOSE.

Council desires to implement procedures to provide for purchase contracts at the lowest available price utilizing the most economical procedures which will also provide for efficiency in the letting of contracts and in securing the best source for goods, services, and construction for public use.

This chapter is adopted pursuant to Article II, Section 2 and Article III, Section 12(b) of the City Charter to establish contracting and competitive procurement policies and procedures for the City which override and preempt the otherwise applicable provisions of Ohio law.

(Ord. 03-23. Passed 7-1-03; Ord. 2011-04. Passed 2-15-11; Ord. 2015-33. Passed 10-20-15.)

132.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(a) "Competitive proposals" refers to an intensive formal source selection method in which offers are evaluated on a combination of price and non-price factors, in order to identify the best value to the City. A

Attachment: Hood Charter Review Info #2 (1745 : Proposed Charter Amendments Bidding)

purchase contract is awarded to the lowest and best offeror based on the response to the criteria set forth in an advertised request for proposals. Competitive proposals may include a single step or multi-step process and allow for the negotiation of all terms, including price prior to awarding a purchase contract.

(b) “Competitive sealed bidding” refers to a price-focused formal source selection method in which a purchase contract is awarded to the lowest and best bidder, based on the response to the criteria set forth in an advertised request for bids and does not include negotiations with bidders.

(c) “Construction manager at risk (CMR)” means a source selection method that allows the City to choose a construction manager based on qualifications. The construction manager enters a project before the design phase is complete and coordinates all subcontract work; enhancing the speed of project delivery and strengthening coordination with the architect/engineer.

(d) “Design-build” means a source selection method for construction that allows the City to choose a design and construction team based on qualifications. Parallel design and construction phases allow for fast track project delivery.

(e) “Formal source selection” means the methods of source selection for expenditures of fifty thousand dollars (\$50,000) or more where the selection process is governed by this chapter as opposed to the administrative procurement rules, regulations and procedures established by the City Manager. A purchase contract stemming from formal source selection requires Council approval. Formal source selection methods available to the City include competitive sealed bidding and competitive proposals.

(f) “Informal source selection” means any method of source selection for expenditures less than fifty thousand dollars (\$50,000) where the selection process is governed by the administrative procurement rules, regulations and procedures established by the City Manager. Purchase contracts resulting from informal source selection may be administratively awarded based on the competitive efforts of the City or another government entity or competition may be waived where not practicable or advantageous to the City.

(g) “Job order contracting” refers to a method of informal source selection pursuant to a unit price book establishing a generally accepted set price to be paid for a multitude of construction line items that can be selected to meet small-dollar construction needs.

(h) “Lowest and best” means City Council and/or the City Manager's determination of the best combination of price and quality based on the response to the criteria set forth in a request for bids, a request for proposals, a request for quotations or any document(s) used to obtain bids, offers or quotes.

(i) “Professional services” means services that usually require education, training, skill or expertise of an advanced, specialized, or peculiar nature, including, without limitation, such services as those performed by attorneys, architects, engineers, professional design firms, construction managers, surveyors, accountants, physicians, insurance advisors, information technology specialists and/or third-party administrators, specifically including professional design firms and services as defined in R.C. § 153.65.

(j) “Purchase contract” means a binding agreement, including short form contracts/purchase orders, for a single purchase of products, equipment, goods, materials or services. For purposes of determining the applicability of the dollar threshold requirements of Section 132.03, the City Manager's determination as to whether a purchase may reasonably and in good faith be deemed to constitute a single purchase shall be conclusive.

(k) “Request for bid (RFB)” refers to all documents, whether attached or incorporated by reference, utilized for a solicitation of bids. The solicitation of bids and source selection pursuant thereto is a formal source selection process.

(1) “Bidder” refers to a person/entity who submits a bid.

(2) “Bid” refers to the response submitted by a bidder in reply to a solicitation that, if accepted by the city, would bind the bidder into a resulting purchase contract. Once submitted a bid is not subject to

negotiation.

(1) "Request for information (RFI)" means a non-binding market research method whereby the City seeks input from the interested parties for a possible future solicitation or source selection. Feedback may include best practices, industry standards, technology issues, etc. Generally, information related to price or cost is not required in a reply to a request for information.

(m) "Request for proposal (RFP)" refers to all documents, whether attached or incorporated by reference, utilized for a solicitation of offers.

(1) "Offeror" refers to a person/entity who submits an offer.

(2) "Offer" refers to the response submitted by an offeror in reply to a solicitation that the City may use as the basis for negotiating the terms of a purchase contract acceptable and advantageous to the City. Offer can be used interchangeably with the term "proposal."

(n) "Request for qualifications (RFQu)" means a document which is issued by the City to obtain statements of the qualifications of potential development teams or individuals (i.e. consultants) to gauge the quality and degree of competition in the marketplace, prior to initiating a solicitation or source selection method.

(o) "Request for Quotation (RFQ)" refers to all documents, whether attached or incorporated by reference, utilized for the solicitation of quotations. Solicitation by RFQ and source selection therefrom is an informal source selection process.

(1) "Quoter" refers to a person/entity who submits a quotation.

(2) "Quotation" refers to a statement of price, terms of sale, and description of goods or services offered by a quoter to the City that, if accepted by the City, would bind the quoter to perform the resulting purchase contract. Quotation can be used interchangeably with the term "quote."

(p) "Solicitation" means the City's act of publishing or distributing a request for bids, a request for proposals, a request for quotations or any other document(s) used to obtain bids, offers or quotes, where the City's publication thereof is intended to solicit replies for the purpose of entering into a purchase contract.

(q) "Source selection" the identification and selection of the supplier for goods, services, or construction whose price and quality best meet the City's needs.

(Ord. 03-23. Passed 7-1-03; Ord. 2011-04. Passed 2-15-11; Ord. 2015-33. Passed 10-20-15.)

132.03 INFORMAL AND FORMAL SOURCE SELECTION.

In order to maximize the purchasing value of public funds and promote efficiency in the letting of contracts, the below informal and formal source selection methods have been established:

(a) All purchase contracts for expenditures less than fifty thousand dollars (\$50,000) shall be awarded through informal source selection as defined in Section 132.02. The City Manager may enter into and perform any purchase contract for expenditures less than fifty thousand dollars (\$50,000) for which City funds have been appropriated, without further legislative authorization.

(1) Solicitation and other procedures for informal source selection shall be governed by the administrative procurement rules, regulations, and procedures established by the City Manager.

(b) All purchase contracts for expenditures of fifty thousand dollars (\$50,000) or more shall be awarded by formal source selection, as defined in Section 132.02 or as excepted by Section 132.04.

(1) The most common method of source selection for expenditures of fifty thousand dollars (\$50,000) or more is competitive sealed bidding. Purchase contracts resulting from competitive sealed bidding shall

Attachment: Hood Charter Review Info #2 (1745 : Proposed Charter Amendments Bidding)

be awarded by motion, adopted by Council, and entered in the minutes of Council, authorizing and directing the City Manager to enter into and perform a purchase contract with the lowest and best bidder after being advertised on the city's website and/or a publication of general circulation for at least fourteen days prior to opening bids.

(2) Where the City Manager determines that the use of competitive sealed bidding is either not practicable or not advantageous to the City due the complex or technical nature of a forthcoming source selection process, a purchase contract for fifty thousand dollars (\$50,000) or more may be awarded through the competitive proposals source selection process. Purchase contracts awarded through the use of competitive proposals shall only be awarded after a request for proposal has been advertised on the city's website and/or a publication of general circulation for at least fourteen days, and shall only be awarded by motion, adopted by Council, and entered in the minutes of Council, authorizing and directing the City Manager to enter into and perform a purchase contract with the offeror that has demonstrated the best value to the City, also known as the lowest and best offeror.

(c) Separate solicitations for branches or classes of work and materials shall not be required for any municipal contract and no municipal contract needs to be separately awarded for different classes or branches of work or materials.

(Ord. 03-23. Passed 7-1-03; Ord. 2011-04. Passed 2-15-11; Ord. 2015-33. Passed 10-20-15.)

132.04 EXCEPTIONS AND ALTERNATIVES TO FORMAL SOURCE SELECTION.

Purchase contracts may be entered into and performed without following formal source selection requirements if the following conditions exist:

(a) Professional services. Source selection for professional services is not subject to formal source selection and a purchase contract awarded therefrom shall not require further legislative authorization where funds have been appropriated by Council for such services. Additionally, contracts for professional design firms and services are not subject to the provisions of R.C. §§ 153.65 through 153.70.

(b) Crisis situation. In the event of the occurrence of any crisis, including any breakage or any loss of equipment, or other circumstances which could not reasonably be anticipated, whereby any necessary regular service is or is about to be interrupted, or whereby the City will suffer any great and continuing loss, the City Manager may enter into a purchase contract for the necessary repairs, replacements or other goods or services, or both, to restore or maintain such service or to avert or terminate such loss, without solicitation or formal source selection, and in such amount as may in the circumstances be necessary. The City Manager shall, at the next meeting of Council thereafter, render a full report of all the circumstances and actions in the premises.

(c) Utility services. Source selection for the purchase of utilities such as natural gas, gasoline or diesel fuel, communication services (including telephone, cellular and data services), or electricity is not subject to formal source selection and a purchase contract awarded therefrom shall not require legislative authorization where funds have been appropriated by Council for such services.

(d) Insurance. Source selection for the acquisition of insurance coverage is not subject to formal source selection and a purchase contract awarded therefrom shall not require further legislative authorization where funds have been appropriated by Council for such purchases.

(e) Hardware and software maintenance, license, and hosting agreements. Source selection for the maintenance, license, and hosting of proprietary hardware and software applications, where such services can only be purchased from the manufacturer or manufacturer's authorized representative, is not subject to formal source selection and a purchase contract awarded therefrom shall not require legislative authorization where funds have been appropriated by council for such services.

(f) Intergovernmental purchases. Source selection for the acquisition of goods and services directly from another political subdivision, the State of Ohio, or the United States government is not subject to formal source selection and a purchase contract awarded therefrom shall not require legislative authorization where funds have been appropriated by Council for such purchases.

(g) Qualifications based selection. In rare instances where the City Manager determines that the use of competitive sealed bidding is not practicable or not advantageous to the city in awarding a purchase contract for construction services, due to complex coordination issues or the need to adhere to strict time constraints, a qualifications based source selection method may be utilized in place of formal source selection where funds have been approved by Council for such purposes. Qualifications based selection is multi-step source selection process where a request for proposal is only sent to offerors that have been pre-qualified based on their response to the criteria set forth in a request for qualifications. Purchase contracts resulting from qualifications based selection shall be awarded by motion, adopted by Council and entered in to the minutes of Council. Qualifications based sources selection methods available to the City include design-build and construction manager at risk.

(h) Contractual maintenance services. Source selection for routine maintenance and janitorial services, such as those needed for the ongoing upkeep of City facilities, is not subject to formal source selection. Provided that there is no conflict with established personnel rules, regulations and procedures, and where funds have been appropriated by Council for such services, a purchase contract for routine maintenance services may be awarded by informal source selection methods. No further legislative authorization shall be required.

(i) Case by case authorization. Council, by motion, may suspend formal source selection requirements for the award of purchase contracts on a case by case basis in certain circumstances which include, but are not limited to, the following:

(1) Source selection where the product, plans and/or purchase may be met by only one supplier (a "sole source supplier") and, accordingly, where formal source selection serves no valid municipal purpose;

(2) Source selection where the price for the item to be purchased from a third-party has been established by the federal Government, State of Ohio, another governmental entity, or the competitive efforts of a cooperative government purchasing program;

(3) Source selection for proprietary computer software programs;

(4) Source selection for goods, services and construction where Council determines that certain factors such as quality, standardization, warranty, trust and/or compatibility are of greater importance than price; or

(5) Source selection for the purchase of used equipment or supplies at an auction open to the public or at a sale at which such used equipment or supplies are to be sold.

(Ord. 03-23. Passed 7-1-03; Ord. 2011-04. Passed 2-15-11; Ord. 2015-33. Passed 10-20-15.)

132.05 PROCEDURES FOR FORMAL SOURCE SELECTION.

(a) When funds have been appropriated by Council to provide for a purchase contract of fifty thousand dollars (\$50,000) or more, the City Manager may proceed with advertisement for bids or offers for such expenditure without the direction of Council.

(b) When funds have not been appropriated by Council for a purchase contract of fifty thousand dollars (\$50,000) or more the following procedures shall be used:

(1) In the case of a purchase contract to be selected through competitive sealed bidding, the City Manager shall not initiate a solicitation without the adoption of a motion of Council authorizing the City Manager to seek bids.

Attachment: Hood Charter Review Info #2 (1745 : Proposed Charter Amendments Bidding)

(2) in the case of a purchase contract to be selected through the use of competitive proposals, the City Manager shall render a full written report to Council regarding the purchase and anticipated means of funding. In such instances, Council shall have at least seven days to submit questions or objections, prior to the City Manager initiating a solicitation.

(c) If the need to issue an addendum to a solicitation that is part of a formal source selection process arises, such addendum must be released no later than seventy-two hours prior to the scheduled deadline for the receipt of bids or offers. In the event that an addendum is issued within said seventy-two-hour period, the due date for bids or offers will be delayed at least three calendar days with no additional publication necessary.

(d) Any formal source selection process may be terminated without a resulting purchase contract at the direction of the City Manager when in the best interest of the city. In such instances, a notice of cancellation shall be posted to the city's website and the reasons therefor shall be made part of the procurement file.

(e) In the event that no bids or offers are received in response to a formal source selection process, the solicitation may be canceled at the direction of the City Manager, and a new solicitation may be made as determined by the City Manager without further legislative authorization.

(f) In the event that the lowest and best bid(s) or offer(s) received by the City as part of a formal source selection process are less than fifty thousand dollars (\$50,000), and where funds have been appropriated by Council for such purchase, the City Manager may enter into a purchase contract with the lowest and best bidder(s) or offeror(s) without further legislative authorization.

(g) Ancillary procedures for source selection and terms of purchase contracts of fifty thousand dollars (\$50,000) or more may be enumerated in the administrative procurement rules, regulations and procedures established by the City Manager. Procedures for all purchase contracts less than fifty thousand dollars (\$50,000) shall be governed by the administrative procurement rules, regulations and procedures established by the City Manager.

(Ord. 03-23. Passed 7-1-03; Ord. 2011-04. Passed 2-15-11; Ord. 2015-33. Passed 10-20-15.)

132.06 AWARD OF BID OR PROPOSAL IN FORMAL SOURCE SELECTION.

(a) Council shall have the right to reject any or all bids or offers, reject a bid or offer not accompanied by a required bid security or by other data or information required by the applicable request for bids or request for proposals, or reject a bid or offer which is in any way incomplete or irregular.

(b) Council shall have the right to waive informalities and/or irregularities in a bid or offer provided, in Council's determination, such informalities and/or irregularities did not provide the bidder or offeror with an unfair advantage over other bidders/offerors.

(c) In determining which bidder/offeror has submitted the lowest and best bid/offer, Council may consider, without limitation:

- (1) A bidder/offeror's experience;
- (2) A bidder/offeror's financial condition, including performance and bid bond capacity, and the correlation between the amount and size of the project to the financial ability and size of the bidder/offeror;
- (3) A bidder/offeror's conduct and performance on previous contracts with either the City or another governmental entity;
- (4) A bidder/offeror's facilities, management skills, and ability to execute the contract properly;
- (5) The amount of work expected to be subcontracted by the bidder/offeror.

- (6) The amount of the bid/offer in relation to any architect's or engineer's estimate;
 - (7) A bidder/offeror's history of submitting artificially low bids or offers to secure contracts and then failing to complete work, demanding change orders and/or filing delay claims, or any other factors indicating a practice of "low-ball" bids/offers;
 - (8) A bidder/offeror's history of threatening or filing litigation to resolve contract disputes with governmental entities; or
 - (9) A bidder/offeror's integrity, reputation, judgment and efficiency.
- (Ord. 03-23. Passed 7-1-03; Ord. 2011-04. Passed 2-15-11; Ord. 2015-33. Passed 10-20-15.)

132.07 SALE, TRADE-IN OR OTHER DISPOSITION OF SURPLUS PROPERTY.

At such times as equipment, including motor vehicles, and supplies of the City serve no useful municipal purpose, the City Manager is authorized and directed to provide for the sale, trade-in or disposition of such equipment and supplies by a method or methods deemed by the City Manager to be in the best interests of the City, including, but not limited to:

(a) Surplus property with an estimated value of fifty thousand dollars (\$50,000) or more shall be sold or traded in by either of the following methods:

(1) By the acceptance of sealed bids/offers, after advertising on the City's website and/or a publication of general circulation for at least fourteen days. Acceptance of the bid/offer shall be made by motion, adopted by Council, and entered in the minutes of Council, authorizing and directing the City Manager to enter into and perform a sales contract.

(2) By live or electronic public auction, after advertisement on the City's website and/or a publication of general circulation at least fourteen days prior to the auction. Council authorization is required prior to, but not after such auction.

(b) Surplus property having an estimated value less than fifty thousand dollars (\$50,000) shall be sold, traded in or disposed of by the administrative rules, regulations and procedures established by the City Manager in one or more of the following methods:

- (1) Acceptance of quotations.
- (2) Acceptance of offers.
- (3) Live public auction.
- (4) Electronic public auction.
- (5) Trade-in, when the City Manager determines the trade-in value is reasonable and likely to meet or exceed the value to be obtained through the sale of such equipment/supplies.
- (6) Salvage, when the City Manager determines the salvage or scrap-metal value is reasonable and likely to meet or exceed the value to be obtained through the sale of such equipment/supplies.
- (7) Donation, when the City Manager, in his or her sole discretion, determines that the benefit to another political entity or 501(c)(3) charitable organizations exceeds the anticipated sale value.
- (8) Destruction, when the City Manager determines that the sale of property may compromise the security of personal or corporate information, such as information housed on City hard drives and servers, such property shall be destroyed in a secure and environmentally-conscious manner.

(9) Disposal, when the City Manager determines that surplus supplies have no resale value, or that the cost of transportation, storage and sale of said equipment/supplies exceeds the anticipated sale value.

(c) Council, by motion, may suspend the requirements of Section 132.07(a) for sales contracts on a case by case basis.

(d) The proceeds for the sale of surplus property shall be deposited in the City treasury to the credit of the division having jurisdiction and control over such property.

(e) The City Manager shall keep full and accurate records of the sale, trade-in or disposition of surplus property.

(Ord. 03-23. Passed 7-1-03; Ord. 2011-04. Passed 2-15-11; Ord. 2015-33. Passed 10-20-15.)

132.08 MISCELLANEOUS.

(a) To implement Council policy as established within this chapter, the City Manager shall have the authority to promulgate written administrative procurement and source selection rules, regulations and procedures consistent with this chapter and the Charter.

(b) The Director of Finance shall attach a certification of funds on each contract or order involving the expenditure of money in accordance with R.C. § 5705.41(D)(i); provided, however, if no certificate is furnished as required, the Finance Director may alternatively provide a certification stating that there was at the time of making of the contract or order and at the time of execution of such certification a sufficient sum appropriated for the purpose of such contract and in the treasury or in the process of collection to the credit of an appropriate fund free from any previous encumbrances, but such expenditure must also be affirmed and authorized:

(1) By the City Manager if the purchase contract involves an expenditure in excess of five thousand dollars (\$5,000) but less than fifty thousand dollars (\$50,000), or

(2) By motion of City Council if the purchase contract involves expenditure of fifty thousand dollars (\$50,000) or more.

(c) Upon certification by the Director of Finance that a certain sum of money, not in excess of five thousand dollars (\$5,000), has been lawfully appropriated, authorized, or directed for a certain purpose and is in the treasury or in the process of collection to the credit of a specific line- item appropriation account in a certain fund free from previous and then outstanding obligations or certifications, then for such purpose and from such line-item appropriation account in such fund, over a period not extending beyond the end of the fiscal year, expenditures may be made, orders for payment issued, and contracts or obligations calling for or requiring the payment of money made and assumed; provided, that the aggregate sum of money included in and called for by such expenditures, orders, contracts, and obligations shall not exceed the sum so certified. Such a certification need be signed only by the Director of Finance and may, but need not, be limited to a specific vendor. An itemized statement of obligations incurred and expenditures made under such certificate shall be rendered to the Director of Finance before another such certificate may be issued, and not more than one such certificate shall be outstanding at a time.

(Ord. 03-23. Passed 7-1-03; Ord. 2011-04. Passed 2-15-11; Ord. 2015-33. Passed 10-20-15.)

132.09 PURCHASE AND SALE OF REAL PROPERTY.

(a) No contract for the sale or lease of real property or any permanent interest in real property, including easements, belonging to the City shall be made unless authorized by ordinance and approved by a two-

thirds vote of Council. Such sale or lease may be authorized by Council without the necessity of public bidding or advertisement.

(b) Except as provided in subsection (c) below, real property or any interest therein may be purchased only upon authorization by ordinance approved by a majority vote of Council.

(c) The City Manager is authorized to purchase road right-of-way, easements and licenses to provide for municipal improvements or necessary for any municipal purpose without such action being authorized by Council, provided that funds for such purchase have been appropriated by Council, or in the event that the purchase is for a price less than fifty thousand dollars (\$50,000).

(Ord. 03-23. Passed 7-1-03; Ord. 2011-04. Passed 2-15-11; Ord. 2015-33. Passed 10-20-15.)

Codified Ordinances

135.03 - PURCHASING AGENT AND PROCEDURES.

- (a) Except as otherwise provided in this chapter, the Director of Public Service shall have the exclusive authority to purchase and lease all goods and services not requiring bidding except under the following circumstances:
 - (1) Peace officer services pursuant to Chapter 139, Police Department, which shall be authorized by the Director of Public Service and the Mayor;
 - (2) In an emergency, as declared by the Mayor pursuant to Section 131.01, the Mayor or the Mayor's designee can purchase directly without regard to bidding procedures those items necessary to overcome the emergency. In such cases, the Mayor shall personally authorize such purchases.
 - (3) The purchase of any goods or services on behalf of the City without the written approval of the Director of Public Service or the Director's designee, shall be without authority of the City.
- (b) For audit purposes and as a matter of public record, the following information will be documented and included with the purchase order when sent to the Director of Finance concerning purchases made in excess of \$3,000.00, but not purchased through competitive bidding procedures:
 - (1) Procedures that were used to select the seller of the goods and services, including the names of the competitors contacted;
 - (2) The reasons for selecting the seller;
 - (3) Other information as required depending on the nature of the purchase.
- (c) The Director of Public Service shall adopt rules and regulations for the internal management and operation of the purchasing function. The Director shall prescribe and maintain such forms as reasonably necessary to the operation of the purchase function and the Director may require any department or board seeking the purchase of any goods or services to justify their request and may require that prior to making any purchases, the department or agency requesting the purchase shall first seek Director of Finance approval that there are sufficient funds in that department or agency budget to enable the encumbrance of the appropriate amount of money.
- (d) The Director of Public Service may develop a prohibited bidder list pursuant to Section 135.08.
- (e) The Director of Public Service may negotiate with other units of government, including the Board of Education, in the joint purchasing of goods and services when the best interest of the City would thereby be served.
- (f) The Director of Public Service may monitor contracts to assure that the terms of the agreement are fulfilled and in the event of any violation thereof shall report to the City Attorney the results of the Director of Public Service's investigation for further action.
- (g) When City of Gahanna funds are expended, the Director of Public Service requires that:
 - Competitive bids be obtained where appropriate.
 - Avoid sole-source purchases unless fully justified.
 - Purchase only authorized goods and services.
 - Ensure that all expenditures are made in accordance with City of Gahanna guidelines.

(Ord. 0115-2013. Passed 8-19-13.)

135.04 - PURCHASING REQUIREMENTS.

- (a) All purchases and leases, of equipment, supplies, parts, and services approved by the Director of Public Service, including options for longer than six months, shall be accomplished through competitive bidding except as listed in paragraph 135.05(e), Exceptions to the Competitive Bidding Requirement.
- (b) There are four basic means of making purchases for the City of Gahanna as follows:

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- (1) Invitation for bids (IFB).
 - (2) Request for proposals (RFP).
 - (3) Petty cash.
 - (4) Reverse auction.
- (c) Invitation for Bid Procedures.
- (1) Upon receipt of any request by a department or agency of the City for goods or services which are required to be bid, the Director of Public Service shall seek Council approval by motion and vote for the Director to advertise for such bids. Upon receipt of approval, the Director shall thereafter prepare appropriate notice for bid request which shall be advertised in full in a newspaper of general circulation within the city for one week. Thereafter, the Director shall advertise a second time either in the full version or in an abbreviated version that directs the public to the full notice on the State of Ohio's public notice website.
 - (2) The notice for bid request shall contain the following information:
 - A. The quantity of items specified and, in general, the use for which they are intended;
 - B. The time and place where the bids will be opened;
 - C. Conditions under which the bid will be received;
 - D. Terms of the proposed purchase or lease including a notice that the bid selected by the Director of Public Service may be conditioned upon subsequent Council approval;
 - E. Bond requirements for both bidding and the performance of the contract;
 - F. Such other information as the Director of Public Service deems necessary.
 - (3) The Director of Public Service may, to secure the lowest responsive and responsible bid, divide the goods and services requested or needed within the 90 days of the bid request in such manner as the Director deems appropriate, but may not divide the purchase or lease in such a way to avoid the competitive bidding.
- (d) Request for Proposals. As listed under Section 135.05(e), purchases under \$50,000.00 generally fall into the category of the informal method of purchasing. Specifications or descriptions are necessary and request for proposals will normally be submitted in writing. However, under unusual circumstances, proposals may be obtained verbally or over the phone. Also, quotes may be accepted, which are submitted on the quoter's letterhead. Under this informal method of purchasing, the City employee conducting the negotiation will be required to be fully familiar with item(s) or services being procured, the need for the materials or services, and will be further qualified to inspect and accept the finished product. The department or agency involved in purchases under \$50,000.00 must also ascertain from the Director of Finance that sufficient funds are available in the proper category to cover the purchase.
- (e) Petty Cash. Expenditures up to \$20.00 may be reimbursed through the petty cash system as outlined in the City of Gahanna Policy and Procedure Manual.
- (f) Reverse Auction. Purchasing process in which offerors submit proposals in competing to sell services or supplies in an open environment via the Internet:
- (1) Whenever the City determines that the use of the reverse auction is advantageous to the City, the Director of Public Service or designee may purchase goods or services by reverse auction.
 - A. The City, in establishing a reverse auction process will:
 - 1. Determine the specifications and requirements of the goods or services to be acquired.
 - 2. Provide notice to potential sellers concerning the proposed acquisition as noted in Section 135.04.
 - B. Prior to conducting a reverse auction, the City may establish a threshold amount which shall be the maximum amount that the City is willing to pay for the goods or service to be acquired.

- C. The City may enter into a contract with a seller which meets the specifications or description of the goods or services to be procured and whose proposal the City determines to be the lowest, responsive, and responsible as described in Section 135.05(d).

(Ord. 0115-2013. Passed 8-19-13.)

135.05 - BID OPENING AND ACCEPTANCE.

- (a) All bids shall be received only at a location and time specified in the notice and shall be kept sealed until the bids are opened. Bids shall be opened publicly and read aloud.
- (b) The Director of Public Service may reject any bid which fails to comply materially with the terms of the bid notice. Bids which are not accompanied with bonds, as required in the notice, shall be deemed to have failed to comply with the terms of the bid notice.
- (c) A bidder for a contract shall be considered responsive when the bidder's proposal responds to bid specifications in all material aspects and contains no irregularities or deviations from the specifications which would affect the amount of the bid or otherwise give the bidder a competitive advantage. Irregularities which do not materially affect the bid may be deemed technical defects and may be corrected after the bid opening.

In determining whether a bidder is responsible, the following factors shall be considered:

- (1) The bidder's experience;
 - (2) The bidder's financial condition;
 - (3) The bidder's conduct and performance on previous contracts;
 - (4) The bidder's facilities;
 - (5) The bidder's management skills;
 - (6) The bidder's ability to execute the contract properly;
 - (7) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
 - (8) The quality, availability, and adaptability of the supplies or contractual services to the particular use required;
 - (9) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
 - (10) The number and scope of conditions attached to the bid.
- (d) Upon consideration, the Director of Public Service shall select the three lowest, responsive, and responsible bidders, if there are more than three bids, and shall recommend to Council in writing a choice from the bidders as the lowest, responsive and responsible. In the event that a recommendation is in favor of one other than the lowest, the Director shall also state the reasons in writing therefor. Further, the Director shall include with the recommendation, if available, a proposed contract approved in the form by the City Attorney and other accompanying documents needed for the final execution of the award of the contract.
 - (e) Exceptions to the competitive bidding requirement:
 - (1) Formal competitive bidding is not required for purchases less than \$50,000.00.
 - (2) Products and services of the severely disabled. Competitive bidding is exempt for those purchases from a qualified nonprofit agency pursuant to Ohio R.C. 4115.31 to 4115.35.
 - (3) Emergency purchases. Council may, by majority vote of Council, authorize the Director of Public Service to enter into a contract for work to be done or for the purchase of goods and services without formal bidding and advertising. If this section is enacted, the Director of Public Service must provide adequate documentation to Council to justify the exception to the bidding requirement.
 - (4)

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Purchases from governmental entities. The Director of Public Service may purchase equipment, services, materials or supplies from the State of Ohio, any department, division, agency, political subdivision of the State, or other cooperative purchasing organization of public entities without advertising and bidding, provided Council authorizes the purchase by ordinance. Section 9.48 Joint Purchasing Program of the Ohio Revised Code is hereby incorporated by reference.

- (5) Purchases of used equipment. Council may authorize by ordinance the Director of Public Service to purchase, without competitive bidding, used equipment or supplies at an auction open to the public or at a public sale requesting the submission of written bids.
- (6) Professional and/or personal services. The statutory provisions regarding competitive bidding for City contracts, generally, do not apply to contracts for professional and/or personal services.
- (7) Reverse auction.

(Ord. 0115-2013. Passed 8-19-13.)

135.06 - COUNCIL ACTION.

- (a) Council shall consider within 30 days of the receipt of the recommendation of the Director of Public Service pursuant to Section 135.05, and shall place the matter on the Council agenda. The Director of Finance shall certify to Council prior to the meeting at which the recommendation is scheduled to be considered that the are funds available or in the process of being collected for the payment of the agreement, pursuant to its terms.
- (b) If Council approves the recommendation as the lowest responsive and responsible bidder, it shall pass an ordinance authorizing the Mayor to enter into such an agreement with the selected bidder. Council may authorize either the Mayor or the Director of Public Service to further negotiate certain items of the agreement.
- (c) Upon enactment of the ordinance, the Director of Finance shall approve the encumbrance of sufficient funds to fulfill the obligation of the City. The Director of Finance shall remove any encumbrances when, in the Finance Director's judgment, the City no longer has any obligations with respect to the contract.

(Ord. 0115-2013. Passed 8-19-13.)

135.07 - CONTRACT EXECUTION AND DELEGATION BY MAYOR.

When an ordinance is enacted, the Mayor shall proceed to execute the contract as authorized and shall report to Council any unforeseen delays in negotiation and execution of the contract.

(Ord. 0115-2013. Passed 8-19-13.)

735.05 Contracts, material, and labor.

The director of public service may make any contract, purchase supplies or material, or provide labor for any work under the supervision of the department of public service involving not more than fifty thousand dollars. When an expenditure within the department, other than the compensation of persons employed in the department, exceeds fifty thousand dollars, the expenditure shall first be authorized and directed by ordinance of the city legislative authority. When so authorized and directed, except where the contract is for equipment, services, materials, or supplies to be purchased under division (D) of section 713.23 or section 125.04 or 5513.01 of the Revised Code or available from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code, the director shall make a written contract with the lowest and best bidder after advertisement for not less than two nor more than four consecutive weeks in a newspaper of general circulation within the city or as provided in section 7.16 of the Revised Code.

Amended by 129th General Assembly File No.141, HB 509, §1, eff. 9/28/2012.

Amended by 129th General Assembly File No.28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 09-26-2003 .

Hilliard

129.02 CONTRACT AUTHORITY.

(a) The Mayor and the Directors of Public Service, Public Safety, Law, Human Resources, Economic Development, Finance and Recreation and Parks, may, without authorization by Hilliard City Council, make any contract, purchase supplies or materials, or provide labor for any work under the supervision of their respective departments involving not more than the contract amount provided in Ohio R.C. 735.05. The "not more than" contract amount authorized herein shall automatically, without further amendment to this Code section, equal the contract amount provided in subsequent amendments to Ohio R.C. 735.05.

(b) All contracts in excess of the amount authorized in subsection (a) above shall be approved by City Council before being executed by any official of the City, even if an appropriation for a contract has previously been approved by City Council.

(c) All contracts in excess of the amount permitted in subsection (a) above, shall be subject to the competitive bidding requirements as set forth in the City Charter, Codified Ordinances, and State law, except for the services of an accountant, architect, attorney at law, physician, professional engineer, construction project manager, consultant, surveyor, appraiser or fiscal and management consultants.

(d) The provisions of Ohio R.C. 153.50 through 153.52, inclusive, relating to the separate bid requirements for work and materials enumerated therein, on municipal public improvement projects are waived. Notwithstanding the previous statement, the City is authorized to bid all municipal public improvement projects in accordance with Ohio R.C. 153.50 through 153.52, inclusive, if determined by the City's Director of Public Service, that such method of bidding is in the City's best interest. (Ord. 13-29. Passed 12-16-13.)

Attachment: Hood Charter Review Info #2 (1745 : Proposed Charter Amendments Bidding)

Hilliard

**Article VI
Finance**

SECTION 6.01 FISCAL YEAR.

The fiscal, budget, and accounting year of the City government shall be the calendar year.

SECTION 6.02 ANNUAL TAX BUDGET.

The Mayor shall submit to the Council a tax budget for the ensuing fiscal year, for filing with the County Budget Commission in accordance with the procedures established by the County Budget Commission, unless such procedures are otherwise waived. For that purpose, at such date as the Mayor shall determine, the head of each department or agency of the City, shall submit plans to the Mayor for the work to be undertaken by such agency during the next fiscal year, together with estimates of the costs of performing such work. The Department of Finance shall supply to the Mayor estimates of anticipated revenue. From these data the Mayor may revise the estimates and prepare recommendations for the tax budget for the ensuing fiscal year.

SECTION 6.03 HEARING ON TAX BUDGET.

At least two copies of the tax budget estimates as recommended by the Mayor shall be placed on file in the office of the Director of Finance for public inspection. Notice that they are available for that purpose shall be given by publication once in a newspaper of general circulation in the City. Such notice shall also specify the date of the first hearing. The Council shall hold a public hearing on the tax budget at the time and place specified in the notice and may continue such hearing as necessary. When the hearing is concluded, the Council shall consider the tax budget, adopt it, with or without amendments, which adoption may be by resolution, and transmit it to the County Budget Commission on or before the date set by them in the form required by law.

SECTION 6.04 TAX LEVIES.

Upon receipt of the advice of action by the County Budget Commission and the certificate of the County Auditor as to estimated resources, the Council shall, take action as is necessary to enable the County Auditor to place the necessary taxes on the tax duplicate.

SECTION 6.05 MUNICIPAL OPERATING BUDGET.

The Mayor shall prepare and submit to the Council, on or before November 15th of each year, a budget for the following year recommending appropriations from each fund during the ensuing fiscal year.

SECTION 6.06 ANNUAL APPROPRIATION ORDINANCE.

At the meeting of the Council at which the municipal budget is submitted, the Council shall, by resolution, fix the date and place for a public hearing thereon. A notice of this hearing shall be given by publication once in a newspaper of general circulation in the City at least five (5) days before the date fixed. The notice shall also state that the budget is on file for public inspection in the office of the Clerk of Council during the usual office hours. At the time and place advertised, the Council shall hold a public hearing on the budget as submitted and may continue such hearing from day to day as may be necessary. After the hearing the Council shall adopt the budget as submitted, or as amended, as the appropriation ordinance of the City for the ensuing fiscal year. The budget shall not exceed the total estimated resources certified by the County Budget Commission. Such ordinance shall be finally adopted not later than January 31.

SECTION 6.07 EFFECT OF APPROPRIATION ORDINANCE.

Upon passage, the appropriation ordinance shall become effective as of the first day of January and shall constitute an appropriation of the several items therein contained, and approval of the work projects supported thereby without further legislation. The appropriation ordinance shall be reproduced and a copy thereof, certified by the President of Council and Clerk of Council, and shall be filed with the Director of Finance, and certified copies shall be transmitted to each organization unit of the City government, and filed with such county, state, and federal offices as may be required by law or agreement.

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SECTION 6.08 AVAILABILITY OF FUNDS.

Appropriations for debt service and other fixed charges shall become available for expenditure upon the filing of the certified copy of the appropriation ordinance with the Director of Finance.

SECTION 6.09 CAPITAL IMPROVEMENT PROGRAM AND BUDGET.

The process for the approval of the Capital Improvement Program and budget shall be developed and passed as Council may establish by ordinance.

SECTION 6.10 TRANSFERS.

The Council, on recommendation of the Mayor, may at any time by resolution, transfer any unencumbered balance of an appropriation from one item or project to another under the jurisdiction of the same organization unit. During the fourth quarter of the fiscal year, the Council may, by resolution, transfer any unencumbered balance of an appropriation from an item under the jurisdiction of one organization unit to one under the jurisdiction of another organization unit supported from the same fund. Transfers shall not be made from appropriations for debt service or other fixed items until all obligations due and payable during the fiscal year have been paid. The Council may at any time amend or revise the appropriation ordinance, provided the ordinance as amended does not authorize the expenditure of more revenue than is estimated will be available.

SECTION 6.11 PURCHASING.

No City official or employee shall have authority to create an obligation against the City by oral agreement. No purchase order or contract shall be valid as an obligation of the City unless it bears a certificate signed by the Director of Finance or an appointee designated by the Mayor with the advice and consent of Council that the estimated amount thereof has been entered as an encumbrance in the City accounts against an allotment based on a valid appropriation.

SECTION 6.12 OVER-EXPENDITURES.

No officer, department, or agency of the City shall, during any fiscal year, expend or contract to expend any money, or incur any liability, or enter into any contract which by its terms involves the expenditure of money on behalf of the City, for any purpose, in excess of the amounts appropriated and allotted for such expenditures and obligations. Any such purported obligation, oral or written, made in violation hereof shall be void. The officer or employee who knowingly attempts or purports to create such an obligation shall be guilty of malfeasance in office and upon conviction thereof shall be removed from his or her post and disqualified from holding further office or employment under the government of the City. However, nothing in this section shall prevent the making of contracts not to be fully performed within the fiscal year, when specifically authorized by the Council.

SECTION 6.13 COMPETITIVE BIDDING.

Purchase of supplies, materials, and equipment and the construction of public improvements for the City shall be made pursuant to specifications through open, competitive bidding, under such rules consistent with this Charter as the Council may establish by ordinance. Formal advertising, bidding, and public opening and tabulation of bids shall be required if the statutory or common law of the State requires it, except in cases of public disaster declared by the Mayor, when purchases may be made in the open market. The acquisition of professional services and the purchase of used equipment may be, but are not required to be obtained, by competitive bidding.

SECTION 6.14 FEES.

All fees received by any officer or employee of the City in connection with his employment with the City shall be accounted for and paid into the City treasury, except as otherwise provided by law.

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129.02 CONTRACT AUTHORITY.

(a) The Mayor and the Directors of Public Service, Public Safety, Law, Human Resources, Economic Development, Finance and Recreation and Parks, may, without authorization by Hilliard City Council, make any contract, purchase supplies or materials, or provide labor for any work under the supervision of their respective departments involving not more than the contract amount provided in Ohio R.C. 735.05. The “not more than” contract amount authorized herein shall automatically, without further amendment to this Code section, equal the contract amount provided in subsequent amendments to Ohio R.C. 735.05.

(b) All contracts in excess of the amount authorized in subsection (a) above shall be approved by City Council before being executed by any official of the City, even if an appropriation for a contract has previously been approved by City Council.

(c) All contracts in excess of the amount permitted in subsection (a) above, shall be subject to the competitive bidding requirements as set forth in the City Charter, Codified Ordinances, and State law, except for the services of an accountant, architect, attorney at law, physician, professional engineer, construction project manager, consultant, surveyor, appraiser or fiscal and management consultants.

(d) The provisions of Ohio R.C. 153.50 through 153.52, inclusive, relating to the separate bid requirements for work and materials enumerated therein, on municipal public improvement projects are waived. Notwithstanding the previous statement, the City is authorized to bid all municipal public improvement projects in accordance with Ohio R.C. 153.50 through 153.52, inclusive, if determined by the City’s Director of Public Service, that such method of bidding is in the City’s best interest.

(Ord. 13-29. Passed 12-16-13.)

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Print

Reynoldsburg Code of Ordinances

SECTION 8.04 PURCHASING AND CONTRACTING PROCEDURES.

(a) The Mayor shall award contracts and authorize expenditures without competitive bidding if said contract or expenditure does not exceed the limit set by the State of Ohio as of 6/1/92 to require competitive bidding.

(b) When a proposed contract or expenditure exceeds the State of Ohio limit, as of 6/1/92, for competitive bidding, then the Council shall, by motion, authorize the director of the appropriate department or other appropriate officer or employee of the City to cause plans and specifications to be prepared and advertise for bids once a week for two consecutive weeks in at least one newspaper of general circulation within the City, and the Council shall appropriate funds for that purpose unless they have been previously appropriated and remain unencumbered. Upon such authorization, the appropriate official or employee shall cause such plans and specifications to be prepared and such advertising to be made. The Mayor and the City Auditor, or their designated representatives, shall receive and publicly announce sealed bids in the manner and at the time specified in the specifications. Sealed bids shall be submitted in the manner required by the specifications. The Mayor shall recommend to the Council, at its next regular meeting or a special meeting called for the purpose, the bid or bids he or she believes to be the lowest and best bid. At such meeting or its next regular meeting, the Council shall determine which bid or bids are the lowest and best and shall be an ordinance or resolution, which shall be read only once and which shall not be subject to the requirement for three readings under Section 4.04(a) of this Charter, direct the Mayor to enter into a written contract with the person or persons who submitted the bid or bids determined by the Council to be the lowest and best. Such ordinance or resolution shall appropriate funds for the purpose of the contract unless they have been previously appropriated and remain unencumbered. The Mayor shall execute a written contract on behalf of the City after such ordinance or resolution becomes effective and upon receipt of a certification from the City Auditor that funds for the contract are available, as provided in division (e) of this section. The City Attorney shall approve the contract as to its form. The Council may reject any and all bids by motion, and may direct that the proposed contract or expenditure be re-advertised and that new bids be invited and received.

(Amended 11-3-92.)

(c) The Council, by ordinance or resolution adopted by a vote of at least two-thirds of its members, may authorize, without competitive bidding, contracts and alterations or modifications thereof for the expenditure of money for the acquisition or lease of real property, the discharge of noncontractual obligations of or claims against the City, for joining with the State of Ohio or other political subdivisions or units of government to acquire or construct improvements or facilities or to exercise their powers jointly, or for the purchase of products or services of publicly or privately owned or operated public utilities. The Council, by ordinance or resolutions adopted by a vote of at least two-thirds of its members, may authorize, without competitive bidding, contracts and expenditures for any other purpose where the statutory or common law of Ohio does not require competitive bidding.

(d) When it becomes necessary to make alterations or modifications in connection with any work or improvements covered by contracts in excess of the State of Ohio limit, as of 6/1/92, that are awarded by Council, whether or not bidding is required by division (b) of this section, such alterations or modifications shall be made only upon the order of the Council given by a motion adopted by a majority vote of its members; provided that if such alterations or modifications to such contracts do not authorize or require the expenditure of additional sums of money in the aggregate as to each contract, the Mayor shall authorize such alterations or modifications without further action by the Council. No order for the alteration or modification of any contract shall be effective until the price to be paid for the work or material, or both, under the altered or modified contract, shall have been agreed upon in writing and signed by the contractor

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and the Mayor on behalf of the City. Bidding or further bidding shall not be required because of any alteration or modification of any contract.

(Amended 11-3-92.)

(e) No contract, agreement or other contractual obligation involving the expenditure of money shall be entered into or authorized by the Mayor unless the City Auditor or a duly authorized representative of the Auditor shall first certify:

(1) That the money required for the contract, agreement, obligation or expenditure is in the City's treasury or in the process of collection, and

(2) That the money has been appropriated by Council for the purpose. and remains unencumbered.

The certification as to the availability of funds shall be filed and recorded in the accounting records of the City and a copy furnished the vendor or contractor. Without the certification, contractual obligations shall be void and unenforceable against the City unless authorized by an ordinance or resolution of the Council, as a moral obligation. The City Auditor shall not arbitrarily withhold the certificate required by this division.

(f) The Council or the Mayor shall not divide any order or contract to avoid the requirements of competitive bidding. Expenditures to pay the compensation and fringe benefits of officers and employees of the City shall be exempt from the provisions of this section; except the City Auditor shall not pay such compensation or fringe benefits unless the Council shall have appropriated sufficient money to cover such payments and the money required for payment is in the City's treasury or in the process of collection.

(g) Copies of all written contracts and purchase orders shall be filed with and maintained as public records by the City Auditor.

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Powell

ARTICLE IX
CONTACTS, MISCELLANEOUS

9.01 CERTAIN CONTRACTS AND EXPENDITURES PROHIBITED

No officer, department or agency shall, during any fiscal year, expend or contract to expend any funds or incur any liability, or enter into any contract which by its terms involves the expenditure of money on behalf of the City for any purpose in excess of the amounts appropriated for such expenditures or obligations. Any such obligation, oral or written, made in violation hereof shall be void. The officer or employee who knowingly attempts or purports to create such an obligation shall be removed and shall be disqualified from holding further office or employment with the City. However, nothing in this section shall prevent the making of contracts not to be fully performed within the fiscal year, when specifically authorized by the Council.

(Amended 5-7-13)

9.02 FEES

All fees received by an official, officer or employee of the City in connection with such person's employment, or under color of such person's office with the City, shall be accounted for in the manner determined by Council and paid within three (3) working days to the General Fund of the City unless otherwise provided by ordinance or resolution.

(Amended 5-7-13)

9.03 PURCHASING

The Council shall establish a purchasing procedure and assign responsibility therefore to the Director of Finance for all departments of the City. The Director of Finance shall have the duty to contract for, purchase, store and distribute all supplies, printing materials and equipment required by the City within the appropriations made by the Council.

(Amended 5-7-13)

9.04 COMPETITIVE BIDDING

The Council may by ordinance make provision for the making, advertising and awarding of contracts including establishing requirements for receipt of competitive bids, schedules for payments on contracts, security and other provisions for bids and the faithful performance of contracts. (Amended 5-7-13)

9.05 ACCOUNTING STANDARDS

The Council shall establish by ordinance accounting concepts, principles, standards and guidelines for the effective financial management of the City, taking into consideration current recommendations and practices established by the Office of the Auditor of the State of Ohio and by such other local, state or national agencies or organizations as will serve the fiscal need of the City. (Amended 5-7-13)

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**Article VIII
BUDGETING AND CONTRACTING PROCEDURES**

8.01 GENERAL.

The laws of the State of Ohio relating generally to budgets, appropriations, taxation, debts, bonds, assessments, deposit and investment of funds and other fiscal matters of the Municipality shall be applicable except as otherwise provided by this Charter or by Council.

8.02 OPERATING BUDGET.

(a) PREPARATION AND SUBMISSION.

The Manager shall prepare and submit to Council an operating budget and appropriations ordinance in accordance with the annual budget calendar as authorized by Council.

(b) PROVISIONS AND FORM.

The operating budget shall provide a complete financial plan of all Municipal funds and activities for the ensuing fiscal period, and except to the extent required by law or this Charter, shall be in a form acceptable to Council.

(c) COUNCIL ACTION.

Council shall adopt the budget on or before December 15 of every year. To implement the adopted budget, Council shall adopt, prior to the beginning of the ensuing fiscal year, an appropriations ordinance authorizing an appropriation for each program or activity by department or major organizational unit.

8.03 CAPITAL PROGRAM.

(a) PREPARATION AND SUBMISSION.

The Manager shall prepare and submit to Council a five-year capital program in accordance with the annual budget calendar as authorized by Council.

(b) COUNCIL ACTION.

Council shall adopt the capital program in accordance with the annual budget calendar as authorized by Council.

8.04 CONTRACTING PROCEDURES.

(a) AWARD AND EXECUTION OF CONTRACTS.

Consistent with Section 5.04(j) of this Charter and except as otherwise provided in this Section, the Manager shall award and execute all contracts on behalf of the Municipality.

(b) COMPETITIVE BIDDING.

Council, by ordinance, shall establish a threshold amount, notice provisions and other procedures for competitive bidding. When any contract for the construction of a public improvement or the purchase of equipment, supplies, or materials is estimated to exceed the threshold established by Council, the contract shall be competitively bid. Council shall award a contract to the lowest and best bidder, provided that Council may reject any and all bids in whole or by items. No contract shall be divided to avoid the requirements of competitive bidding.

(c) WAIVER OF COMPETITIVE BIDDING.

By an affirmative vote of no less than five members, Council may waive the competitive bidding requirement if the statutory or common law of the State of Ohio does not require competitive bidding; if Council determines that an item is available and can be acquired only from a single source; or if Council determines that a waiver of the competitive bidding requirement is in the best interest of the Municipality.

(d) PROFESSIONAL SERVICES.

Contracts for professional services shall not be subject to the competitive bidding requirements of this Section and shall not require authorization by Council if the current operating budget provides sufficient funding for the scope of services in any such contract.

(e) ALTERATIONS OR MODIFICATIONS OF CONTRACTS.

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Council shall establish procedures for alterations or modifications of contracts. Modifications or alterations of contracts shall not require competitive bidding.

(f) CERTIFICATION OF FUNDS.

No contract involving the expenditure of money shall be entered into or authorized by the Manager unless the Director of Finance or designee shall first certify that:

- (1) Funds required for the contract are in the Municipal treasury or in the process of collection; and
- (2) Funds have been appropriated by Council for the specified purpose and remain unencumbered.

The Director of Finance shall file and record the certifications of availability and appropriation of funds in the accounting records of the Municipality and shall furnish a copy to the vendor or contractor. Without the certification, a contractual obligation shall be void and unenforceable against the Municipality unless recognized by Council as a moral obligation.

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CHAPTER 107

Acquisition of Services and Materials

- 107.01 Contracts and purchases; advertising for bids.**
- 107.02 Emergencies; bidding not required.**
- 107.03 Policies of Council; circumstances justifying waiver of bidding.**
- 107.04 Equal opportunities for awarding of contracts.**
- 107.05 Rules and regulations.**
- 107.06 Conformity with state law.**
- 107.07 Expenditures; appropriation, warrant and certificate required; exceptions.**
- 107.08 Obligations and expenditures made under certificates.**
- 107.09 Per unit contracts.**
- 107.10 Attachment of certificates to orders and contracts; effect.**
- 107.11 Moneys deemed in treasury or in process of collection.**
- 107.12 Contracts and leases extending beyond fiscal year.**
- 107.13 Contracts paid from funds of Division of Water and Sanitary Sewage.**
- 107.14 Procedure in event of noncompliance.**
- 107.15 Liability to Village in event of noncompliance.**
- 107.16 Purpose.**
- 107.17 Conflict of laws.**

CROSS REFERENCES

Division of Purchase, Construction and Repair - see ADM. Ch. 109

107.01 CONTRACTS AND PURCHASES; ADVERTISING FOR BIDS.

When an expenditure within the Village, other than the compensation of a person employed therein, exceeds fifty thousand dollars (\$50,000), such expenditure shall be authorized and directed by ordinance of Council. When so authorized and directed, except where the contract is for equipment, services, materials or supplies available from a qualified nonprofit agency pursuant to Ohio R.C. 4115.31 to 4115.35, the Village Manager shall make a written contract with the lowest and the best bidder after advertising for not less than two nor more than four consecutive weeks in a newspaper of general circulation in the Village. (Ord. 11-13. Passed 10-15-13.)

107.02 EMERGENCIES; BIDDING NOT REQUIRED.

In the case of a real and present emergency arising in connection with any municipally owned utilities or any other department, division, commission, bureau or board of the Village, Council may, by a two-thirds vote of all the members elected thereto, authorize the Village Manager to enter into a contract for work to be done or for the purchase of supplies or materials without formal bidding and advertising. (Ord. 11-13. Passed 10-15-13.)

107.03 POLICIES OF COUNCIL; CIRCUMSTANCES JUSTIFYING WAIVER OF BIDDING.

In order to implement the requirements of Sections 107.01 and 107.02, Council hereby adopts the following policies:

(a) The concept of advertising for and soliciting bids for services and materials that are necessary to governmental operations is of paramount importance. Competitive bidding, by its very nature, tends to promote two occurrences which are essential to effective, efficient service to taxpayers, namely:

(1) The cost of goods and services is held to reasonable limits because of competition among the various suppliers.

(2) Persons who pay taxes and support governmental services are given an equal opportunity to do business with the government and to share in the expenditure of tax revenues. In some instances, however, competitive bidding can work to the detriment of the governmental agency, and, of course, to the detriment of the taxpayers who support that agency.

(b) From the standpoint of assisting the administration for the purpose of seeking Council action with respect to procuring services and materials, the following general guidelines shall apply:

(1) The department head seeking contracting authority shall present his or her proposal, together with any documentation and information necessary for the review of the general nature and cost of the project, to the appropriate committee or committees of Council.

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(2) Included within any proposal, the department head shall set forth a request that the services or materials be purchased either through the standard bidding procedure or that the bidding procedure be waived. If a request is made that the bidding procedure be waived, reasons shall be set forth which shall adequately demonstrate why the waiver is necessary.

(3) An emergency may be declared and bidding procedures may be waived in any of the following circumstances, provided that at least two-thirds of the members of Council conclude that such circumstances exist.

A. If, because time is of a critical consideration, the service or material must be provided before bidding can be effectively accomplished, then an emergency is considered to exist and the bidding procedures may be waived.

B. If an informal survey conducted by the department head discloses that it is unlikely that bids will be received as a result of an invitation for the reason that the service or material is necessary to the operation of the Village, and the service or material cannot be obtained through bidding procedures, the bidding procedures may be waived.

C. If it is determined that there is a single source for the services or materials sought, an emergency may be declared for the reasons that bidding will serve no useful purpose and will waste time and money, and the bidding procedure may be waived.

D. In those circumstances wherein past experience with the peculiar details of a particular project or item of equipment renders one supplier so uniquely capable of providing the desired service or material at a substantially lower price; an emergency may be declared for the reason that bidding will serve no useful purpose in that no other supplier could provide the service or material at a lower price, and the bidding procedure may be waived.

E. If, because of the highly technical or peculiar nature of the service or material to be acquired, the Village does not possess the requisite experience, training or expertise among its staff members to compile specifications sufficient to apprise bidders of the desired services or materials, and if appropriate specifications cannot be obtained elsewhere without the expenditure of funds for such services, an emergency exists and bidding may be waived.

F. If, because of the highly specialized or technical nature of personal services to be provided, the experience, training and expertise of prospective bidders become a critical feature, essential to the success of the project, and such experience, training and expertise cannot be adequately measured through the formal structure of the bidding process, an emergency exists and bidding may be waived.

G. By the provisions of the Ohio Revised Code, the Village Manager may participate in State contracts where the Department of Administrative Services, Office of State Purchasing, has entered into such contracts for the purchase of supplies, services, equipment or certain materials, where to do so would be in the best interests of the Village.

H. The Village Manager may also participate in Ohio Department of Transportation contracts where the Department has entered into such contracts for the purchase of machinery, materials and supplies, and where to do so would be in the best interest of the Village.

(4) In all cases wherein a department head seeks a waiver of bidding, he or she shall provide sufficient information so that Council may make a reasonable finding that the singular circumstance of the particular proposed project constitute an emergency which would permit reasonable minds to conclude that the circumstances of Section 107.02 exist and that formal advertising and bidding should be waived.

(Ord. 11-13. Passed 10-15-13.)

107.04 EQUAL OPPORTUNITIES FOR AWARDING OF CONTRACTS.

(a) In securing services or materials for projects which are not anticipated to exceed fifty thousand dollars (\$50,000), in cost, every effort shall be made to secure the services or materials at the lowest available price.

(b) With respect to each purchase of services or materials so made, procedures shall be established so that each supplier of such services or materials within the local community will be given an opportunity to participate in the awarding of contracts for such services and materials whenever possible. In no event shall any supplier of services or materials be shown a preference or favoritism over other suppliers who are capable of providing the same or equal services or materials at an equal or lower price. However, the requirements of this section shall not be construed to require the award of any contract to a supplier when such an award would be less favorable to the best interests of the Village than if the contract were awarded to another supplier. (Ord. 11-13. Passed 10-15-13.)

107.05 RULES AND REGULATIONS.

The Village Manager is hereby authorized and directed to prepare and maintain rules and regulations which shall describe procedures and other requirements designed to carry into effect the intent and purposes specified in this chapter. Such rules and regulations shall be kept on file in the office of the Village Manager and shall be available for inspection by the public at all reasonable times. All prospective bidders or other persons from whom informal proposals may be solicited shall be advised that such rules and regulations exist and that they may be examined in the office of the Village Manager. Copies of such rules and regulations shall be made available, upon request, for an administrative photocopying fee to be established by the Village Manager. Such rules and regulations may be amended by the Village Manager from time to time as he or she may determine to be appropriate in accordance with experience and practices with respect to the procurement of services and materials.

(Ord. 11-13. Passed 10-15-13.)

107.06 CONFORMITY WITH STATE LAW.

Notwithstanding any other requirement set forth in this chapter, formal bidding procedures may be waived or imposed in any circumstances wherein the Ohio Revised Code would permit or require the waiver or imposition of advertising for bids with respect to any project requiring services or materials.

(Ord. 11-13. Passed 10-15-13.)

107.07 EXPENDITURES; APPROPRIATION, WARRANT AND CERTIFICATE REQUIRED; EXCEPTIONS.

No officer or employee of the Village, or any other person, shall:

- (a) Make any expenditures of money unless it has been appropriated as provided in this chapter and in the Ohio Revised Code;
- (b) Make any expenditure of money except by a proper warrant drawn against an appropriate fund which shall show upon its face the appropriation pursuant to which such expenditure is made and the fund against which the warrant is drawn; or
- (c) Make any contract or give any order involving an expenditure of money unless there is attached thereto a certificate of the Village Finance Director that the amount required to meet the same or, in the case of a continuing contract to be performed in whole or in part in an ensuing fiscal year, the amount required to meet the same in the fiscal year in which the contract is made, has been lawfully appropriated for such purpose and is in the Treasury or in process of collection to the credit of an appropriate fund free from any previous encumbrance. Every such contract made without such a certificate shall be void, and no warrant shall, be issued in payment of any amount due thereon. If no certificate is furnished as required, then upon receipt by Council of a certificate of the Village Finance Director stating that there was at the time of the making of such contract or order, and at the time of the execution of such certificate, a sufficient sum appropriated for the purpose of such contract and in the Treasury or in the process of collection to the credit of an appropriate fund free from any previous encumbrance, Council may authorize the issuance of a warrant in payment of amounts due upon such contract, provided that the resolution or ordinance authorizing such warrant is passed within thirty days from the receipt of such certificate, and provided, further, that if the amount involved is less than one hundred dollars (\$100.00), the Finance Director may authorize it to be paid without such affirmation of Council if such expenditure is otherwise valid.

(Ord. 11-13. Passed 10-15-13.)

107.08 OBLIGATIONS AND EXPENDITURES MADE UNDER CERTIFICATES.

Upon certification by the Finance Director that a certain sum of money, not in excess of five thousand dollars (\$5,000), has been lawfully appropriated, authorized or directed for a certain purpose and is in the Treasury or in the process of the collection to the credit of a certain fund free from previous and then outstanding obligations or certifications, then for such purpose and from such fund, over a period not exceeding three months and not extending beyond the end of the fiscal year, expenditures may be made, orders for payment may be issued, and contracts or obligations calling for or requiring the payment of money may be made and assumed, provided that the aggregate sum of money included in and called for by such expenditures, orders, contracts and obligations shall not exceed the sum so certified. An itemized statement of obligations incurred and expenditures made under such certificate shall be rendered to the Finance Director before another such certificate may be issued, and not more than one such certificate shall be outstanding at a time.

(Ord. 11-13. Passed 10-15-13.)

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107.09 PER UNIT CONTRACTS.

In any case in which a contract is entered into upon a per unit basis, the head of the department, board or commission for whose benefit the contract is made shall make an estimate of the total amount to become due upon such contract, which estimate shall be certified in writing to the Finance Director. Such a contract may be entered into if the appropriation covers such estimate, or so much thereof as may be due during the current year. In such a case, the certificate of the Finance Director, based upon the estimate, shall be a sufficient compliance with the law requiring a certificate.

(Ord. 11-13. Passed 10-15-13.)

107.10 ATTACHMENT OF CERTIFICATES TO ORDERS AND CONTRACTS; EFFECT.

Any certificate of the Finance Director attached to a contract shall be binding upon the Village as to the facts set forth therein. Upon request of any person receiving an order or entering into a contract with the Village, the certificate of the Finance Director shall be attached to such order or contract. "Contract, " as used in this section, excludes current payrolls of regular employees and officers.

(Ord. 11-13. Passed 10-15-13.)

107.11 MONEYS DEEMED IN TREASURY OR IN PROCESS OF COLLECTION.

Taxes and other revenue in the process of collection, or the proceeds to be derived from authorized bonds, notes or certificates of indebtedness sold and in the process of delivery, shall, for the purpose of this chapter, be deemed in the Treasury or in the process of collection and in the appropriate fund. This section does not apply to the investment of sinking funds by the trustees of such funds, nor to investments made under authority of Ohio R. C. 731.56 to 731.59. (Ord. 11-13. Passed 10-15-13.)

107.12 CONTRACTS AND LEASES EXTENDING BEYOND FISCAL YEAR.

When contracts or leases run beyond the termination of the fiscal year in which they are made, the Finance Director shall make a certification for the amount required to meet the obligation of such contract or lease maturing in such fiscal year. The amount of the obligation under such contract or lease remaining unfulfilled at the end of the fiscal year, and which will become payable during the next fiscal year, shall be included in the annual appropriation measure for the next year as a fixed charge.

(Ord. 11-13. Passed 10-15-13.)

107.13 CONTRACTS PAID FROM FUNDS OF DIVISION OF WATER AND SANITARY SEWAGE.

The certificate required by Section 107.07 and Ohio R. C. 5705.41, as to money in the Treasury, shall not be required for contracts on which payments are to be made from the earnings of the publicly owned Division of Water and Sanitary Sewage, but in the case of any such contract made without such certification, no payment shall be made on account thereof, and no claim or demand thereon shall be recoverable, except out of such earnings.

(Ord. 11-13. Passed 10-15-13.)

107.14 PROCEDURE IN EVENT OF NONCOMPLIANCE.

If any officer, or employee of the Village or other person makes any contract, either verbal or written, or gives any order involving the expenditure of Municipal moneys without first following the procedure set forth in Sections 107.07 et seq. , or as may be required by the Ohio Revised Code, either now or hereafter, the following requirements shall apply:

(a) The Finance Director, upon discovering that such contract has been made or that such an order has been given, shall refuse to issue a warrant for the payment of any amount due thereon, and such contract or order shall be deemed to be null and void.

(b) The Finance Director shall then notify the officer, employee or other person who has made such contract or order that no warrant shall be issued for the payment of any amount due thereon. This notice shall be made in writing, shall contain a brief statement of the understood facts constituting the basis of the alleged violation, shall identify by section numbers the provision or provisions of local and State law which have been violated, and shall direct such officer, employee or other person to the applicable provisions of Section 107.07 which provide for the action necessary to obtain certification and authorization for the issuance of a warrant. Copies of such notification shall be sent to the department head over such officer, employee or other person, when applicable, and to the Mayor.

(c) The officer, employee or other person shall then prepare a standard application form requesting to appear before the Finance Committee of Council at its next regular meeting. Such request shall contain the following information:

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- (1) The identity and address of the person with whom or which the contract was made or the order placed;
- (2) The amount of funds which would be obligated under the contract or order;
- (3) The need for the goods or services which are the subject of the contract or order;
- (4) A brief statement of the facts or reasons which constitute the basis for the violation of Sections 107.07 et seq;
- (5) A brief statement as to whether or not the goods or services may be returned to the prospective vendor in exchange for a release from any further responsibility; and
- (6) Any other matter which the officer, employee or other person believes to be germane to the circumstances of the contract or order.

(d) A copy of the request of the officer, employee or other person to appear before the Finance Committee, as set forth above, shall be sent to the Finance Director who shall advise the Committee of the status of any fund out of which an expenditure for such a contract or order would and could be made, including the then current appropriated balance in such fund, as well as the appropriated balance at the time such contract or order was made.

(e) The Committee shall then make a recommendation to Council of what action should be taken with respect to such contract or order. Where appropriate, such a recommendation shall be in the form of a proposed resolution.

(f) The Finance Director shall prepare a written certification of the required availability of funds, both as of the time that the contract or order was made and as of the time of the certification, which shall be forwarded to Council to be considered in conjunction with the recommendation of the Committee.

(Ord. 11-13. Passed 10-15-13.)

107.15 LIABILITY TO VILLAGE IN EVENT OF NONCOMPLIANCE.

Any officer, employee or other person who issues an order contrary to Ohio R. C. 5705.41 or Sections 107.07 et seq. of this chapter, or who expends or authorizes the expenditure of any public funds, or who authorizes or executes any contract contrary to Ohio R. C. 5705.01 through 5705.47, or contrary to Sections 107.07 et seq. of this chapter, unless payments thereon are subsequently ordered as provided in Ohio R. C. 5705.41 and as also provided for in Sections 107.07 et seq. of this chapter, or expends or authorizes the expenditure of any public funds on any such void contract, obligation or order, unless subsequently approved as provided in Ohio R. C. 5705.41 or in Sections 107.07 et seq. of this chapter, or issues a certificate under the provisions thereof which contains any false statement, shall be liable to the Village for the full amount paid from the funds of the Village on any such order, contract or obligation. Such officer, employee or other person shall be jointly and severally liable in person and upon any official bond that he or she has given to the Village, to the extent of any payment of such void claim. The Village Director of Law shall enforce this liability by civil action brought in any court of appropriate jurisdiction in the name of and on behalf of the Village. If the Law Director fails, upon the written request of any taxpayer to institute an action for the enforcement of the liability, the taxpayer may institute suit in his or her own name on behalf of the Village. (Ord. 11-13. Passed 10-15-13.)

107.16 PURPOSE.

The purpose of Sections 107.07 et seq. is to amplify the requirements of Ohio R. C. 5705.41, 5705.44 and 5705.45.

(Ord. 11-13. Passed 10-15-13.)

107.17 CONFLICT OF LAWS.

(a) If Sections 107.01 through 107.06, or any part thereof, is determined to be inconsistent with or contrary to any State or Federal law or regulation, then such sections or part thereof that is inconsistent or in conflict with such State or Federal law or regulation shall be construed in such a manner as to provide the most advantage to the Village with respect to the expenditure of public funds as is permissible under such law or regulation.

(b) In the event of a conflict between any of the provisions of Sections 107.07 through 107.16 and a provision of Ohio R. C. 5705.41 , 5705.44 and/or 5705.45, either now or hereafter, the provision of State law shall prevail.

(Ord. 11-13. Passed 10-15-13.)

Obetz

ARTICLE VIII: FINANCE, TAXATION AND DEBT

8.01 GENERAL.

The laws of Ohio relating to budgets, appropriations, taxation, debts, bonds, assessments and other fiscal matters of Obetz shall be applicable to Obetz, except as modified by or necessarily inconsistent with the provisions of this Charter, or when provision therefor is made in the Constitution of Ohio, regardless of whether the provision is specific or by way of general language or pursuant to court decision interpreting the Charter or the Constitution of Ohio.

8.02 CONTRACTING POWERS AND PROCEDURES.

(A) AWARD AND EXECUTION OF CONTRACTS. Except as otherwise provided in this Section, the Mayor, or if so designated by the Mayor the City Manager, shall award and execute all contracts on behalf of the City.

(B) COMPETITIVE BIDDING. Council, by ordinance, shall establish a threshold amount, notice provisions and other procedures for competitive bidding. When any contract for the construction of a public improvement or the purchase of equipment, supplies, or materials is estimated to exceed the threshold established by Council, the contract shall be competitively bid unless exempted under 8.02(C). Council shall award a contract to the lowest and best bidder, provided that Council may reject any and all bids in whole or by items. No contract shall be divided to avoid the requirements of competitive bidding.

(C) WAIVER OF COMPETITIVE BIDDING. By a vote of no less than five members, Council may waive the competitive bidding requirement; if Council determines that an item is available and can be acquired only from a single source; or if Council determines that a waiver of the competitive bidding requirement is in the best interest of the City.

(D) PROJECT DELIVERY. The Mayor shall select the project delivery method that in the Mayor's sole discretion is in the best interest of Obetz and may include-without limitation-design build, single prime contracts, or any other method of project delivery.

(E) NO INTEREST OR ESCROW. Notwithstanding any provision of general law, contractors and vendors shall not be entitled to receive interest on funds temporarily retained on a contract pending final acceptance of work performed or goods supplied, nor shall the City be required to maintain a separate escrow account from which to pay any contractor or vendor.

(F) PROFESSIONAL SERVICES. Contracts for professional services shall not be subject to the competitive bidding requirements of this Section and shall not require authorization by Council if the current operating budget provides sufficient funding for the scope of services in any such contract.

(G) ALTERATIONS OR MODIFICATIONS OF CONTRACTS. Council shall establish procedures for alterations or modifications of contracts. Modifications or alterations of contracts shall not require competitive bidding.

(H) CERTIFICATION OF FUNDS. No contract involving the expenditure of money shall be entered into or authorized by the City Manager unless the Director of Finance or designee shall first certify that:

- (1) funds required for the contract are in the City's treasury or in the process of collection; and
- (2) funds have been appropriated by Council and remain unencumbered.

(I) The Director of Finance shall file and record the certification of availability and appropriation of funds in the accounting records of the City and shall furnish a copy to the vendor or contractor. Without the certification, a contractual obligation shall be void and unenforceable against the City unless recognized by Council as a moral obligation.

8.03 TAXING AUTHORITY AND BOND ISSUING AUTHORITY.

Obetz shall have all power as a taxing authority and as a bond issuing authority that may now or hereafter lawfully be possessed or exercised by Obetz under the Constitution and laws of Ohio. The Council may levy in any year, in addition to the amount to which Obetz shall be entitled under the constitutional and statutory limitations and in addition to the amount necessary to be levied for the payment of principal of and interest on indebtedness heretofore or hereafter approved by a vote of the electorate, taxes at rates aggregating not more than five mills for each dollar of valuation on all taxable property in Obetz, which taxes shall be outside of the limitation now or hereafter provided by the Constitution and laws of Ohio, and may be levied

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for the current expenses of Obetz or for the payment of principal and interest on indebtedness of Obetz now or hereafter outstanding and issued without a vote of the electorate. The procedure for levying of all taxes upon real and personal property shall be in conformity to the general laws.

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CHAPTER 157

Contracting and Competitive Bidding

157.01 Home Rule authority.

157.02 Definitions.

157.03 Competitive bidding and notice requirements.

157.04 Exceptions and alternatives to competitive bidding.

157.05 Execution and modification of contracts.

157.06 Authority of Village Administrator.

157.07 Reserved for future legislation.

157.08 Disposal and sale of surplus property.

157.09 Miscellaneous bidding procedures.

157.01 HOME RULE AUTHORITY.

As a home rule charter Village, Obetz shall not be obligated to follow Ohio statutory procedures regarding contracting including, but not limited to, O.R.C. §§7.12, 9.31, 9.311, 9.312, 9.313, 9.315, 9.32, 9.33 through 9.335, 153.12-.14, 153.50-.52, 153.54, 153.56, 153.57, 153.571, 153.63, 153.67-.71, 153.80, 735.05-.09, 735.074, and other applicable sections within the O.R.C. and its Chapter 153 and Title 7.

(Ord. 08-13. Passed 1-28-13.)

157.02 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply, unless the context clearly indicates or requires a different meaning:

(a) **BEST VALUE.** The bid award standard used by the Village to select the contractor that provides the Village with the best combination of price and qualifications.

(b) **CONTRACTING.** The process of entering into a deliberate verbal or written agreement between the Village and competent parties in accordance with the Ohio Ethics Law for the purchase of goods and/or services.

(c) **COMPETITIVE BIDDING.** A contracting method by which the Village develops bid specifications, performance criteria, and/or documents, publishes notices and/or advertisements soliciting bids by a stated deadline, accepts or rejects bids, and awards a contract to the bidder providing the best value in the sole discretion of the Village.

(d) **COMPETITIVE BARGAINING.** A contracting method by which the Village solicits proposals and/or quotes, negotiates the terms, conditions, and other relevant factors, and enters into a contract advantageous and beneficial to the Village.

(e) **COOPERATIVE PURCHASING PROGRAMS.** A contracting method by which the combined and collective efforts of governmental entities share the advantages and benefits of volume purchasing programs and reduced administrative expenses including, without limitation, the local government purchasing programs sometimes referred to as SWOP4 G, COOPP, a separate program through the Office of State Purchasing (part of the Ohio Department of Administrative Services) pursuant to O.R.C. §150.04, and the program arranged by the Ohio Department of Transportation pursuant to O.R.C. §5513.01; or any other similar program whether operated by a public or private entity.

(f) **LOWEST AND BEST.** The bid award standard used by the Village to select the contractor that provides the Village with the best combination of price and qualifications weighted as determined by the Administrator for each particular bid.

(g) **PROFESSIONAL SERVICES.** Services that usually require education, training or expertise to an advanced, specialized or significant degree, including, without limitation, such services as those performed by attorneys, architects, engineers, accountants, physicians, insurance brokers/agents, and/or third party administrators.

(h) **PRODUCT.** Any material, equipment, supplies, commodities or any similar items purchased by the Village in order to fulfill the operating and/or capital responsibilities of the Village.

(i) **RECYCLED MATERIAL.** Material the components of which, in whole or in part, would otherwise have been destined for permanent disposal.

(Ord. 08-13. Passed 1-28-13.)

157.03 COMPETITIVE BIDDING AND NOTICE REQUIREMENTS.

Pursuant to Revised Charter Section 8.02(b) and Ordinance 52-11, a threshold amount of \$150,000 is established for competitive bidding.

(a) Current Competitive Bidding Threshold or More. For the award of contracts reasonably anticipated by the Village to involve expenditures equal to or greater than the current competitive bidding threshold, competitive bidding and legislative authorization shall be required, unless an exception or alternative is otherwise provided by Council.

(1) In estimating the anticipated expenditure to determine whether the competitive bidding threshold will be exceeded, the labor portion of the expenditure may be calculated without the use of prevailing wage rates.

(b) Less than the Current Competitive Bidding Threshold. The Mayor or Village Administrator, if so designated, may, without competitive bidding or further legislative authorization, enter into contracts for expenditures of less than the current competitive bidding threshold for which Village funds have been generally appropriated, provided that price quotes are obtained and documented as required by administrative order based upon the amount of the estimated expenditure.

(c) Notice. All bid advertisements or other solicitations for Competitive Bidding shall be placed at least once in any of the following: a newspaper of general circulation within the Village; or, on the Village's website.

(Ord. 08-13. Passed 1-28-13.)

157.04 EXCEPTIONS AND ALTERNATIVES TO COMPETITIVE BIDDING.

Pursuant to Revised Charter Section **8.02(c)**, the following exceptions and alternatives to the requirement for competitive bidding set forth in this chapter are deemed to be in the best interest of the Village.

(a) No or Rejected Bids. If no bids are received after the advertisements or other solicitations required by this chapter, or if all bids are rejected, the Village Administrator shall have the authority to either seek new, competitive bids, or to obtain the goods and/or services for which funds have been appropriated through competitive bargaining without further legislative authorization, whichever is deemed to be in the best interest of the Village.

(b) Used Equipment or Utilities. Regarding contracts for the purchase of used equipment or utilities such as gas, water, electricity, or telephone service for which funds have been appropriated, the Village Administrator shall have the authority to enter into contracts through competitive bargaining without further legislative authorization.

(c) Professional Services. Contracts for professional services are not subject to competitive bidding requirements and shall not require further legislative authorization where there are adequate unencumbered appropriations for that purpose.

(d) Cooperative Purchasing Programs. As an alternative to both competitive bidding and competitive bargaining, the Village Administrator shall have the authority to obtain goods and/or services for which funds have been appropriated through cooperative purchasing programs without further legislative authorization. As part of any cooperative purchasing program, the Village Administrator may agree that the Village will be bound by contract terms and conditions prescribed by that program, including, without limitation, payment of a reasonable fee by the Village to cover the administrative costs incurred by the program officials as a result of purchases by the Village or as a prerequisite to maintaining a membership in the program. The Village Administrator may also agree that the Village will pay the vendor directly for item or services received by the Village. The Village Administrator may also purchase goods and services upon equivalent or better terms; and, equal or better pricing than a Cooperative Purchasing Program without legislative action, competitive bidding, or competitive bargaining.

(e) Reverse Auction. Whenever the Village Administrator determines that the use of the reverse auction is advantageous to the Village, the Village Administrator or his designee may purchase goods or services by reverse auction.

(1) The Village, in establishing a reverse auction process, will:

- A. Determine the specifications and requirements of the goods or services to be acquired;
- B. Identify and provide notice to potential sellers concerning the proposed acquisition;
- C. Establish prequalification requirements to be met by a seller to be eligible to participate in the reverse auction.

(2) Before conducting a reverse auction, the Village Administrator shall establish a threshold amount which shall be the maximum amount that the Village is willing to pay for the goods or services to be

acquired.

(3) The Village shall enter into a contract with a seller which meets the specifications or description of the goods or services to be procured and whose proposal the Village determines to be the Best Value.

(f) Intergovernmental Purchases. Proposed purchases from or with another political subdivision, the Ohio State Government, or the United States Government are not subject to competitive bidding requirements and shall not require further legislative authorization where there are adequate unencumbered appropriations for that purpose.

(g) Design-Build. Proposed purchases of a Design-Build Construction project let under the procedures established by Council are not subject to competitive bidding requirements and shall not require further legislative authorization where there are adequate unencumbered appropriations for that purpose.

(h) Construction-Administrator-At-Risk. Proposed purchases of a Construction-Administrator-At-Risk project let under the procedures established by Council are not subject to competitive bidding requirements and shall not require further legislative authorization where there are adequate unencumbered appropriations for that purpose.

(i) Purchases that do not exceed the bidding threshold set by Council are not subject to competitive bidding requirements and shall not require further legislative authorization where there are adequate unencumbered appropriations for that purpose.

(j) Real Estate. The Council may, by ordinance, provide for the purchase, sale or lease of real property, with or without public bidding, on such terms and for such value as Council, in the exercise of its discretion, may deem reasonable and in the best interest of the Village.

(Ord. 08-13. Passed 1-28-13.)

157.05 EXECUTION AND MODIFICATION OF CONTRACTS.

Execution and modifications of competitively bid contracts shall not require competitive bidding; however, such modifications shall be made in good faith and not made to avoid either the prevailing wage requirements or to avoid the competitive bidding threshold set by Council.

(a) No contract shall be enforceable against the Village unless it has been duly authorized, as provided for herein, and executed in the name of the Village by the Village Mayor or Administrator or designee, and bears the signature of the Fiscal Officer of the Village, as required by Section 5705.41 of the Ohio Revised Code, certifying the availability and appropriation of funds.

(b) Approval Procedure. An alteration or modification to a competitively bid contract shall be approved only upon the order of the Village Administrator or designee. No order shall be effective until the sum to be paid under the altered or modified contract is agreed to in writing and signed by the contractor, the Village Administrator or designee, and the Finance Director or designee certifying the availability and appropriation of funds.

(Ord. 08-13. Passed 1-28-13.)

157.06 AUTHORITY OF VILLAGE ADMINISTRATOR.

To implement Council policy and procedures as established within this chapter, the Village Administrator or designee shall have the authority to promulgate and amend written administrative rules, regulations, and procedures not inconsistent with this chapter or the Charter.

(Ord. 08-13. Passed 1-28-13.)

157.07 RESERVED FOR FUTURE LEGISLATION.

157.08 DISPOSAL AND SALE OF SURPLUS PROPERTY.

The Village Administrator is authorized and directed to provide for the sale, disposal, or trade-in of surplus equipment and supplies, including motor vehicles, in the following manner:

(a) At such times as equipment, including motor vehicles, and supplies of the Village serve no useful municipal purpose, the Village Administrator shall provide for the sale, disposal, or trade-in of such equipment or supplies as provided in this Section.

(b) Sale, disposal, or trade-in of surplus equipment, as determined under subsection (A) hereof, shall be sold, disposed, or traded in by the Village Administrator by one or more of the following methods:

(1) Surplus property with an estimated value of twenty thousand dollars (\$20,000) or more shall be sold, disposed, or traded in using either of the following methods:

A. By the acceptance of sealed bids, after advertising at least once in either a newspaper of general circulation or on the municipal website at least 14 days prior to the bid opening;

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B. By public auction, after advertisement at least once in either a newspaper of general circulation or on the municipal website at least 14 days prior to the auction;

C. By internet auction.

(2) Surplus property having an estimated value less than twenty thousand dollars (\$20,000) shall be sold, traded in or disposed of by the Village Administrator at the highest attainable price as determined by the Village Administrator but without the necessity of sealed bid or public auction. Property not purchased and having no marketable value may be donated or destroyed or otherwise disposed of upon approval by the Village Administrator.

(3) The proceeds for the sale of surplus property shall be deposited in the Village Treasury to the credit of the General Fund.

(4) The Village Administrator shall keep full and accurate records of the sale or trade-in value of such property including:

- A. Estimated Value
- B. Method of Disposal
- C. Proceeds Received (if any)

(5) The Village Administrator shall estimate the value of each piece of equipment or supplies to be sold or traded in under the provisions of this section. The sale, disposal, or trade-in of the individual equipment or supplies having an estimated value in excess of twenty thousand dollars (\$20,000) each shall be authorized by Council before the sale or trade-in as provided in subsection (B)(1) hereof and authorization shall be made by motion entered upon the minutes of Council.

(Ord. 08-13. Passed 1-28-13.)

157.09 MISCELLANEOUS BIDDING PROCEDURES.

The following procedures shall apply to contracts that require competitive bidding.

(a) Procedures Related to Bidding.

(1) Time between Notice and Bid Opening. There shall be no minimum time requirement between the publishing of the notice and the opening of the bids. The Village shall notify prospective bidders of the bid opening date and time in the Notice and shall adjust the same to meet the needs of the Village by issuing Addenda when necessary.

(2) Addenda Do Not Extend Bid Opening. The Village may issue such addenda to the bid documents as it feels necessary and such addenda may be issued up to and including the last business day before the bid opening without any extension of the bid opening date. Addenda issued the same day as the bid opening shall cause the bid opening date to be extended to the date and time set forth in such addenda.

(3) Estimate of Cost. The Village shall disclose the estimated cost of the project or purchase when it determines that doing so is in its best interest.

(4) Time for Award of Contracts. In the Notice required for the bid solicitation, the Village shall establish the time limit for awarding a contract. Submitted bids may not be withdrawn during this period. The Village's failure to award and execute the contract within this period invalidates the entire bid proceedings and all bids submitted, unless the time for awarding and executing the contract is extended by mutual consent of the Village and the bidder whose bid the Village accepts and with respect to whom the Village subsequently awards and executes a contract. Such an agreed extension shall not entitle the contractor to delay costs.

(5) Withdrawal of Bids. Bidders may withdraw bids pursuant to Section 9.31 of the Ohio Revised Code such a withdrawal shall not modify the Village's right to award to the next lowest and best bidder.

(6) Bids in Excess of Estimate. The Village may award contracts regardless of the value of the bid as compared to the estimated cost.

(7) Notice to Proceed. The contractor is not entitled to a Notice to Proceed with the work by the Village upon execution of the contract and no contractor shall begin work in the absence of a Notice to Proceed. The Village shall either issue the Notice to Proceed at a time that it determines is in its best interest or it shall terminate the contract for its convenience.

(8) Retainage. Retainage shall be withheld from payments to the contractor at the rate set forth in the Village/Contractor agreement. Retainage shall not be held in an escrow account. Retainage shall be released at such times and in such amounts as the Village determines to be equitable.

(9) General Contractor Permitted. The Village may advertise and award a single contract for constructing and managing an entire public improvement project.

(10) Extension of Bid Opening. The Village may issue an addendum or addenda modifying the plans and specifications for the project or the time for the bid opening at any time prior to the bid opening.

(11) Combined Statement of Material and Labor. The Village at its discretion may accept a combined statement of labor and materials from bidders.

(12) Bonus and Liquidated Damages for Time. The Village may offer a bonus for completion of a contract prior to a specified date, or may exact liquidated damages for each day of delay beyond a specified date, or both. The amounts of the bonus and liquidated damages may be different.

(13) No Arbitration. The Village shall not enter into a contract that requires arbitration as a dispute resolution procedure unless the choice to arbitrate solely belongs to the Village.

(14) Return of Bid Guarantees. The Village shall return bid guaranties to bidders to which it does not award a contract in a reasonably timely manner.

(15) Indemnification. Any clause in any contract with the Village that requires the Village to indemnify another party shall be void and unenforceable against the Village.

(Ord. 08-13. Passed 1-28-13.)

Canal Winchester

**ARTICLE VIII
FINANCE, TAXATION AND DEBT**

8.01 General.

The laws of Ohio relating to budgets, appropriations, taxation, debts, bonds, assessments and other fiscal matters of Canal Winchester shall be applicable to Canal Winchester, except as modified by or necessarily inconsistent with the provisions of this Charter, or when provision therefore is made in the Constitution of Ohio, regardless of whether the provision is specific or by way of general language or pursuant to court decision interpreting the Charter or the Constitution of Ohio.

8.02 Contracting Powers and Procedures.

(A) Except as otherwise provided in this Section, the Mayor, or his designee, shall award and execute all contracts on behalf of Canal Winchester.

(B) Council, by ordinance, shall establish a threshold amount, notice provisions and other procedures for competitive bidding. When any contract for the construction of a public improvement or the purchase of equipment, supplies, non-professional services or materials is estimated to exceed the threshold established by Council, the contract shall be competitively bid unless exempted under 8.02(C). Council shall award a contract to the lowest and best bidder, provided that Council may reject any and all bids in whole or by items. No contract shall be divided to avoid the requirements of competitive bidding.

(C) By a vote of no less than five members, Council may waive the competitive bidding requirement if Council determines that an item is available and can be acquired only from a single source or if Council determines that a waiver of the competitive bidding requirement is in the best interest of the City.

(D) The Mayor shall select the project delivery method that in the Mayor's sole discretion is in the best interest of Canal Winchester and may include without limitation design-build, single-prime contracts, or any other method of project delivery.

(E) Notwithstanding any provision of general law, contractors and vendors shall not be entitled to receive interest on funds temporarily retained on a contract pending final acceptance of work performed or goods supplied, nor shall Canal Winchester be required to maintain a separate escrow account from which to pay any contractor or vendor.

(F) Contracts for professional services, including design and engineering contracts, shall not be subject to the competitive bidding requirements of this Section and shall not require authorization by Council if the current operating budget provides sufficient funding for the scope of services in any such contract.

(G) Council shall establish procedures for alterations or modifications of contracts. Modifications or alterations of contracts shall not require competitive bidding.

(H) No contract involving the expenditure of money shall be entered into or authorized by the Mayor unless the Director of Finance or designee shall first certify that:

- (1) Funds required for the contract are in the Village's treasury or in the process of collection; and
- (2) Funds have been appropriated by Council and remain unencumbered.

(I) The Director of Finance shall file and record the certification of availability and appropriation of funds in the accounting records of the Village and shall furnish a copy to the vendor or contractor. Without the certification, a contractual obligation shall be void and unenforceable against the Village unless recognized by Council as a moral obligation.

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161.01 HOME RULE AUTHORITY.

As a home rule charter city, Canal Winchester shall not be obligated to follow Ohio statutory procedures regarding contracting including, but not limited to, Ohio R.C. §§ 9.312, 9.313, 9.32, 9.33 through 9.332, 153.12-.14, 153.50-.52, 153.54, 153.56, 153.57, 153.571, 153.67-.71, and 735.05-.09 and other applicable sections within Ohio R.C. Chapter 153.

(Ord. 40-11. Passed 6-20-11.)

161.02 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply, unless the context clearly indicates or requires a different meaning:

(a) **CONTRACTING.** The process of entering into a deliberate verbal or written agreement between the Village and competent parties in accordance with Ohio Ethics Law for the purchase of goods and/or services.

(b) **COMPETITIVE BIDDING.** A contracting method by which the City develops bid specifications and/or documents, publishes notices and/or advertisements soliciting bids by a stated deadline, accepts or rejects bids, and awards a contract to the lowest and best bidder.

(c) **COMPETITIVE BARGAINING.** A contracting method by which the City solicits proposals and/or quotes, negotiates the terms, conditions, and other relevant factors, and enters into a contract advantageous and beneficial to the City.

(d) **COOPERATIVE PURCHASING.** A contracting method by which the combined and collective efforts of governmental entities share the advantages and benefits of volume purchasing programs and reduced administrative expenses including, without limitation, the local government purchasing programs sometimes referred to as SWOP4 G, COOPP, a separate program through the Office of State Purchasing (part of the Ohio Department of Administrative Services) pursuant to Ohio R.C. § 125.04, and the program arranged by the Ohio Department of Transportation pursuant to Ohio R.C. § 5513.01.

(e) **PROFESSIONAL SERVICES.** Services that usually require education, training or expertise to an advanced, specialized or significant degree, including, without limitation, such services as those performed by attorneys, architects, engineers, accountants, physicians, insurance brokers/agents, and/or third party administrators.

(f) **PRODUCT.** Any material, equipment, supplies, commodities or any similar items purchased by the City in order to fulfill the operating and/or capital responsibilities for the City.

(g) **RECYCLED MATERIAL.** Material the components of which, in whole or in part, would otherwise have been destined for permanent disposal.

(Ord. 40-11. Passed 6-20-11.)

161.03 COMPETITIVE BIDDING AND NOTICE REQUIREMENTS.

Pursuant to Charter Section 8.02, a threshold amount of \$75,000.00 is established for competitive bidding.

(a) Current Competitive Bidding Threshold or More. As a factor in determining the lowest and best bid, and for the award of contracts reasonably anticipated by the City to involve expenditures equal to or greater than the current competitive bidding threshold, competitive bidding and legislative authorization shall be required, unless an exception or alternative is otherwise provided by Council.

(b) less than the Current Competitive Bidding Threshold. The Mayor may, without competitive bidding or further legislative authorization, enter into contracts for expenditures of less than the current competitive bidding threshold for which City funds have been appropriated, provided that price quotes are obtained and documented as required by administrative order based upon the amount of the estimated expenditure.

(c) Notice. All bid advertisements or other solicitations for bids shall be placed, on a timely basis, with a reasonable period allowed for response, at least once in a newspaper of general circulation within the City.

(Ord. 40-11. Passed 6-20-11.)

161.04 EXCEPTIONS AND ALTERNATIVES TO COMPETITIVE BIDDING.

Pursuant to Charter Section 8.02, the exceptions and alternatives to the requirement for competitive bidding set forth in this chapter are deemed to be in the best interest of the City.

(a) No or Rejected Bids. If no bids are received after the advertisements or other solicitations required by this chapter, or if all bids are rejected, the Mayor shall have the authority to either seek new competitive bids, or to obtain the goods and/or services for which funds have been appropriated through competitive bargaining without further legislative authorization, whichever is deemed to be in the best interest of the City.

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(b) Used Equipment or Utilities. Regarding contracts for the purchase of used equipment or utilities such as gas, water, electricity or telephone service for which funds have been appropriated, the Mayor shall have the authority to enter into contracts through competitive bargaining without further legislative authorization.

(c) Professional Services. Pursuant to Charter Section 8.02(F), contracts for professional services are not subject to competitive bidding requirements and shall not require further legislative authorization where the operating budget provides sufficient funding.

(d) Cooperative Purchasing Programs. As an alternative to both competitive bidding and competitive bargaining, the Mayor shall have the authority to obtain goods and/or services for which funds have been appropriated through cooperative purchasing programs without further legislative authorization. As part of any cooperative purchasing program, the Mayor may agree that the City will be bound by contract terms and conditions prescribed by that program, including, without limitation, payment of a reasonable fee by the City to cover the administrative costs incurred by the program officials as a result of purchases by the City. The Mayor may also agree that the City will pay the vendor directly for items received by the City.

(e) General. Pursuant to 8.02(C) of the Amended Charter, Council, by a vote no less than five (5) members may waive the competitive bidding requirement with respect to a particular contract. (Ord. 40-11. Passed 6-20-11.)

161.05 ALTERATION AND MODIFICATION CONTRACTS.

Pursuant to Charter Section 8.02, modifications or alterations to competitively bid contracts shall not require competitive bidding.

(a) Limited to Appropriations. No contract alteration or modification to a competitively bid contract shall be approved as set forth below, when the amount of the alteration or modification causes the contract sum for the project or purchase to exceed the amount appropriated by Council.

(b) Approval Procedure. An alteration or modification to a competitively bid contract shall be approved only upon the order of the Mayor or designee. No order shall be effective until the sum to be paid under the altered or modified contract is agreed to in writing and signed by the contractor, the Mayor or designee, and the Finance Director or designee.

(Ord. 40-11. Passed 6-20-11.)

161.06 FUNDS RETAINED.

Pursuant to Charter Section 8.02, funds shall be retained on contracts pending final performance of work performed.

(a) Partial payments to the contractor for work performed under either a unit or lump sum price contract shall be made at the rate of ninety per cent of the estimates prepared by the contractor and approved by the architect or engineer. This amount shall be retained by Canal Winchester until final acceptance of the work. All work performed after the job is fifty per cent completed shall be paid for at the rate of one hundred per cent of the estimates submitted by the contractor and approved by the architect or engineer.

(b) Notwithstanding any provision of general law, contractors and vendors shall not be entitled to receive interest on funds temporarily retained on a contract pending final acceptance of work performed or goods supplied, nor shall Canal Winchester be required to maintain a separate escrow account from which to pay any contractor or vendor

(Ord. 40-11. Passed 6-20-11.)

161.07 AUTHORITY OF THE MAYOR.

To implement Council policy and procedures as established within this Chapter, the Mayor or designee shall have the authority to promulgate and amend written administrative rules, regulations, and procedures not inconsistent with this Chapter or the Charter.

(Ord. 40-11. Passed 6-20-11.)

161.08 DISPOSAL AND SALE OF SURPLUS PROPERTY.

(a) Surplus property owned by the City that is determined by the Finance Director, with the approval of the Mayor or designee, to no longer be needed for municipal purposes may be declared surplus and disposed of by any of the following methods:

(1) By sale by sealed bid to the highest and best bidder, following notice at least one time in a newspaper of general circulation in the City and posting on the City website at least ten (10) business days prior to the opening of bids.

(2) By live public auction.

(3) By internet auction. Notice of internet auction will be posted on the City website at least ten (10) business days prior to commencement of bidding.

(4) By sale to another government jurisdiction without the requirement of competitive bidding.

(5) By trade-in for credit at the time of the purchase of replacement property, provided that trade-in value is established separately from the purchase price of the replacement property, and can be verified to represent fair market value for the traded property.

(6) By sale for scrap value, or discarding, if the property can be shown to have minimal or no residual market value in its current form.

(7) By destruction upon the determination by the Mayor or designee that the surplus property must be destroyed for public safety reasons.

(8) By donation to an appropriate charitable organization with the approval of the Mayor or designee.

(b) Disposal of all municipally-owned property that has been declared surplus and to no longer be needed for municipal purposes that has an estimated value of greater than \$5,000.00, or is a motor vehicle, may be disposed of by any of the above methods with the prior approval of City Council.

(c) The Finance Director will estimate the value of the property deemed by the user division to be surplus for purposes of determining the method to be used for the disposal of property. All property determined to be surplus and disposed of shall be fully documented and recorded for purposes of maintaining an accurate inventory of City-owned property.

(Ord. 40-11. Passed 6-20-11.)

Article IX
FINANCE, TAXATION AND DEBT

9.01 General.

The laws of Ohio relating to budgets, appropriations, taxation, debts, assessments and other fiscal matters of the Municipality shall be applicable to the Municipality, except as modified by or necessarily inconsistent with the provisions of this Charter, or when provisions therefor is made in the Constitution of Ohio.

9.02 Contracting Powers and Procedures.

(A) Except as otherwise provided in this Charter, the Administrator shall be the contracting officer of the Municipality and shall award and execute all contracts on behalf of the Municipality.

(B) When any expenditure or contract is more than the amount specified by the laws of Ohio for which work may be accomplished only after advertisement and bidding, such contract or expenditure shall first be authorized or directed by an ordinance or resolution passed by the Council and shall be advertised once a week for at least two weeks in a newspaper of general circulation in the Municipality or posted on the Municipality's web site for fourteen (14) consecutive days, provided the Council, by an ordinance or resolution adopted by a majority vote of its members, may authorize, without advertising/posting and competitive bidding, contracts and expenditures for any purpose where the statutory or common law of Ohio does not require competitive bidding.

(C) When it becomes necessary to make alterations or modifications in connection with any work or improvements covered by contract, they shall be made only upon the order of the Administrator. No such order shall be effective until the price to be paid for the work or material, or both, under the altered or modified contract, shall have been agreed upon in writing and signed by the contractor and the Administrator on behalf of the Municipality. Modifications or alterations in contracts shall not require advertising and competitive bidding.

(D) No contract, agreement or other contractual obligation involving the expenditure of money shall be entered into or authorized by the Administrator unless the Director of Finance or his or her duly authorized representative shall first certify:

(1) That the money required for such contract, agreement, obligation or expenditure is in the Municipality's treasury or in the process of collection thereto, and

(2) That the money has been appropriated by Council for the specified purposes, and it remains unencumbered.

Said certification as to the availability of funds and the appropriation of funds shall be filed and recorded in the accounting records of the Municipality and a copy furnished the vendor or contractor. Without the certification, contractual obligations shall be void and unenforceable against the Municipality unless subsequently approved by the Council or recognized by Council as a moral obligation.

(E) The Administrator shall not divide any order or contract to avoid the requirements of competitive bidding. (Amended 11-2-10)

SECTION 8.04 PURCHASING AND CONTRACTING PROCEDURES.

(a) The Mayor shall award contracts and authorize expenditures without competitive bidding if said contract or expenditure does not exceed the limit set by the State of Ohio Council, by ordinance as of 6/1/92 to require competitive bidding.

~~—(b) When a proposed contract or expenditure exceeds the State of Ohio limit, as of 6/1/92, for competitive bidding, then the Council shall, by motion, authorize the director of the appropriate department or other appropriate officer or employee of the City to cause plans and specifications to be prepared and advertise for bids once a week for two consecutive weeks in at least one newspaper of general circulation within the City, and the Council shall appropriate funds for that purpose unless they have been previously appropriated and remain unencumbered. Upon such authorization, the appropriate official or employee shall cause such plans and specifications to be prepared and such advertising to be made. The Mayor and the City Auditor, or their designated representatives, shall receive and publicly announce sealed bids in the manner and at the time specified in the specifications. Sealed bids shall be submitted in the manner required by the specifications. The Mayor shall recommend to the Council, at its next regular meeting or a special meeting called for the purpose, the bid or bids he or she believes to be the lowest and best bid. At such meeting or its next regular meeting, the Council shall determine which bid or bids are the lowest and best and shall be an ordinance or resolution, which shall be read only once and which shall not be subject to the requirement for three readings under Section 4.04(a) of this Charter, direct the Mayor to enter into a written contract with the person or persons who submitted the bid or bids determined by the Council to be the lowest and best. Such ordinance or resolution shall appropriate funds for the purpose of the contract unless they have been previously appropriated and remain unencumbered. The Mayor shall execute a written contract on behalf of the City after such ordinance or resolution becomes effective and upon receipt of a certification from the City Auditor that funds for the contract are available, as provided in division (e) of this section. The City Attorney shall approve the contract as to its form. The Council may reject any and all bids by motion, and may direct that the proposed contract or expenditure be re-advertised and that new bids be invited and received.~~

~~(Amended 11-3-92.)~~

(b) The purchase of supplies, materials, equipment and construction of public improvements for the City shall be made pursuant to specifications through open, competitive bidding, under such rules consistent with this Charter as the Council may establish by ordinance. Formal advertising, bidding, and public opening and tabulation of bids shall be required if the statutory or common law of the State requires it. The acquisition of professional services may be, but are not required to be obtained by competitive bidding. The Council, by ordinance or resolutions adopted by a vote of at least two-thirds of its members, may authorize, without competitive bidding, contracts and expenditures for any other purpose where the statutory or common law of Ohio does not require competitive bidding.

~~—(c) The Council, by ordinance or resolution adopted by a vote of at least two-thirds of its members, may authorize, without competitive bidding, contracts and alterations or~~

~~modifications thereof for the expenditure of money for the acquisition or lease of real property, the discharge of noncontractual obligations of or claims against the City, for joining with the State of Ohio or other political subdivisions or units of government to acquire or construct improvements or facilities or to exercise their powers jointly, or for the purchase of products or services of publicly or privately owned or operated public utilities. The Council, by ordinance or resolutions adopted by a vote of at least two-thirds of its members, may authorize, without competitive bidding, contracts and expenditures for any other purpose where the statutory or common law of Ohio does not require competitive bidding.~~

~~—(d)—When it becomes necessary to make alterations or modifications in connection with any work or improvements covered by contracts in excess of the State of Ohio limit, as of 6/1/92, that are awarded by Council, whether or not bidding is required by division (b) of this section, such alterations or modifications shall be made only upon the order of the Council given by a motion adopted by a majority vote of its members; provided that if such alterations or modifications to such contracts do not authorize or require the expenditure of additional sums of money in the aggregate as to each contract, the Mayor shall authorize such alterations or modifications without further action by the Council. No order for the alteration or modification of any contract shall be effective until the price to be paid for the work or material, or both, under the altered or modified contract, shall have been agreed upon in writing and signed by the contractor and the Mayor on behalf of the City. Bidding or further bidding shall not be required because of any alteration or modification of any contract.~~

~~(Amended 11-3-92.)~~

~~(e)~~ (c) No contract, agreement or other contractual obligation involving the expenditure of money shall be entered into or authorized by the Mayor unless the City Auditor or a duly authorized representative of the Auditor shall first certify:

(1) That the money required for the contract, agreement, obligation or expenditure is in the City's treasury or in the process of collection, and

(2) That the money has been appropriated by Council for the purpose and remains unencumbered.

The certification as to the availability of funds shall be filed and recorded in the accounting records of the City and a copy furnished the vendor or contractor. Without the certification, contractual obligations shall be void and unenforceable against the City unless authorized by an ordinance or resolution of the Council, as a moral obligation. The City Auditor shall not arbitrarily withhold the certificate required by this division.

~~(f)~~ (d) The Council or the Mayor shall not divide any order or contract to avoid the requirements of competitive bidding. Expenditures to pay the compensation and fringe benefits of officers and employees of the City shall be exempt from the provisions of this section; except the City Auditor shall not pay such compensation or fringe benefits unless the Council shall have appropriated sufficient money to cover such payments and the money required for payment is in the City's treasury or in the process of collection.

~~(g)~~ (e) Copies of all written contracts and purchase orders shall be filed with and maintained as public records by the City Auditor.

CONFIDENTIAL WORK PRODUCT

DRAFT

Proposed Purchasing Ordinance

An ordinance to establish contracting procedures for the City of Reynoldsburg in accordance with Charter section 8.04, and declaring an emergency.

###.##

- (a) The Mayor, City Auditor, or the City Attorney may, without competitive bidding or further legislative authorization by City Council, make any contract, purchase for supplies, materials, equipment, or provide labor for any work under the supervision of their respective departments involving not more than **the threshold amount** provided for by Council.
- (b) All contracts in excess of the amount authorized in subsection (a) above, shall be approved by City Council before being executed by any official of the City, even if the appropriation for a contract has been previously approved by City Council.
- (c) All contracts in excess of the amount permitted in subsection (a) above, shall be subject to the competitive bidding requirements as set forth in the City Charter, Codified Ordinances, or State law, unless an exception or alternative is otherwise provided for by Council.
 1. When a proposed contract or expenditure exceeds the amount authorized by subsection (a) above, then the Council shall, by motion, authorize the appropriate City official to cause plans and specifications to be prepared and advertise for bids once a week for two consecutive weeks in at least one newspaper of general circulation within the City, and the Council shall appropriate funds for that purpose unless they have been previously appropriated and remain unencumbered.
 2. The Mayor and City Auditor, or their designated representatives, shall receive and publicly announce sealed bids in the manner required by the specifications. The Mayor shall recommend to the Council, at its next regular Council meeting or a

- special Council meeting called for the purpose, the bid or bids the Mayor believes to be the lowest and best bid. At such meeting or its next regular meeting, the Council shall determine which bid or bids are the lowest and best and shall by ordinance direct the Mayor to enter into written contract with the bidder who is determined to be the lowest and best. Any ordinance directing the Mayor to enter into written contract shall appropriate funds for the purpose of the contract unless funds have been previously appropriated and remain unencumbered.
3. The Mayor shall execute a written contract on behalf of the City after such ordinance becomes effective and upon receipt of a certification from the City Auditor that funds for the contract are available.
 4. The City Attorney shall approve the contract as to its form.
 5. The Council may reject any and all bids by motion. Thereafter, the Council may direct that the proposed contract or expenditure be re-advertised and that new bids be invited and received.
- (d) As an alternative to competitive bidding, contracts for professional services are not subject to competitive bidding requirements and shall not require further legislative authorization where there are adequate unencumbered appropriations for that purpose. Professional services includes, but are not limited to, services of an accountant, appraiser, architect, attorney at law, physician, professional engineer, construction project manager, surveyor, or fiscal and management consultants.
- (e) As an alternative to competitive bidding, the Mayor shall have the authority to obtain goods and/or services for which funds have been previously appropriated through cooperative purchasing programs without further legislative authorization. As part of any cooperative purchasing program, the Mayor may agree that the City will be bound by contract terms and conditions prescribed by the program, including, without limitation, payment of a reasonable fee by the City to cover administrative costs incurred by the program officials as a result of purchases by the City or as a prerequisite to maintaining membership in the program. The Mayor may also agree that the City will pay the vendor directly for goods or services received by the City.
- (f) As an alternative to competitive bidding, the Mayor may also purchase goods and/or services upon equivalent or better terms and equal or better pricing than a cooperative

purchasing program described in section (e) without further legislative authorization where there are adequate unencumbered appropriations for that purpose.

- (g) As an alternative to competitive bidding, the Mayor shall have the authority to purchase goods and/or services from, or with another political subdivision, the Ohio State Government, or the United States Government. All proposed contracts under section (g), must be approved by a majority of Council.
- (h) As an alternative to competitive bidding, the Council may, by ordinance, provide for the purchase, sale or lease of real property, on such terms as the Council, in the exercise of its discretion may deem necessary and in the best interest of the City.
- (i) In any case in which a contract is entered into upon a per unit basis, the Mayor shall make an estimate of the total amount to become due upon such contract. The estimate shall be certified in writing to the City Auditor. Any proposed contract under this section may be executed without further legislative authorization where there are adequate unencumbered appropriations for that purpose and the total amount due upon such contract does not exceed the amount provided for by Council in section (a).
- (j) In the case of a real and present emergency, the Council may, by a vote of at least two-thirds of its members, suspend any provision of this chapter and direct the Mayor to enter into contract, without competitive bidding, the purchase or expenditures for supplies, materials, equipment, provide labor, or any other purpose the Council in its discretion deems necessary and in the best interest of the City.
- (k) No contract, agreement or other contractual obligation involving the expenditure of money shall be entered into or authorized by the Mayor or Council unless the City Auditor or a duly authorized representative of the Auditor shall first certify that the money required for the contract, agreement, obligation or expenditure is in the City's treasury or in the process of collection and that the money has been appropriated by Council for the purpose and remains unencumbered.
- (l) No contract, agreement or other contractual obligation shall be entered into or authorized by the Mayor or Council unless the City Attorney or a duly authorized representative of the City Attorney shall first approve the contract as to its form. Any clause in any contract or agreement that requires the City to indemnify another party to the contract shall be void and unenforceable against the City.