

AGENDA

**CUYAHOGA COUNTY ECONOMIC DEVELOPMENT & PLANNING COMMITTEE MEETING
WEDNESDAY, OCTOBER 19, 2011
CUYAHOGA COUNTY JUSTICE CENTER
COUNCIL CHAMBERS – 1ST FLOOR
3:00 PM**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PUBLIC COMMENT RELATED TO THE AGENDA**
- 4. APPROVAL OF MINUTES FROM SEPTEMBER 26, 2011 MEETING**
- 5. MATTERS REFERRED TO COMMITTEE**
 - a) **R2011-0293: A Resolution establishing a list of certified providers for occupational skills training services for the Individual Training Account System for the period 7/1/2011 - 6/30/2014, and authorizing the County Executive to enter into agreements with said providers for said training services:**
 - 1) Allstate Hairstyling and Barber College**
 - 2) American Air Conditioning Academy**
 - 3) American Logistics Group, Inc.**
 - 4) American Red Cross, Greater Cleveland Chapter**
 - 5) Northern Ohio Chapter, Associated Builders and Contractors, Inc.**
 - 6) Ashari's Healthcare, LLC**
 - 7) ATS Institute of Technology**
 - 8) Auburn Career Center**
 - 9) Big Rig Truck Driving School, Inc.**
 - 10) Blossom 24 Hour We Care Center, Inc.**
 - 11) Brown Mackie College - Akron**
 - 12) Cleveland Institute for Dental - Medical Assistants, Inc.**
 - 13) Cleveland Industrial Training Center, Inc.**
 - 14) Compassions Training and Awareness Center, Inc.**
 - 15) Cuyahoga Community College District**

- 16) Cuyahoga Valley Career Center Gateway Educational Opportunities, Inc.
- 17) Great Lakes Truck Driving School, Inc.
- 18) Hamrick School
- 19) Hondros College
- 20) Inner State Beauty School
- 21) Kent State University
- 22) Lorain County Community College District
- 23) Lorain County JVS Adult Career Center
- 24) Med-Cert, Inc.
- 25) Micronetohio, Inc. dba Ace Tutors
- 26) New Bridge Cleveland Center for Arts and Technology
- 27) Ohio Technical College, Inc.
- 28) Polaris Career Center
- 29) Remington College
- 30) Solomon Enterprises, LTD. dba Lake Erie Barber College
- 31) The Notre Dame College
- 32) Union Construction Industry Partnership-Apprenticeship Skills Achievement Program
- 33) Ursuline College
- 34) Vatterot Educational Centers, Inc. dba Vatterott College
- 35) Vocational Guidance Services
- 36) Willoughby-Eastlake School of Practical Nursing

- b) R2011-0294: A Resolution authorizing awards on RQ19758 to various providers, in the total amount of \$2,995,616.00, for Workforce Investment Act In-School and Out-of School Youth Training for the period 9/1/2011 - 6/30/2012; and authorizing the County Executive to enter into contracts consistent with said awards:

- 1) Baldwin-Wallace College in the amount of \$110,180.00.
- 2) Cuyahoga Community College District in the amount of \$400,000.00.
- 3) Esperanza, Incorporated in the amount of \$175,000.00.
- 4) Linking Employment, Abilities & Potential in the amount of \$196,436.00.
- 5) Mayfield City School District in the amount of \$370,000.00.
- 6) Open Doors, Inc. in the amount of \$259,000.00.
- 7) Youth Opportunities Unlimited in the amount of \$450,000.00.
- 8) Berea Children's Home in the amount of \$490,000.00.
- 9) Cuyahoga Community College District in the amount of \$220,000.00.
- 10) Lutheran Metropolitan Ministry in the amount of \$175,000.00.
- 11) Towards Employment, Incorporated in the amount of \$150,000.00.

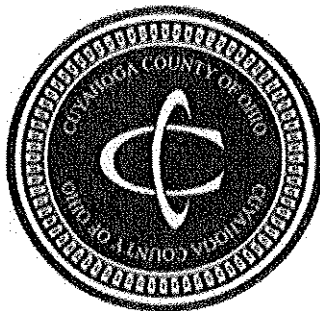
- c) O2011-0039: An Ordinance establishing procedures governing the use by the County of alternate construction project delivery methods, including construction manager-at-risk, design-build and general contracting project delivery methods for public construction projects; and declaring the necessity that this Ordinance become immediately effective.

6. MISCELLANEOUS BUSINESS

7. OTHER PUBLIC COMMENT

8. ADJOURNMENT

*In accordance with Ordinance No. O2011-0020, complimentary parking for the public will be available **beginning at 4:00 p.m.** on any day when the Council or any of its committees holds evening meetings. Please see the Clerk to obtain a parking pass.



MINUTES

CUYAHOGA COUNTY ECONOMIC DEVELOPMENT & PLANNING COMMITTEE MEETING
MONDAY, SEPTEMBER 26, 2011
CUYAHOGA COUNTY JUSTICE CENTER
COUNCIL CHAMBERS – 1ST FLOOR
3:00 PM

1. CALL TO ORDER

The meeting was called to order by Chairman Schron at 3:06 p.m.

2. ROLL CALL

The Clerk called the roll. Committee members Schron, Greenspan, Rogers, Connally and Gallagher were in attendance and a quorum was determined. Mr. Germana entered the meeting after the roll call was taken. Councilmember Miller was also in attendance.

3. APPROVAL OF MINUTES FROM SEPTEMBER 12, 2011 MEETING

A motion was made by Mr. Rogers, seconded by Ms. Connally and approved by unanimous vote to approve the minutes of the September 12, 2011 meeting.

4. PUBLIC COMMENT RELATED TO THE AGENDA

There was no public comment.

5. DISCUSSION REGARDING THE COUNTY EXECUTIVE'S ANTI-POACHING PROTOCOL FOR CUYAHOGA COUNTY

- a) Ed Jerse – Director of Regional Collaboration
- b) Joe Roman – President & CEO of the Greater Cleveland Partnership

Mr. Ed Jerse and Mr. Joe Roman addressed the Committee regarding the County Executive FitzGerald's anti-poaching protocol for Cuyahoga County. Discussion ensued.

6. MATTERS REFERRED TO COMMITTEE

- a) R2011-0257: A Resolution authorizing the issuance and sale of self-supporting housing revenue bonds in an amount not-to-exceed \$5,000,000.00 for Helen S. Brown Apartments, L.P. for the purpose of rehabilitating, improving and

equipping a senior housing facility for low and moderate income seniors; authorizing the execution and delivery of a loan agreement, bond purchase agreement, trust indenture and tax regulatory agreement; authorizing and approving the use and distribution of a disclosure document; approving related matters; and declaring the necessity that this Resolution become immediately effective.

Ms. Sara Parks Jackson, Program Officer at the Department of Development and the Honorable Gary Norton, Mayor of East Cleveland addressed the Committee regarding Resolution R2011-0257. Discussion ensued.

On a motion by Mr. Greenspan with a second by Ms. Connally, Resolution No. R2011-0257 was considered and approved by unanimous vote to be referred to the October 11, 2011 full Council agenda under second reading suspension of rules.

- b) R2011-0276: A Resolution authorizing a Neighborhood Stabilization Program II loan in the amount not-to-exceed \$1,900,000.00 to UCI-CET, LLC, for a project located at 12501 Euclid Avenue, East Cleveland; authorizing the Department of Development Deputy Chief or Director to execute all documents required in connection with said loan on behalf of the County Executive; and declaring the necessity that this Resolution become immediately effective.

Mr. Chris Ronayne, Executive Director of UCI-CET, LLC; Mr. Wesley Finch, Founder and Chairman of the Finch Group along with Ms. Jackson and Mayor Norton addressed the Committee regarding Resolution R2011-0276. Discussion ensued.

On a motion by Chairman Schron with a second by Mr. Greenspan, Resolution No. R2011-0276 was considered and approved by unanimous vote to be referred to the September 26, 2011 full Council agenda under second reading suspension of rules.

- c) O2011-0039: An Ordinance establishing procedures governing the use by the County of alternate construction project delivery methods, including construction manager-at-risk, design-build and general contracting project delivery methods for public construction projects; and declaring the necessity that this Ordinance become immediately effective.

On a motion by Chairman Schron with a second by Mr. Greenspan, substitute Ordinance No. O2011-0039 was considered and accepted by unanimous vote.

Ordinance No. O2011-0039 was postponed from further consideration at this time.

7. MISCELLANEOUS BUSINESS

Mr. Bob Ivory, Special Assistant to County Executive FitzGerald, said farewell expressed his gratitude for his time serving the Committee.

8. OTHER PUBLIC COMMENT

There was no public comment.

9. ADJOURNMENT

With no further business to discuss and on a motion by Mr. Greenspan with a second by Mr. Brady, the meeting was adjourned at 4:22 p.m., without objection.

County Council of Cuyahoga County, Ohio

Resolution No. R2011-0293

Sponsored by: County Executive FitzGerald/Department of Workforce Development, in partnership with City of Cleveland, as designated Local Workforce Investment Area No. 3	A Resolution establishing a list of certified providers for occupational skills training services for the Individual Training Account System for the period 7/1/2011 - 6/30/2014, and authorizing the County Executive to enter into agreements with said providers for said training services.
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WHEREAS, the County Executive/Department of Workforce Development, in partnership with the City of Cleveland, as designated Local Workforce Investment Area No. 3, is recommending to establish a list of certified providers for occupational skills training services for the Individual Training Account System for the period of 7/1/2011 – 6/30/2014 as follows:

- a) Allstate Hairstyling and Barber College
- b) American Air Conditioning Academy
- c) American Logistics Group, Inc.
- d) American Red Cross, Greater Cleveland Chapter
- e) Northern Ohio Chapter, Associated Builders and Contractors, Inc.
- f) Ashari's Healthcare, LLC
- g) ATS Institute of Technology
- h) Auburn Career Center
- i) Big Rig Truck Driving School, Inc.
- j) Blossom 24 Hour We Care Center, Inc.
- k) Brown Mackie College - Akron
- l) Cleveland Institute for Dental - Medical Assistants, Inc.
- m) Cleveland Industrial Training Center, Inc.
- n) Compassions Training and Awareness Center, Inc.
- o) Cuyahoga Community College District
- p) Cuyahoga Valley Career Center
- q) Gateway Educational Opportunities, Inc.
- r) Great Lakes Truck Driving School, Inc.
- s) Hamrick School
- t) Hondros College
- u) Inner State Beauty School
- v) Kent State University
- w) Lorain County Community College District
- x) Lorain County JVS Adult Career Center
- y) Med-Cert, Inc.
- z) Micronetohio, Inc. dba Ace Tutors
- aa) New Bridge Cleveland Center for Arts and Technology

- ab) Ohio Technical College, Inc.
- ac) Polaris Career Center
- ad) Remington College
- ae) Solomon Enterprises, LTD. dba Lake Erie Barber College
- af) The Notre Dame College
- ag) Union Construction Industry Partnership-Apprenticeship Skills Achievement Program
- ah) Ursuline College
- ai) Vatterot Educational Centers, Inc. dba Vatterott College
- aj) Vocational Guidance Services
- ak) Willoughby-Eastlake School of Practical Nursing; and,

WHEREAS, occupational skills training provided by the certified training providers give job seekers options to choose the best training that meet their needs and upgrade their skills so they can find unsubsidized employment; and

WHEREAS, the certified training providers have obtained above average performance ratings through compliance with all terms, conditions and requirements during their previous contract; and,

WHEREAS, the service agreements have been approved by the Cleveland/ Cuyahoga County Workforce Investment Board and the Ohio Department of Job and Family Services, as required under Workforce Investment Act (WIA), after the training programs have been evaluated by the Employment Connection for effectiveness and cost; and,

WHEREAS, the County Executive/Department of Workforce Development, in partnership with the City of Cleveland, as designated Local Workforce Investment Area No. 3, request authorization to enter into agreements with said providers; and,

WHEREAS, the Department of Workforce Development, in partnership with the City of Cleveland, as designated Local Workforce Investment Area No. 3, has allocated a total of \$1,500,000.00 to support this three-year training program; and,

WHEREAS, funding is provided through the federal Workforce Investment Act (WIA) funds with the purpose of consolidating, coordinating and improving employment, training, literacy, and vocational rehabilitation in the United States.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:

SECTION 1. The County Council hereby establishes the following list of certified providers for occupational skills training services for the Individual Training Account System for the period 7/1/2011 - 6/30/2014:

- a) Allstate Hairstyling and Barber College
- b) American Air Conditioning Academy

- c) American Logistics Group, Inc.
- d) American Red Cross, Greater Cleveland Chapter
- e) Northern Ohio Chapter, Associated Builders and Contractors, Inc.
- f) Ashari's Healthcare, LLC
- g) ATS Institute of Technology
- h) Auburn Career Center
- i) Big Rig Truck Driving School, Inc.
- j) Blossom 24 Hour We Care Center, Inc.
- k) Brown Mackie College - Akron
- l) Cleveland Institute for Dental - Medical Assistants, Inc.
- m) Cleveland Industrial Training Center, Inc.
- n) Compassions Training and Awareness Center, Inc.
- o) Cuyahoga Community College District
- p) Cuyahoga Valley Career Center
- q) Gateway Educational Opportunities, Inc.
- r) Great Lakes Truck Driving School, Inc.
- s) Hamrick School
- t) Hondros College
- u) Inner State Beauty School
- v) Kent State University
- w) Lorain County Community College District
- x) Lorain County JVS Adult Career Center
- y) Med-Cert, Inc.
- z) Micronetohio, Inc. dba Ace Tutors
- aa) New Bridge Cleveland Center for Arts and Technology
- ab) Ohio Technical College, Inc.
- ac) Polaris Career Center
- ad) Remington College
- ae) Solomon Enterprises, LTD. dba Lake Erie Barber College
- af) The Notre Dame College
- ag) Union Construction Industry Partnership-Apprenticeship Skills Achievement Program
- ah) Ursuline College
- ai) Vatterot Educational Centers, Inc. dba Vatterott College
- aj) Vocational Guidance Services
- ak) Willoughby-Eastlake School of Practical Nursing.

SECTION 2. The County Executive is hereby authorized to enter into agreements with the various providers for occupational skills training services for the Individual Training Account System for the period 7/1/2011 - 6/30/2014.

SECTION 3. It is found and determined that all formal actions of this Council relating to the adoption of this Resolution were adopted in an open meeting of the 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, including Section 121.22 of the Ohio Revised Code.

On a motion by _____, seconded by _____, the foregoing Resolution was duly adopted.

Yeas:

Nays:

County Council President Date

County Executive Date

Clerk of Council Date

First Reading/Referred to Committee: October 11, 2011

Committee(s) Assigned: Economic Development & Planning

Journal _____
_____, 2011

County Council of Cuyahoga County, Ohio

Resolution No. R2011-0294

Sponsored by: County Executive FitzGerald/Department of Workforce Development	A Resolution authorizing awards on RQ19758 to various providers, in the total amount of \$2,995,616.00, for Workforce Investment Act In-School and Out-of-School Youth Training for the period 9/1/2011 - 6/30/2012; and authorizing the County Executive to enter into contracts consistent with said awards.
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WHEREAS, the County Executive/Department of Workforce Development has recommended awards on RQ WI-11-19758 to various providers for the Workforce Investment Act (WIA) In-School and Out-of-School Youth Training, in the total amount of \$2,995,616.00, for the period 9/1/2011 – 6/30/2012; and authorizing the County Executive to enter into contracts consistent with said awards; and

WHEREAS, the authority to seek proposals was approved under Executive Approval No. EA2011-0508; and

WHEREAS, the RFP process presented significant challenges. Due to a large cut to the WIA grant allocation of nearly \$1,000,000.00, a new RFP was created to better define the criteria for program funding. Given the diminished funding, greater emphasis was placed on leveraging non-WIA funds and establishing effective partnerships; and

WHEREAS, in addition to the contract award of \$2,995,616.00, an additional \$2,024,977 of leveraged funds were identified to help enhance youth services; and

WHEREAS, within the RFP, youth development and preparation for the 21st century demand-facing economy as anchors in building a competitive workforce were emphasized; and

WHEREAS, twenty four (24) proposals were received and a team of external and internal reviewers thoroughly evaluated each proposal based on organizational strength and capacity, program design, established partnerships, and reasonableness of budget; and

WHEREAS, as a result of the review process, eleven (11) proposal were selected for funding. In making the selection, the reviewers assessed the diversity of the targeted demographics and their geographic location while noting special populations like youth with disabilities or youth aging out of foster care. This

process yielded a blend of east and west side locations, strong representation in the Cleveland Municipal School District schools, inner-ring suburbs, and a bilingual service provider; and

WHEREAS; the contracts will serve eligible economically disadvantaged youth ages 14-21, who live in Cuyahoga County, including the City of Cleveland; and

WHEREAS, the contracted services include job search and placement assistance, career guidance, labor market information (which identifies job vacancies, skills needed for in-demand jobs, and local, regional and national employment trends), assessment of skills and needs, development of individual employment plans, case management, assisting eligible clients in choosing a certified training program that meets assessments and employment goals, work experience, and providing follow-up services after job placement; and

WHEREAS, these services are necessary to offer employment connection services mandated by the federal Workforce Investment Act (WIA) to adults and dislocated worker job seekers; and

WHEREAS, as mandated by the WIA, the Workforce Investment Board (WIB) of the City of Cleveland/Cuyahoga County approved the following contract awards:

In-School Youth Providers	
Baldwin-Wallace College	\$110,180.00
Cuyahoga Community College District	\$400,000.00
Esperanza, Incorporated	\$175,000.00
Linking Employment, Abilities & Potential	\$196,436.00
Mayfield City School District	\$370,000.00
Open Doors, Inc.	\$259,000.00
Youth Opportunities Unlimited	\$450,000.00
Total WIA In-School Contracts:	\$1,960,616.00

Out-of-School Youth Providers	
Berea Children's Home	\$490,000.00
Cuyahoga Community College District	\$220,000.00
Lutheran Metropolitan Ministry	\$175,000.00
Towards Employment, Incorporated	\$150,000.00
Total WIA Out-of-School Contracts:	\$1,035,000.00

WHEREAS, the recommended contractors will continue to be expected to ensure that the past successful performance will be maintained; and

WHEREAS, the key performance measures set by the State of Ohio, that are currently being met include: i) entered unsubsidized employment rate for adults and for Dislocated workers; ii) employment retention rate after six (6) months for adults and dislocated workers; iii) average earnings for adults and dislocated workers comprehensive year-round training for WIA eligible youth, both in-school and out-of-school; and

WHEREAS, the service procured will result in a coordinated set of activities that will enable youth to: i) improve basic skills; ii) develop work readiness skills; iii) receive post-secondary occupational skills; iv) find and retain employment; v) progressively increase earnings; and vi) receive a credential, including a High School Diploma/GED attainment.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:

SECTION 1. The County Executive is authorized to make awards on RQ WI-11-19758 to the following providers for the Workforce Investment Act (WIA) In-School and Out-of School Youth Training, in the total amount of \$2,995,616.00, for the period 9/1/2011 – 6/30/2012.

In-School Youth Providers	
Baldwin-Wallace College	\$110,180.00
Cuyahoga Community College District	\$400,000.00
Esperanza, Incorporated	\$175,000.00
Linking Employment, Abilities & Potential	\$196,436.00
Mayfield City School District	\$370,000.00
Open Doors, Inc.	\$259,000.00
Youth Opportunities Unlimited	\$450,000.00
Total WIA In-School Contracts:	\$1,960,616.00

Out-of-School Youth Providers	
Berea Children's Home	\$490,000.00
Cuyahoga Community College District	\$220,000.00
Lutheran Metropolitan Ministry	\$175,000.00
Towards Employment Incorporated	\$150,000.00
Total WIA Out-of-School Contracts:	\$1,035,000.00

SECTION 2. The County Executive is hereby authorized to enter into contracts consistent with said awards and execute all documents required thereto.

SECTION 3. It is found and determined that all formal actions of this Council relating to the adoption of this Resolution were adopted in an open meeting of the 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, including Section 121.22 of the Ohio Revised Code.

On a motion by _____, seconded by _____, the foregoing Resolution was duly adopted.

Yeas:

Nays:

County Council President Date

County Executive Date

Clerk of Council Date

First Reading/Referred to Committee:
Committee(s) Assigned:

Journal _____
_____, 2011

County Council of Cuyahoga County, Ohio

Ordinance No. O2011-0039

Sponsored by: Councilmembers Schron and Miller and County Executive FitzGerald	An Ordinance establishing procedures governing the use by the County of alternate construction project delivery methods, including construction manager-at-risk, design-build and general contracting project delivery methods for public construction projects; and declaring the necessity that this Ordinance become immediately effective.
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WHEREAS, Article 3, Section 9, Subsections 4 and 9 of the Cuyahoga County Charter empowers the Cuyahoga County Council to establish procedures governing the making of County contracts and to establish the procedures for making public improvements; and

WHEREAS, procedures used for contracting and procurement should enable Cuyahoga County to be efficient, flexible, and transparent.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO THAT:

SECTION 1: Notwithstanding the competitive bidding procedures or any other procedures or requirements provided for in Chapter 153 and Sections 307.86 through 307.921 of the Ohio Revised Code, the policies and procedures of Cuyahoga County, Ohio relating to construction contracts employing alternate project delivery methods are established as follows:

Section 1. As used in Sections 1 to 13, inclusive, the following words shall have the following meanings unless indicated otherwise or unless the context in which they are used requires a different meaning:

"Architect of record" means the professional design firm that serves as the final signatory on the plans and specifications for a design-build project.

"Board of Control" means the Cuyahoga County Board of Control.

"Building project" means the design, construction, reconstruction, improvement, alteration, installation, demolition or repair of any public building or improvement.

“Consultant Selection Committee” means the Cuyahoga County Department of Public Works’ Consultant Selection Committee.

"Construction management-at-risk" or "construction management-at-risk services" means a construction method wherein a construction management-at-risk firm provides a range of preconstruction services and construction management services that may include cost estimating and consultation regarding the design of the building project, scheduling, the preparation and coordination of bid packages, cost control, value engineering, detailing the subcontractor scope of work, prequalifying and evaluating subcontractors, and holding the subcontracts.

"Construction manager-at-risk" or "Construction management-at-risk firm" means an individual, corporation, partnership, sole proprietorship, joint venture, limited liability company or other legal entity that provides construction management-at-risk services.

"Construction manager-at-risk contract" means a contract between the County and a construction manager-at-risk that obligates the construction manager-at-risk to provide construction management-at-risk services for a guaranteed maximum price.

“Contracts and Purchasing Board” means the Cuyahoga County Contracts and Purchasing Board.

"County's project manager" means an individual, corporation, partnership, sole proprietorship, joint venture, limited liability company or other legal entity engaged to provide project management services on behalf of the County for the design and construction of a building project. The County's project manager may be an employee of the County whose assigned responsibility is the management of design and construction of a building project.

"Criteria architect or engineer" means the professional design firm retained by the County to prepare conceptual plans and specifications, to assist the County in connection with the establishment of the design criteria for a design-build project, and, if requested by the County, to serve as the representative of the County and provide, during the design-build project, other design and construction administration services on behalf of the County, including but not limited to, confirming that the design prepared by the design-build firm reflects the original design intent established in the design criteria package.

"Design-build contract" means a contract between the County and a design-build firm that obligates the design-build firm to provide design-build services for a guaranteed maximum price.

"Design-build firm" means any individual, corporation, partnership, sole proprietorship, joint venture, limited liability company or other legal entity that provides design-build services.

"Design-build services" means services that form an integrated delivery system for which a design-build firm is responsible to the County for both the design and construction, demolition, alteration, repair, or reconstruction of a building project.

"General contracting" means a construction method wherein a general contracting firm is responsible for constructing and managing a building project under the award of a single aggregate lump sum or guaranteed maximum price contract.

"General contracting firm" means a person that provides general contracting services. "Guaranteed maximum price" or "GMP" means the agreed maximum dollar amount to be paid by the County for the building project, including the cost of the work, the general conditions, agreed construction contingency and the fees charged by the construction management-at-risk firm, design-build firm or general contracting firm.

"Professional design firm" shall have the same meaning as set forth in Section 153.65 of the Ohio Revised Code.

"Subcontractor" means any individual, corporation, partnership, sole proprietorship, joint venture, limited liability company, or other legal entity that undertakes to provide any part of the labor, equipment or material of a building project under a contract with the construction management-at-risk firm, design-build firm or general contracting firm.

"two-phase selection process" means a procurement process in which the first phase consists of creating a short list of prequalified firms as determined by responses to a request for qualifications and the second phase consists of inviting firms prequalified in the first phase to submit responses to a request for proposals or a request for bids.

Section 2. For each contract for the construction, reconstruction, improvement, alteration, installation, demolition or repair of any building project, the Contracts and Purchasing Board, upon the recommendation of the Director of Public Works, may elect to use the construction management-at-risk delivery method, pursuant to Sections 3 to 6, inclusive.

Section 3. (a) The **Contracts and Purchasing Board** shall utilize a two-phase selection process as provided in this section to select a construction management-at-risk firm to provide construction management-at-risk services.

(b) Before issuing a request for qualifications, hereinafter called RFQ, the **Contracts and Purchasing Board** shall establish a prequalification committee for the purpose of reviewing and evaluating responses submitted by a construction manager-at-risk to the RFQ. The prequalification committee shall be comprised of the Consultant Selection Committee, one (1) representative of the professional design firm, the County's project manager if the project manager is not a member of the

Consultant Selection Committee, and any additional representatives of the County as may be deemed appropriate by the Contracts and Purchasing Board.

(c) The first phase of the two-phase selection process shall begin once the County gives public notice of the building project and solicits responses to an RFQ from construction management-at-risk firms. The public notice and solicitation section shall be advertised in a newspaper of general circulation in the County or on the County's website. The public notice and solicitation shall be given not less than two (2) weeks before the deadline for submitting responses to the RFQ. The public notice and solicitation shall include:

(1) the time and date of the deadline for receipt of responses to the RFQ and the address of the office to which the responses are to be delivered;

(2) a general description of the project and key factors important to the final selection of the construction management-at-risk firm;

(3) a general description of the scope of services expected of the selected construction management-at-risk firm during the design, pre-construction and construction phases of the project;

(4) a general description of the anticipated schedule and estimated construction cost for the building project; and

(5) **[the criteria for the selection of the construction management-at-risk firm, including minimum experience, requirements for presentations/interviews, and the schedule for the selection process.]**

(d) The County shall require interested construction management-at-risk firms to submit a statement of qualifications in response to the RFQ. The statement of qualifications shall include the following:

(1) a cover letter or executive summary detailing the key elements and factors that differentiate the firm from other potential qualified responders;

(2) completion of a statement of qualifications similar in form to AIA Document A305 (latest edition), listing general business information and financial capacity such as organizational structure, licensing, experience, references and financial statement;

(3) a list of all convictions or fines assessed against the construction manager-at-risk firm or any of its officers or directors for violations of state or federal law;

(4) submission of a project organization chart with specific information on key project personnel or consultants;

- (5) a letter from a surety company licensed to do business in the State and whose name appears on United States Treasury Department Circular 570 confirming the ability to provide performance and payment bonds for the building project;
 - (6) submission of information on the firm's safety record including its workers' compensation experience modifier for the prior three (3) years;
 - (7) submission of information on and evidence of the firm's compliance record with respect to small business enterprise inclusion goals and workforce inclusion goals, if applicable;
 - (8) submission of information regarding the firm's experience on similar projects including contact information of the architects and owners of the projects;
 - (9) submission of specific examples of the firm's project management reports or other illustrations of the company's operating philosophy; and
 - (10) any other relevant information that the County determines desirable.
- (e) The prequalification committee established pursuant to Subsection (b) of this section, shall evaluate each statement of qualifications submitted by the construction management-at-risk firms. The evaluation shall take into account the following factors: (i) competence to perform the required construction management-at-risk services as indicated by the technical training, education, and experience of the construction management-at-risk firm's personnel and key consultants, especially the technical training, education, and experience of the employees and consultants of the construction management-at-risk firm who would be assigned to perform the services; (ii) ability of the firm in terms of its workload and the availability of qualified personnel, equipment, and facilities to perform the required preconstruction and construction services competently and expeditiously; (iii) past performance of the firm as reflected by the evaluations of previous clients with respect to such factors as control of costs, quality of work, and meeting of deadlines; and (iv) any other relevant factors as determined by the County. The prequalification committee shall select a minimum of three (3) qualified construction management-at-risk firms to receive the request for proposals, unless less than three (3) firms responded to the RFQ, in which event the prequalification committee may select less than three (3) qualified construction management-at-risk firms to receive the request for proposals. The decision of the prequalification committee shall be posted on the County's web site. Once posted on the County's web site, the decision of the prequalification committee is final and shall not be subject to appeal except to the Board of Control on grounds of fraud or collusion. The written Notice of Appeal shall be filed with the Clerk of the Board of Control during business hours on a working day no later than five (5) calendar days of the posting of the prequalification committee's decision on the County's web site. If the fifth calendar day falls on a weekend or a legal holiday on which the County Administration Building is closed, the Notice of Appeal shall be filed no later than 4:00 p.m. on the first day following the weekend or the holiday.

The Notice of Appeal shall include the appellant's allegations of fraud or collusion with specificity. The failure to timely file the Notice of Appeal with the Clerk of the Board of Control shall be considered a subject-matter jurisdictional defect, which may not be remedied. The Board of Control's determination of the appeal shall not be subject to any further appeals or any other challenges.

Section 4. (a) Before issuing a request for proposals, hereinafter referred to as RFP, the **Contracts and Purchasing Board** shall establish a selection committee for the purpose of reviewing and evaluating responses submitted to the RFP. The selection committee shall be comprised of the Consultant Selection Committee, one (1) representative of the professional design firm, the County's project manager if the project manager is not a member of the Consultant Selection Committee, and any additional representatives of the County as may be deemed appropriate by the Contracts and Purchasing Board. Nothing herein shall prohibit the County from appointing the same individuals who served as the prequalification committee to serve as the selection committee.

(b) The County shall issue an RFP to each construction management-at-risk firm selected to receive an RFP pursuant to Section 3. The RFP shall include:

- (1) the date, time and place for submission of proposals;
- (2) a clear description of the submission requirements including separate price and technical components;
- (3) the small business enterprise inclusion goals and workforce inclusion goals for the building project, if applicable;
- (4) the form of construction management-at-risk contract; and
- (5) any other relevant information that the County determines desirable.

(c) The RFP shall require the submission of separate price and technical components as part of the proposal submitted in response to the RFP.

(1) The price component shall include: (i) the fee for preconstruction services with appropriate detail, (ii) the fee for construction services with explanation of the basis, (iii) the estimated cost of general conditions with appropriate detail, and (iv) the estimated construction contingency requirements regarding development of the GMP.

(2) The technical component shall include: (i) a detailed project approach, including preconstruction services, (ii) supplemental relevant project references, (iii) the project team members with position descriptions and relevant time commitments and billing rates of said team members during the project, and (iv) the

construction management plan indicating their approach to controlling cost, schedule, quality, documents and claims.

Upon receipt of the responses to the RFP, the selection committee shall evaluate all proposals and rank firms based on the selection committee's evaluation of each firm's pricing proposal and qualifications. If the selection committee elects to conduct an interview with a construction management-at-risk firm who submits a proposal in response to the RFP, then the selection committee shall conduct interviews with each construction management-at-risk firm that submits a proposal to the RFP. The decision of the selection committee shall be posted on the County's web site. Once posted on the County's web site, the decision of the selection committee is final and not subject to appeal except to the Board of Control on the grounds of fraud or collusion. The written Notice of Appeal shall be filed with the Clerk of the Board of Control during business hours on a working day no later than five (5) calendar days of the posting of the selection committee's decision on the County's web site. If the fifth calendar day falls on a weekend or a legal holiday on which the County Administration Building is closed, the Notice of Appeal shall be filed no later than 4:00 p.m. on the first day following the weekend or the holiday. The Notice of Appeal shall include the appellant's allegations of fraud or collusion with specificity. The failure to timely file the Notice of Appeal with the Clerk of the Board of Control shall be considered a subject-matter jurisdictional defect, which may not be remedied. The Board of Control's determination of the appeal shall not be subject to any further appeals or any other challenges.

(d) The selection committee shall commence negotiations with the highest ranked construction management-at-risk firm. If the selection committee determines that negotiations with the highest ranked construction management-at-risk firm will not result in a contract acceptable to the County, then the selection committee shall terminate negotiations with the highest ranked construction management-at-risk firm and shall commence negotiations with the next highest ranked construction management-at-risk firm. The process shall continue until the selection committee has reached an acceptable contract with one of the prequalified construction management-at-risk firms. **[The list and ranking of proposed construction management-at-risk firms shall be certified by the County's project manager and made available as a public record after the contract award.]**

Section 5. (a) Each contract for a building project procured pursuant to Sections 3 to 6, inclusive, shall utilize a cost-plus, not-to-exceed guaranteed maximum price form of contract in which the County shall be entitled to monitor and audit all project costs.

(b) In establishing the schedule and process for determining a guaranteed maximum price, the contract between the County and the construction management-at-risk firm shall comply with the following:

(1) The guaranteed maximum price shall be based on design documents that are no less developed than a percentage determined by the Contracts and Purchasing Board;

- (2) The guaranteed maximum price shall be agreed to as an amendment to the contract between the County and the construction management-at-risk firm;
- (3) The guaranteed maximum price amendment shall be executed before the commencement of any construction work; except that the County, before the execution of the guaranteed maximum price amendment, may commence construction, so long as the County executes a separate amendment to the contract with the construction manager-at-risk detailing the scope of work selected to commence before execution of the guaranteed price amendment, and provided that each subcontractor performing work shall provide a payment and performance bond in the amount of its subcontract, which bond shall name the County and the construction manager-at-risk as co-obligees. The separate amendment shall state the sum for the scope of work, which shall include the cost of the work, the general conditions and additional fee, if any, for the construction manager-at-risk; but, any class of work included in the scope of work selected to commence before the execution of the guaranteed maximum price amendment shall be subject to the subcontractor selection process set forth in Section 6. If a guaranteed maximum price cannot be successfully negotiated between the County and the construction manager-at-risk, then any subcontractor agreement between the construction manager-at-risk and a subcontractor for work selected to commence before execution of the guaranteed maximum price amendment may be assigned to the County or to another construction manager-at-risk designated by the County, without the assent of the subcontractor, and the County or the designated construction manager-at-risk and the subcontractor shall be bound by the terms of the subcontractor agreement; and
- (4) The guaranteed maximum price amendment to the contract between the County and the construction management-at-risk firm shall include a detailed line item cost breakdown by trade, including any cost for work selected to commence before the execution of the guaranteed maximum price amendment; dollar amounts for the construction management-at-risk firm's construction contingency; dollar amounts for the general conditions and fees, including any amounts related to work selected to commence before the execution of the guaranteed maximum price amendment; a list of all the drawings, specifications and other information on which the guaranteed maximum price is based; a list of allowances and statement of their basis; a list of any assumptions or clarifications on which the guaranteed maximum price is based; the dates for substantial and final completion on which the guaranteed maximum price is based; and a schedule of applicable alternates and unit prices.
- (5) The construction management-at-risk firm shall provide all required performance and payment bonds in the amount of the guaranteed maximum price within five (5) business days after the execution of the guaranteed maximum price amendment.
- (c) If a guaranteed maximum price cannot be successfully negotiated between the County and the construction management-at-risk firm, then the selection committee may commence negotiations with an additional proposer starting with the next

highest ranked proposer. If a contract and guaranteed maximum price amendment cannot be successfully negotiated between the selection committee and the next highest ranked proposer, then the County shall terminate the procurement process and may instead procure the building project under any other project delivery method permitted by law.

Section 6. (a) Each construction manager-at-risk with a construction manager-at-risk shall include terms that require the following procedures to be observed in connection with the award of subcontracts under the construction manager-at-risk:

(1) Prior to the award of any subcontract with an estimated subcontract value of \$_____ or more, the construction manager-at-risk shall submit to the County for approval the qualifications that a subcontractor must have in order to perform the work of the subcontract and a list of at least three (3) subcontracting firms that the construction manager-at-risk believes meets the qualifications. The County may eliminate from the list persons or firms that the County believes are not qualified or to which the County has other reasonable objections.. The construction manager-at-risk shall revise the list- in accordance with the County's eliminations. The County shall inform the construction manager-at-risk of its elimination of any persons or firms proposed by the construction manager-at-risk, within ten (10) working days after the County's receipt of the list. If the County disapproves of a proposed bidder, the written notice to the construction manager-at-risk shall set forth the County's objections of the proposed bidder(s). The construction manager-at-risk shall not solicit bids or proposals from any person or firm to whom the County has made objections.

(2) The County's elimination of any proposed bidder(s) under Section 6(a)(1) herein is final and not subject to appeal except to the Board of Control on grounds of fraud or collusion. The written Notice of Appeal shall be filed with the Clerk of the Board of Control during business hours on a working day no later than five (5) calendar days of the construction manager-at-risk's receipt of the County's objections. If the fifth calendar day falls on a weekend or a legal holiday on which the County Administration Building is closed, the Notice of Appeal shall be filed no later than 4:00 p.m. on the first day following the weekend or the holiday. The Notice of Appeal shall include the appellant's allegations of fraud or collusion with specificity. The failure to timely file the Notice of Appeal with the Clerk of the Board of Control shall be considered a subject-matter jurisdictional defect, which may not be remedied. The Board of Control's determination of the appeal shall not be subject to any further appeals or any other challenges.

(3) After the construction manager-at-risk and the County have agreed upon an acceptable list of potential subcontractors, the construction manager-at-risk shall solicit at least three (3) competitive bids or proposals (including design-assist bids or proposals) from subcontractors on the list of approved subcontractors. All bids or proposals submitted shall be sealed and shall not be opened before the bid opening date set forth in the solicitation.

(4) On the date set forth in the solicitation, the construction manager-at-risk shall open, in the presence of the County, all bids or proposals. The County shall have the right to be present at all post-opening scope review meetings of the construction manager-at-risk and the proposed subcontractors.

(5) Giving consideration to the price and the qualifications of each person or firm submitting a bid or proposal, the construction manager-at-risk shall recommend for award the subcontractor whose bid or proposal represents the best value, and such recommendation shall be submitted to the County with a written report setting forth the reasons supporting the recommendation. The County shall have the right to object to the proposed award if it determines that the person or firm proposed does not represent the best value. If the County objects to the proposed award, it shall do so by sending written notice of such objection within ten (10) days after the County's receipt of the construction manager-at-risk's recommendation report, and such written notice shall set forth the County's reasons for objecting. If the County does not disapprove the bidder recommended by the construction manager at risk, then the construction manager-at-risk shall award the subcontract to the recommended bidder.

(6) Notwithstanding the foregoing, subcontracts with an award value that does not exceed the threshold sum as identified in Subsection (a)(1) of this section, may be awarded by the construction manager-at-risk using any selection method selected by the construction manager-at-risk with the approval of the County.

(7) Regardless of any monetary thresholds, each subcontract shall expressly name the County as an intended third-party beneficiary with the right to sue and recover under said subcontract.

Section 7. (a) For each contract for the construction, reconstruction, improvement, alteration, installation, demolition or repair of any building project, the Contracts and Purchasing Board may elect to use the design-build delivery method, pursuant to Sections 7 to 12, inclusive.

(b) For every design-build contract, the County shall first obtain the services of a criteria architect or engineer by either contracting for the services consistent with Sections 153.65 to 153.70 of the Ohio Revised Code or by obtaining the services through a design professional who is an employee of the County. After the County has retained a criteria architect or engineer, the County shall develop with the assistance of the criteria architect or engineer a scope of work statement that defines the building project and provides prospective design-build firms with sufficient information regarding the County's objectives and requirements. The scope of work statement shall include criteria and preliminary design, general budget parameters, and general schedule requirements to enable prospective design-build firms to submit proposals in response to the RFP issued under Section 9. The criteria architect or engineer retained by the County for a building project shall not be eligible to

participate in any way as a member of the design-build team competing for the award of the design-build contract for the building project.

Section 8. (a) The **Contracts and Purchasing Board** shall utilize a two-phase selection process as provided in this section to select a design-build firm to provide design-build services.

(b) Before issuing a request for qualifications, hereinafter called RFQ, the **Contracts and Purchasing Board** shall establish a prequalification committee for the purpose of reviewing and evaluating responses submitted by a design-build firm to the RFQ. The prequalification committee shall be comprised of the Consultant Selection Committee, one (1) representative of the criteria architect or engineer, the County's project manager if the project manager is not a member of the Consultant Selection Committee, and any additional representatives of the County as may be deemed proper by the Contracts and Purchasing Board.

(c) The first phase of the two-phase selection process shall begin once the County gives public notice of the building project and solicits responses to an RFQ from design-build firms. The public notice and solicitation required shall be advertised in a newspaper of general circulation in the County or on the County's website. The public notice and solicitation shall be given not less than two (2) weeks before the deadline for submitting responses to the RFQ. The public notice and solicitation shall include:

(1) the time and date of the deadline for receipt of responses to the RFQ and the address of the office to which the responses are to be delivered;

(2) a general description of the project and key factors important to the final selection of the design-build firm;

(3) a general description of the scope of services expected of the selected design-build firm during the design, pre-construction and construction phases of the project;

(4) a general description of the anticipated schedule and estimated construction cost for the building project; and

(5) **[the criteria for the selection of the design-build firm, including minimum experience, requirements for presentations/interviews, and the schedule for the selection process.]**

(d) The County shall require interested design-build firms to submit a statement of qualifications in response to the RFQ. The statement of qualifications shall include the following:

(1) a cover letter or executive summary detailing the key elements and factors that differentiate the firm from other potential qualified responders;

- (2) completion of a statement of qualifications similar in form to AIA Document A305 (latest edition), listing general business information and financial capacity such as organizational structure, licensing, experience, references and financial statement;
- (3) a list of all convictions or fines assessed against the design-build firm or any of its officers or directors for violations of state or federal law;
- (4) submission of a project organization chart with specific information on key project personnel or consultants, including the architect of record;
- (5) a letter from a surety company licensed to do business in the State and whose name appears on United States Treasury Department Circular 570 confirming the ability to provide performance and payment bonds for the building project;
- (6) submission of information on the firm's safety record including its workers' compensation experience modifier for the prior three (3) years;
- (7) submission of information on and evidence of the firm's compliance record with respect to small business enterprise inclusion goals and workforce inclusion goals, if applicable;
- (8) submission of information regarding the experience of the design-build firm and the architect of record on similar projects, including contact information of owners of the projects;
- (9) submission of specific examples of the firm's project management reports or other illustrations of the company's operating philosophy; and
- (10) any other relevant information that the County determines desirable.

The prequalification committee established pursuant to Subsection (b) of this section shall evaluate each statement of qualifications submitted by design-build firms. The evaluation shall take into account the following factors: (i) competence to perform the required design-build services as indicated by the technical training, education, and experience of the design-build firm's personnel and key consultants, especially the technical training, education, and experience of the employees and consultants of the design-build firm who would be assigned to perform the services, including the proposed architect of record; (ii) ability of the firm in terms of its workload and the availability of qualified personnel, equipment, and facilities to perform the required professional design services or design-build services competently and expeditiously; (iii) past performance of the firm as reflected by the evaluations of previous clients with respect to such factors as control of costs, quality of work, and meeting of deadlines; and (iv) any other relevant factors as determined by the County. The prequalification committee shall select a minimum of three (3) qualified design-build firms to receive the request for proposals, unless less than three (3) firms responded to the RFQ, in which event prequalification committee may select less than three (3) qualified design-build firms to receive the request for proposals. The

decision of the prequalification committee shall be posted on the County's web site. Once posted on the County's web site, the decision of the prequalification committee is final and shall not be subject to appeal except to the Board of Control on grounds of fraud or collusion. The written Notice of Appeal shall be filed with the Clerk of the Board of Control during business hours on a working day no later than five (5) calendar days of the posting of the prequalification committee's decision on the County's web site. If the fifth calendar day falls on a weekend or a legal holiday on which the County Administration Building is closed, the Notice of Appeal shall be filed no later than 4:00 p.m. on the first day following the weekend or the holiday. The Notice of Appeal shall include the appellant's allegations of fraud or collusion with specificity. The failure to timely file the Notice of Appeal with the Clerk of the Board of Control shall be considered a subject-matter jurisdictional defect, which may not be remedied. The Board of Control's determination of the appeal shall not be subject to any further appeals or any other challenges.

Section 9. (a) Before issuing a request for proposals, hereinafter referred to as RFP, the **Contracts and Purchasing Board** shall establish a selection committee for the purpose of reviewing and evaluating responses submitted to the RFP issued pursuant to Subsection (b) of this section. The selection committee shall be comprised of the Consultant Selection Committee, one (1) representative of the criteria architect or engineer, the County's project manager if the project manager is not a member of the Consultant Selection Committee, and any additional representatives of the County as may be deemed appropriate by the Contracts and Purchasing Board. Nothing herein shall prohibit the County from appointing the same individuals who served as the prequalification committee to serve as the selection committee.

(b) The County shall issue an RFP to each design-build firm selected to receive an RFP pursuant to Section 8. The RFP shall include:

- (1) the date, time and place for submission of proposals;
 - (2) a clear description of the submission requirements including separate price and technical components;
 - (3) the design criteria produced by the criteria architect or engineer;
 - (4) the small business enterprise inclusion goals and workforce inclusion goals for the building project, if applicable;
 - (5) the form of design-build services contract; and
 - (6) any other relevant information that the County determines desirable.
- (c) The RFP shall require the submission of separate price and technical components as part of the proposal submitted in response to the RFP.

(1) The price component shall include: (i) the fee for design services, including the fee of the architect of record, with appropriate detail, (ii) the fee for preconstruction services, with appropriate detail, (iii) the fee for design-build services with explanation of the basis, (iv) the estimated cost of general conditions, with appropriate detail, and (v) the estimated design and contingency requirements regarding development of the GMP.

(2) The technical component shall include: (i) a detailed project approach, including preconstruction and design services, (ii) supplemental relevant project references, (iii) the project team members with position descriptions and relevant time commitments and billing rates of said team members during the project, and (iv) the construction management plan indicating their approach to controlling cost, schedule, quality, documents and claims.

(d) Upon receipt of the responses to the RFP issued pursuant to Subsection (c) of this section, the selection committee shall evaluate all proposals and rank firms based on the selection committee's evaluation of each firm's pricing proposal and qualifications. If the selection committee elects to conduct an interview with a design-build firm who submits a proposal in response to the RFP, then the selection committee shall conduct interviews with each design-build firm that submits a proposal to the RFP. The decision of the selection committee shall be posted on the County's web site. Once posted on the County's web site, the decision of the selection committee is final and not subject to appeal except to the Board of Control on the grounds of fraud or collusion. The written Notice of Appeal shall be filed with the Clerk of the Board of Control during business hours on a working day no later than five (5) calendar days of the posting of the selection committee's decision on the County's web site. If the fifth calendar day falls on a weekend or a legal holiday on which the County Administration Building is closed, the Notice of Appeal shall be filed no later than 4:00 p.m. on the first day following the weekend or the holiday. The Notice of Appeal shall include the appellant's allegations of fraud or collusion with specificity. The failure to timely file the Notice of Appeal with the Clerk of the Board of Control shall be considered a subject-matter jurisdictional defect, which may not be remedied. The Board of Control's determination of the appeal shall not be subject to any further appeals or any other challenges.

(e) The selection committee shall commence negotiations with the highest ranked design-build firm. If the selection committee determines that negotiations with the highest ranked design-build firm will not result in a contract acceptable to the County, then the selection committee shall terminate negotiations with the highest ranked design-build firm and shall commence negotiations with the next highest ranked design-build firm. The process shall continue until the selection committee has reached an acceptable contract with one of the prequalified design-build firms. **[The list and ranking of proposed design-build firms shall be certified by the County's project manager and made available as a public record after the contract award.]**

Section 10. (a) Each contract for a building project procured pursuant to Sections 7 to 12, inclusive, shall utilize a cost-plus, not-to-exceed guaranteed maximum price form of contract in which the County shall be entitled to monitor and audit all project costs.

(b) In establishing the schedule and process for determining a guaranteed maximum price, the contract between the County and the design-build firm shall comply with the following:

(1) The guaranteed maximum price shall be based on design documents that are no less developed than a percentage determined by the Contracts and Purchasing Board;

(2) The guaranteed maximum price shall be agreed to as an amendment to the contract between the County and the design-build firm;

(3) The guaranteed maximum price amendment shall be executed before the commencement of any construction work; except that the County, before the execution of the guaranteed maximum price amendment, may commence construction, so long as the County executes a separate amendment to the contract with the design-build firm detailing the scope of work selected to commence before execution of the guaranteed price amendment, and provided that each subcontractor performing work shall provide a payment and performance bond in the amount of its subcontract, which such bond shall name the County and the design-build firm as co-obligees. The separate amendment shall state the sum for the scope of work, which shall include the cost of the work, the general conditions and additional fee, if any, for the design-build firm; but, any class of work included in the scope of work selected to commence before the execution of the guaranteed maximum price amendment shall be subject to the subcontractor selection process set forth in Section 11. If a guaranteed maximum price cannot be successfully negotiated between the County and the design-build firm, then any subcontractor agreement between the design-build firm and a subcontractor for work selected to commence before execution of the guaranteed maximum price amendment may be assigned to the County or to another design-build firm designated by the County, without the assent of the subcontractor, and the County or the designated design-build firm and the subcontractor shall be bound by the terms of the subcontractor agreement; and

(4) The guaranteed maximum price amendment to the contract between the County and the design-build firm shall include a detailed line item cost breakdown by trade, including any cost for work selected to commence before the execution of the guaranteed maximum price amendment; dollar amounts for the design-build firm's design and construction contingencies; dollar amounts for the general conditions and fees, including any amounts related to work selected to commence before the execution of the guaranteed maximum price amendment; a list of all the drawings, specifications and other information on which the guaranteed maximum price is based; a list of allowances and statement of their basis; a list of any assumptions or

clarifications on which the guaranteed maximum price is based; the dates for substantial and final completion on which the guaranteed maximum price is based; and a schedule of applicable alternates and unit prices.

(5) The design-build firm shall provide all required performance and payment bonds in the amount of the guaranteed maximum price within five (5) business days after the execution of the guaranteed maximum price amendment.

(c) If a guaranteed maximum price cannot be successfully negotiated between the County and the design-build firm, then the selection committee may commence negotiations with an additional proposer starting with the next highest ranked proposer. If a contract and guaranteed maximum price amendment cannot be successfully negotiated between the selection committee and the next highest ranked proposer, then the County shall terminate the procurement process and may instead procure the building project under any other project delivery method permitted by law.

Section 11. (a) Each design-build contract with a design-build firm shall include terms that require the following procedures to be observed in connection with the award of subcontracts under the design-build contract:

(1) Prior to the award of any subcontract with an estimated subcontract value of \$_____ or more, the design-build firm shall submit to the County for approval the qualifications that a subcontractor must have in order to perform the work of the subcontract and a list of at least three (3) subcontracting firms that the design-build firm believes meets the qualifications. The County may eliminate from the list persons or firms that the County believes are not qualified or to which the County has other reasonable objections. The design-build firm shall revise the list unless in accordance with the County's eliminations. The County shall inform the design-build firm of its eliminations of any persons or firms proposed by the design-build firm, within ten (10) working days after the County's receipt of the list. If the County disapproves of a proposed bidder, the written notice to the design-build firm shall set forth the County's objections of the proposed bidder(s). The design-build firm shall not solicit bids or proposals from any person or firm to whom the County has made objections.

(2) The County's elimination of any proposed bidder(s) under Section 11(a)(1) herein is final and not subject to appeal except to the Board of Control on grounds of fraud or collusion. The written Notice of Appeal shall be filed with the Clerk of the Board of Control during business hours on a working day no later than five (5) calendar days of the design-build firm's receipt of the County's objections. If the fifth calendar day falls on a weekend or a legal holiday on which the County Administration Building is closed, the Notice of Appeal shall be filed no later than 4:00 p.m. on the first day following the weekend or the holiday. The Notice of Appeal shall include the appellant's allegations of fraud or collusion with specificity. The failure to timely file the Notice of Appeal with the Clerk of the Board of Control

shall be considered a subject-matter jurisdictional defect, which may not be remedied. The Board of Control's determination of the appeal shall not be subject to any further appeals or any other challenges.

(3) After the design-build firm and the County have agreed upon an acceptable list of potential subcontractors, the design-build firm shall solicit at least three (3) competitive bids or proposals (including design-assist bids or proposals) from subcontractors on the list of approved subcontractors. All bids or proposals submitted shall be sealed and shall not be opened before the bid opening date set forth in the solicitation.

(4) On the date set forth in the solicitation, the design-build firm shall open, in the presence of the County, all bids or proposals. The County shall have the right to be present at all post-opening scope review meetings of the design-build firm and the proposed subcontractors.

(5) Giving consideration to the price and the qualifications of each person or firm submitting a bid or proposal, the design-build firm shall recommend for award the subcontractor whose bid or proposal represents the best value, and such recommendation shall be submitted to the County with a written report setting forth the reasons supporting the recommendation. The County shall have the right to object to the proposed award if it determines that the person or firm proposed does not represent the best value. If the County objects to the proposed award, it shall do so by sending written notice of such objection within ten (10) days after the County's receipt of the design-build firm's recommendation report, and such written notice shall set forth the County's reasons for objecting. If the County does not disapprove the bidder recommended by the design-build firm, then the design-build firm shall award the subcontract to the recommended bidder.

(6) Notwithstanding the foregoing, subcontracts with an award value that does not exceed the threshold sum as identified in Subsection (a)(1) of this section, may be awarded by the design-build firm using any selection method selected by the design-build firm with the approval of the County.

(7) Regardless of any monetary thresholds, each subcontract shall expressly name the County as an intended third-party beneficiary with the right to sue and recover under said subcontract.

Section 12. The **Department of Public Works, with the approval of the Contracts and Purchasing Board**, may adopt rules proscribing additional terms and provisions to be included in each construction manager-at-risk or design-build contract, including procedures and criteria for pre-qualification of subcontractors under Sections 6 and 11.

Section 13. (a) For each contract for the construction, reconstruction, improvement, alteration, installation, demolition or repair of any building project

estimated to cost not more than \$200,00.00, the Contracts and Purchasing Board may elect to use the general contracting method, pursuant to this Section 13.

(b) The County shall give public notice of the building project and shall solicit bids from general contracting firms. The public notice and solicitation shall be advertised in a newspaper of general circulation in the County or on the County's website. The public notice and solicitation shall be given not less than two (2) weeks before the deadline for submitting bids. The public notice and solicitation shall include the time and date of the deadline for receipt of bids, the address of the office to which the responses are to be delivered, a general description of the project, and a general description of the anticipated schedule and estimated construction cost for the building project.

(c) The County shall require interested general contracting firms to submit a pricing proposal and statement of qualifications in response to the bid request. The statement of qualifications shall include the following:

- (1) a cover letter or executive summary detailing the key elements and factors that differentiate the firm from other potential qualified responders;
- (2) completion of a statement of qualifications similar in form to AIA Document A305 (latest edition), listing general business information and financial capacity such as organizational structure, licensing, experience, references and financial statement;
- (3) a list of all convictions or fines assessed against the general contraction firm or any of its officers or directors for violations of state or federal law;
- (4) submission of a project organization chart with specific information on key project personnel or consultants;
- (5) a letter from a surety company licensed to do business in the State and whose name appears on United States Treasury Department Circular 570 confirming the ability to provide performance and payment bonds for the building project;
- (6) submission of information on the firm's safety record including its workers' compensation experience modifier for the prior three (3) years;
- (7) submission of information on and evidence of the firm's compliance record with respect to small business enterprise inclusion goals and workforce inclusion goals, if applicable;
- (8) submission of information regarding the firm's experience on similar projects including contact information of the architects and owners of the projects;
- (9) submission of specific examples of the firm's project management reports or other illustrations of the company's operating philosophy;

(10) submission of either a single aggregate lump sum price or a single aggregate cost-plus, not-to-exceed guaranteed maximum price, as required by the bid documents; and

(11) any other relevant information that the County determines desirable.

(d) The contract for general contracting services shall be awarded to the firm whose bid is determined by the to be the lowest and best.

SECTION 2. Awards of contracts under this Ordinance, and the approval of expenditure of funds therefor, shall be made by the appropriate County approval authority based on the monetary thresholds established in the County's Contracting and Purchasing Procedures Ordinance.

SECTION 3. The Contracts and Purchasing Board shall determine the appropriate bonding requirements for all contracts entered under this Ordinance.

SECTION 4. The Department of Development is hereby directed to investigate alternative possible programs, including funding sources, to provide bonding guarantees to small businesses and to report back to Council no later than October 30, 2011, with its findings and proposals for the adoption of such a program by the County.

SECTION 5. If any conflict arises between the procedures, requirements, or any other terms of the Ohio Revised Code, Ohio Administrative Code, or any other law or regulation, and this Ordinance, the procedures, requirements, and terms of this Ordinance shall prevail.

SECTION 6. It is found and determined that all formal actions of this County Council meeting relating to the adoption of this ordinance were adopted in an open meeting of the County Council and that all deliberations of this County Council and any of its committees that resulted in such formal actions took place in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 7. Effective Date. This ordinance, provided that it receives the affirmative vote of at least eight (8) members of County Council, shall become effective immediately upon enactment; otherwise, it shall be in full force and effect from and immediately after the earliest time permitted by law.

On a motion by _____, seconded by _____, the foregoing Ordinance was duly enacted.

Yeas:

Nays:

County Council President

Date

County Executive

Date

Clerk of Council

Date

First Reading/Referred to Committee: August 9, 2011

Committee(s) Assigned: Economic Development & Planning

Additional Sponsorship Requested on the Floor: August 9, 2011

Second Reading/Referred to Committee: August 23, 2011

Committee(s) Assigned: Economic Development & Planning

Journal _____
_____, 2011