



AGENDA
CUYAHOGA COUNTY PUBLIC WORKS, PROCUREMENT & CONTRACTING COMMITTEE
MEETING
THURSDAY, JUNE 28, 2012
CUYAHOGA COUNTY JUSTICE CENTER
COUNCIL CHAMBERS – 1ST FLOOR
10:00 AM

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PUBLIC COMMENT RELATED TO THE AGENDA**
- 4. APPROVAL OF MINUTES FROM THE JUNE 21, 2012 MEETING**
- 5. MATTERS REFERRED TO COMMITTEE**
 - a) R2012-0107: A Resolution making an award on RQ23394 to Fabrizi Trucking & Paving Co., Inc. in the amount not-to-exceed \$806,847.80 for rehabilitation of Prospect Road Culvert No. 9 in the City of Strongsville; authorizing the County Executive to execute the contract and all other documents consistent with said award and this Resolution; and authorizing the County Engineer, on behalf of the County Executive, to make an application for allocation from County Motor Vehicle \$5.00 License Tax Funds in the amount of \$645,478.24 to fund said contract.
 - b) R2012-0108: A Resolution authorizing a revenue generating agreement with City of North Olmsted for maintenance of storm sewerage systems located in County Sewer District No. 7; authorizing the County Executive to execute the agreement and all other documents consistent with this Resolution; and declaring the necessity that this Resolution become immediately effective.

- c) O2012-0015: An Ordinance amending Ordinance No. O2011-0014, as amended, which enacted the Cuyahoga County Contracting and Purchasing Procedures Ordinance; and declaring the necessity that this Ordinance become immediately effective.

- d) O2012-0017: An Ordinance establishing a County Road Maintenance Program for the Department of Public Works in order to reinstate the financial responsibility of the County for design, construction, repair and road surface maintenance projects for County Roads, effective March 1, 2014.

6. MISCELLANEOUS BUSINESS

7. OTHER PUBLIC COMMENT

8. ADJOURNMENT

*In accordance with Ordinance No. O2011-0020, complimentary parking in the Huntington Park Garage will be available for the public **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 PUBLIC WORKS, PROCUREMENT & CONTRACTING COMMITTEE
MEETING
THURSDAY, JUNE 21, 2012
CUYAHOGA COUNTY JUSTICE CENTER
COUNCIL CHAMBERS – 1ST FLOOR
11:00 AM

1. CALL TO ORDER

Chairman Jones called the meeting to order at 11:08 a.m.

2. ROLL CALL

Chairman Jones asked Assistant Deputy Clerk Thurman to call the roll. Committee members Jones, Miller, Conwell, Rogers and Germana were in attendance and a quorum was determined.

3. PUBLIC COMMENT RELATED TO THE AGENDA

No public comments were given.

4. APPROVAL OF MINUTES FROM THE MAY 31, 2012 MEETING

A motion was made by Mr. Germana, seconded by Mr. Miller and approved by unanimous vote to approve the minutes of the May 31, 2012 meeting.

5. PRESENTATION REGARDING THE ECONOMIC INCLUSION TASKFORCE

Mr. Carlos Fuentes addressed the Committee regarding the Economic Inclusion Taskforce. Discussion ensued.

Committee members asked questions of Mr. Fuentes pertaining to the item, which he answered accordingly.

6. MATTERS REFERRED TO COMMITTEE

[Note: In accordance with Rule 6B of the County Council Rules, the following item was added to the agenda and read into the record by the Assistant Deputy Clerk of Council.]

- a) **R2012-0109**: A Resolution establishing County Sewer District No. 3A, located in the City of Shaker Heights, in accordance with Ohio Revised Code Sections 6117.01 and 6117.03, effective 7/1/2012; authorizing a revenue generating agreement with said municipality for maintenance of storm sewerage systems located in said sewer district for the period 7/1/2012 - 12/31/2012; authorizing the County Executive to execute the agreement and all other documents consistent with this Resolution; and declaring the necessity that this Resolution become immediately effective.

Ms. Bonnie Teeuwen, Director of Public Works, and Ms. Anka Davis, Assistant Law Director, addressed the Committee regarding Resolution No. R2012-0109. Discussion ensued.

Committee members asked questions of Ms. Teeuwen and Ms. Davis pertaining to the item, which they answered accordingly.

On a motion by Mr. Jones with a second by Mr. Miller, Resolution No. R2012-0109 was considered and approved by unanimous vote to be referred to the full Council agenda with a recommendation for passage under second reading suspension of rules.

- b) **R2012-0105**: A Resolution declaring that public convenience and welfare requires resurfacing of Solon Road from Maple Street to Solon North Corporation Line in the Villages of Bentleyville and Chagrin Falls; total estimated construction cost \$1,500,000.00; finding that special assessments will neither be levied nor collected to pay for any part of the County's costs of said improvement; and authorizing the County Executive to enter into agreements of cooperation with said municipalities in connection with said project.

Ms. Teeuwen addressed the Committee regarding Resolution No. R2012-0105. Discussion ensued.

Committee members asked questions of Ms. Teeuwen pertaining to the item, which she answered accordingly.

On a motion by Mr. Jones with a second by Ms. Conwell, Resolution No. R2012-0105 was considered and approved by unanimous vote to be referred to the full Council agenda with a recommendation for passage under second reading suspension of rules.

- c) R2012-0106: A Resolution declaring that public convenience and welfare requires reconstruction of Pleasant Valley Road from Brecksville Road to Kichler Lighting Drive in the City of Independence; total estimated construction cost \$2,614,000.00; finding that special assessments will neither be levied nor collected to pay for any part of the County's costs of said improvement; and authorizing the County Executive to enter into an agreement of cooperation with said municipality in connection with said project.

Ms. Teeuwen addressed the Committee regarding Resolution No. R2012-0106. Discussion ensued.

Committee members asked questions of Ms. Teeuwen pertaining to the item, which she answered accordingly.

On a motion by Mr. Jones with a second by Mr. Germana, Resolution No. R2012-0106 was considered and approved by unanimous vote to be referred to the full Council agenda with a recommendation for passage under second reading suspension of rules.

- d) O2012-0015: An Ordinance amending Ordinance No. O2011-0014, as amended, which enacted the Cuyahoga County Contracting and Purchasing Procedures Ordinance; and declaring the necessity that this Ordinance become immediately effective.

Mr. Jones addressed the Committee regarding Ordinance No. O2012-0015.

Mr. David Merriman, Special Assistant to the Cuyahoga County Executive, and Ms. Lenora Lockett, Director of the Office of Procurement and Diversity, addressed the Committee regarding Ordinance No. O2012-0015. Discussion ensued.

Committee members asked questions of Mr. Merriman and Ms. Lockett pertaining to the item, which they answered accordingly.

Mr. Jones postponed Ordinance No. O2012-0015 from further consideration at this time.

7. MISCELLANEOUS BUSINESS

Mr. Jones reported that E. 89th Street in Cleveland will be renamed William Boyd, Sr. Way in honor of William F. Boyd, Sr., Funeral Director of E. F. Boyd & Son Funeral Home.

8. OTHER PUBLIC COMMENT

No public comments were given.

9. ADJOURNMENT

With no further business to discuss, Chairman Jones adjourned the meeting at 1:04 p.m., without objection.

County Council of Cuyahoga County, Ohio

Resolution No. R2012-0107

| | |
|--|--|
| Sponsored by: County Executive FitzGerald/Department of Public Works/Division of County Engineer and Councilman Gallagher | A Resolution making an award on RQ23394 to Fabrizi Trucking & Paving Co., Inc. in the amount not-to-exceed \$806,847.80 for rehabilitation of Prospect Road Culvert No. 9 in the City of Strongsville; authorizing the County Executive to execute the contract and all other documents consistent with said award and this Resolution; and authorizing the County Engineer, on behalf of the County Executive, to make an application for allocation from County Motor Vehicle \$5.00 License Tax Funds in the amount of \$645,478.24 to fund said contract. |
|--|--|

WHEREAS, the County Executive FitzGerald/Department of Public Works/Division of County Engineer has recommended an award on RQ23394 to Fabrizi Trucking & Paving Co., Inc. in the amount not-to-exceed \$806,847.80 for the rehabilitation of Prospect Road Culvert No. 9 in the City of Strongsville; and

WHEREAS, the bids were received on April 24, 2012 and the Office of Procurement and Diversity (“OPD”) assessed a thirty (30%) percent Small Business Enterprise (SBE) goal; and

WHEREAS, there were six (6) proposals pulled from OPD and four (4) bids were submitted for review and an award recommendation was made to the lowest qualified bidder; and

WHEREAS, the County tabulated the extension of the unit bid prices submitted by each bidder and verified the accuracy of the total amounts and determined to Fabrizi Trucking & Paving Co., Inc. to be the lowest qualified bidder; and

WHEREAS, Fabrizi Trucking & Paving Co., Inc. is located at 389 Columbia Road, Valley City, Ohio 44280, and

WHEREAS, Patricia Fabrizi, Treasurer is the primary owner of Fabrizi Trucking, and

WHEREAS, the funding for this project is as follows: (a) 20% from the Ohio Public Works Commission Issue 1 funds, (b) 40% will be paid from the County \$5.00 Vehicle License Tax Fund, and (c) 40% will be paid for by the City of Strongsville.

County Council of Cuyahoga County, Ohio

Resolution No. R2012-0108

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|---|---|
| Sponsored by: County Executive FitzGerald/Department of Public Works/Division of County Engineer | A Resolution authorizing a revenue generating agreement with City of North Olmsted for maintenance of storm sewerage systems located in County Sewer District No. 7; authorizing the County Executive to execute the agreement and all other documents consistent with this Resolution; and declaring the necessity that this Resolution become immediately effective. |
|---|---|

WHEREAS, the City of North Olmsted desires to retain Cuyahoga County to perform certain services in the City of North Olmsted to aid with the storm sewer maintenance program as part of Cuyahoga County Sewer District No. 7; and,

WHEREAS, the County Executive/Department of Public Works/Division of County Engineer recommends approval of a revenue generating agreement with the City of North Olmsted for storm sewer maintenance and repair services located in Sewer District No. 7; and,

WHEREAS, pursuant to ORC 307.15, a county may contract with any municipal corporation to render any service, on behalf of the municipal corporation; and,

WHEREAS, Cuyahoga County has agreed to provide storm sewer maintenance and repair services for the City of North Olmsted; and,

WHEREAS, this is an ongoing agreement that will continue until terminated by either party; and,

WHEREAS, it is necessary that this Resolution become immediately effective in order that critical storm sewer maintenance and repair services can be provided by Cuyahoga County for the City of North Olmsted's sewer system.

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

SECTION 1. The Cuyahoga County Council hereby approves the revenue generating Agreement with City of North Olmsted for storm sewer maintenance and repair services located in Cuyahoga County Sewer District No. 7.

SECTION 2. The County Executive is hereby authorized to execute the agreement, and all documents consistent with this Resolution.

SECTION 3. It is necessary that this Resolution become immediately effective in order that critical sewer maintenance and repair services can be provided by Cuyahoga County for the City of North Olmsted's storm sewer system. Provided that this Resolution receives the affirmative vote of eight members of Council, this Resolution shall become immediately effective upon the signature of the County Executive.

SECTION 4. It is found and determined that all formal actions of this Board relating to the adoption of this Resolution were adopted in an open meeting of the Board of Control, and that all deliberations of this Board 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: June 12, 2012

Committee(s) Assigned: Public Works, Procurement & Contracting

Journal _____
_____, 2012

County Council of Cuyahoga County, Ohio

Ordinance No. O2012-0015

| | |
|---|---|
| Sponsored by: County Executive FitzGerald/Department of Law and Councilmember Miller | An Ordinance amending Ordinance No. O2011-0014, as amended, which enacted the Cuyahoga County Contracting and Purchasing Procedures Ordinance; and declaring the necessity that this Ordinance become immediately effective. |
|---|---|

WHEREAS, the Cuyahoga County Council enacted the Cuyahoga County Contracting and Purchasing Procedures Ordinance in Ordinance No. O2011-0014, as amended; and,

WHEREAS, the County has now had over a year experience with the Contracting and Purchasing Procedures Ordinance and has determined that the Ordinance should be amended in accordance with the draft of the ordinance attached hereto; and,

WHEREAS, it is necessary that this Ordinance become immediately effective in order that critical services provided by Cuyahoga County can continue and to continue the usual and daily operation of the County.

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

SECTION 1: The Cuyahoga County Contracting and Purchasing Procedures Ordinance, Ordinance No. O2011-0014, as amended, is hereby amended in accordance with the attached draft of the ordinance, with the stricken language being deleted, and the bolded, underlined language being added.

SECTION 2: The Clerk of Council shall update the table of contents for the ordinance upon its passage to reflect the correct pagination with the amendments made herein.

SECTION 3: Effective Date. It is hereby found and determined necessary for this Ordinance to become immediately effective, for the reasons that this Ordinance provides for the usual daily and necessary operations of Cuyahoga County government. Therefore, this Ordinance, provided that it receives the affirmative vote of at least eight (8) members of County Council, shall be in full force and effect from and immediately after the earliest time permitted by law.

SECTION 4: 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.

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: June 12, 2012
Committee(s) Assigned: Public Works, Procurement & Contracting

Journal _____
_____, 2012

Cuyahoga County
Contracting and Purchasing Procedures Ordinance



Cuyahoga County Council
Public Works, Procurement & Contracting Committee

Pernel Jones, Jr., Chair
Chuck Germana, Vice Chair
Yvonne Conwell
Dale Miller
Julian Rogers

Adopted, April 26, 2011, Ordinance No. O2011-0014
Amended, July 26, 2011, Ordinance No. O2011-0030
Amended, August 9, 2011, Ordinance No. O2011-0033
Amended, September 13, 2011, Ordinance No. O2011-0044
Amended, September 27, 2011, Ordinance No. O2011-0046
Amended, December 6, 2011, Ordinance No. O2011-0055
Amended, _____, 2012, Ordinance No. O2012-0015

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Chapter 1: Establishment of the Board of Control

Section 1.1: Board of Control Established

A. Establishment: There is, hereby, created the Cuyahoga County Board of Control, consisting of seven (7) members identified as follows:

- a) the Cuyahoga County Executive,
- b) the Fiscal Officer,
- c) the Director of Public Works,
- d) the Director of the Office of Procurement and Diversity, and
- e) three members of Cuyahoga County Council, appointed by the President of Council, within seven (7) days after the enactment of this Ordinance and immediately following each Organizational Meeting of Cuyahoga County Council, who shall serve until their successors are appointed.

Amended in Ordinance No. O2011-0030 on July 26, 2011.

B. Jurisdiction: The Board of Control shall have jurisdiction to review, approve, or deny all of the following:

- a) **Any contract, contract amendment, change order, purchase, sale, lease, grant, loan, exemption, procedure, or any other action that requires approval by the Board of Control pursuant to the Contracting and Purchasing Procedures Ordinance or any other County ordinances.**
- b) **Any other contract, contract amendment, change order, purchase, sale, lease, grant, loan, exemption, procedure, or other action that does not otherwise require approval by the County Council, Board of Control, or the Contracts and Purchasing Board, but the County Executive determines to submit to the Board of Control for its consideration, review, and approval or denial.**

Section 1.2: County Council Vacancies

Whenever any of the three (3) positions on the Board of Control held by members of County Council becomes vacant, the President of County Council shall appoint another member of County Council to fill the position for the remainder of the term.

Section 1.3: Executive Branch Alternates

For each of the four (4) executive branch members of the Board of Control, the County Executive shall appoint ~~an alternate who~~ **two alternates, one of whom** shall attend meetings of the Board of Control whenever that member is unable to do so. Only employees of Cuyahoga County may be appointed as alternates on the Board of Control. Each alternate appointed shall, according to the County Executive's best judgment, have the greatest responsibility and most knowledge in the area(s) of primary responsibility of the person that the alternate replaces. Alternates shall serve at the pleasure of the County Executive, and the County Executive shall appoint a new alternate in the same way as the original designation whenever an alternate position becomes vacant. Appointments of alternates by the County Executive shall not be subject to confirmation by County Council.

Section 1.4: Council Alternates

At the same time that the President of Council appoints members to the Board of Control, the President of Council shall appoint ~~an alternate for each member appointed~~ **at least three alternates who shall serve as a pool of alternates if any of the Council members are unavailable.** Alternates shall be members of County Council and shall serve until their successors are designated. The President of Council shall in the same way appoint an alternate for the remainder of the term whenever an alternate position becomes vacant.

Section 1.5: Alternate Have Full Rights

Any properly appointed alternate shall have all the rights and responsibilities of a member of the Board of Control when attending a meeting on behalf of a member.

Section 1.6: Officers

The County Executive shall serve as Chairperson of the Board of Control, and the Fiscal Officer shall serve as Vice Chairperson. If both the Executive and the Fiscal Officer are absent from any meeting, the Board of Control shall choose one of its members to chair that meeting. For the

purposes of this section, County Executive and Fiscal Office shall include their alternates.

Section 1.7: No Additional Compensation, Collective Action, and Conflicts of Interest

- (a) No compensation in addition to a person's regular compensation as an employee of Cuyahoga County shall be provided for service on the Board of Control.
- (b) The Board of Control is a board created by law, and its members act collectively, and in their official capacities, in the award of contracts and in taking any other action. It shall not be a conflict of interest for a Board member, including the County Executive or a director of a department or an office, to advocate before the Board, deliberate on, and vote for or against a contract or any other item involving his or her department or office. It also shall not be a conflict of interest for a Council Board member to advocate before the Board, deliberate on, and vote for or against a contract within his or her District or involving a purchase by the County Council.

Section 1.8: Clerk of the Board of Control

The County Executive shall designate one staff person, who shall be the Clerk of the Board of Control, who shall publish agendas and meeting notices and record and publish minutes.

Section 1.9: Weekly Meetings

The Board of Control shall meet weekly, at a regular time determined by the Board of Control.

Section 1.10: Quorum

A quorum for the Board of Control shall consist of four (4) members ~~or~~ attending personally or through their alternates ~~or replacements~~.

Section 1.11: Vote Required for Board of Control Actions

Except as provided in Section 3.10(a)(7) of this Ordinance, a motion to approve or disapprove any item before the Board of Control shall require the affirmative vote of any four (4) or more members. Amendments to items before the Board of Control and parliamentary motions may be adopted by a majority of those present, provided that a quorum is present.

Section 1.12: Rules of Procedure

- (a) The Board of Control shall, consistent with the provisions of this Ordinance, adopt its own rules of procedure. **The Board's rules may include procedures for the approval or preapproval of time sensitive, mission critical purchases.**
- (b) Should any conflict arise between the rules of procedure of the Board of Control and this Ordinance, the requirements of this Ordinance shall prevail.

Section 1.13: Public Participation

All meetings of the Board of Control shall be open to the public and shall begin by providing time for public comment on matters that are on the agenda for that day. The Board of Control shall also provide time for public comment, either at that time or later in the meeting, on matters that may come before the Board of Control in the future. The Board of Control may also require presenters to register with the Board of Control before speaking and may set a time limit on presentations, which may be extended at the discretion of the Chairperson.

Section 1.14: Agendas

The Clerk of the Board of Control shall publish the notice and agenda for each meeting on the county's website, post them at its office, and send them by electronic mail to each member of County Council no later than 6:00 p.m. on the second business day before the meeting. For each proposed contract to be considered, the agenda shall list the type of contract, a summary of the scope of work, the anticipated costs, the expected schedule of payments by fiscal year, the source(s) of funding, the anticipated start date, and the vendor's name. For agenda items other than contracts, the Board of Control shall specify in its rules what documentation shall be submitted with the request.

Section 1.15: Special Meetings

The Board of Control may conduct a special meeting at a time other than its regularly scheduled time. In the event of an emergency, as determined by the County Executive in his or her discretion, or when the County Executive determines that it is advantageous to the County to have a special meeting, the Board of Control may conduct a meeting with less notice than that required by Section 1.14 of this Ordinance. For any special or emergency meeting, in addition to the notice requirements of Section 1.14, the Board of Control shall also send notice to all news media organizations that request to be notified of such meetings. A meeting may

be conducted with less than twenty-four (24) hours only to respond to an emergency concerning which immediate official action is required, and the notice and agenda shall state the nature of the emergency requiring such action.

Section 1.16: Minutes

The Clerk of the Board of Control shall promptly prepare and publish the minutes of each meeting of the Board of Control on the county's website, which shall in no case occur later than one week after each meeting.

Section 1.17: Executive Session

Notwithstanding the requirement in Section 1.13 for open meetings, the Board of Control may go into Executive Session, only to discuss one or more of the topics permitted to be discussed in Executive Session pursuant to the Ohio Open Meetings Act or any other general law permitting such Executive Session. The published agenda for any meeting at which the Board of Control goes into Executive Session must include notice of the intent to go into Executive Session and a general description of the subject matter to be discussed. Prior to going into Executive Session, the Board of Control must approve a motion to go into Executive Session. That motion must be approved by a majority of members present by roll call vote, with a quorum being present, and the motion shall state the topic(s) to be discussed in Executive Session and that no other topics may be discussed.

Section 1.18: Journal

The Clerk of the Board of Control shall maintain a Journal of the Board of Control, which shall be posted on the county's website and maintained as a permanent file, which may be in an electronic format. The Journal shall include the notice, agenda, and minutes of all Board of Control meetings.

Section 1.19: Public Meetings and Public Records

The Board of Control shall be subject to all state laws and county ordinances concerning public meetings and public records.

Section 1.20: Deadline for Agenda Items

The Clerk of the Board of Control, in consultation with the Fiscal Officer, the Director of Public Works, and the Director of the Office of Procurement and Diversity, may set a deadline for the submission of items for the agenda by county departments for each meeting.

Section 1.21: Consideration of Items Not on the Agenda

The Board of Control may, by 2/3 vote of members present, with a quorum being present, allow consideration of items not on the agenda or items submitted after the deadline for submission of items established by the Clerk of the Board of Control.

Chapter 2: Contracts and Purchasing Board Established

Section 2.1: Contracts and Purchasing Board Established

A. Establishment: There is, hereby, created the Cuyahoga County Contracts and Purchasing Board, consisting of five (5) members identified as follows:

- a) The Cuyahoga County Executive;
- b) The Fiscal Officer;
- c) The Director of Public Works;
- d) The Director of the Office of Procurement and Diversity; and
- e) The Cuyahoga County Executive's Chief of Staff.

B. Jurisdiction: The Contracts and Purchasing Board shall have jurisdiction to review, approve, or deny all of the following:

- a) **Any contract, contract amendment, change order, purchase, sale, lease, grant, loan, exemption, procedure, or any other action that requires approval by the Contracts and Purchasing Board pursuant to the Contracting and Purchasing Procedures Ordinance or any other County ordinances.**
- b) **Any other contract, contract amendment, change order, purchase, sale, lease, grant, loan, exemption, procedure, or other action that does not otherwise require approval by the County Council, Board of Control, or the Contracts and Purchasing Board, but the County Executive determines to submit to the Contracts and Purchasing Board for its consideration, review, and approval or denial.**

Section 2.2: Board Alternates

For each member of the Contracts and Purchasing Board, the County Executive shall appoint ~~an alternate who~~ **two alternates, one of whom** shall attend meetings of the Contracts and Purchasing Board whenever that member is unable to do so. Only employees of Cuyahoga County may be appointed as alternates. Each alternate appointed shall, according to the County Executive's best judgment, have the greatest responsibility and most knowledge in the area(s) of primary responsibility of the person that the alternate replaces. Alternates shall serve at the pleasure of the County Executive, and the County Executive shall appoint a new alternate in the same way as the original designation whenever an alternate position becomes vacant. Appointments of alternates by the County Executive shall not be subject to confirmation by County Council.

Section 2.3: Alternates Have Full Rights.

Any properly appointed alternate shall have all the rights and responsibilities of a member of the Contracts and Purchasing Board when attending a meeting on behalf of a member.

Section 2.4: Officers

The County Executive shall serve as the Chairperson and the County Executive's Chief of Staff shall serve as the Vice Chairperson of the Contracts and Purchasing Board. If both the Executive and the County Executive's Chief of Staff are absent, the Board shall choose one of its members to chair that meeting. For the purposes of this section, the County Executive and the County Executive's Chief of Staff shall include their alternates.

Section 2.5: No Additional Compensation, Collective Action, and Conflicts of Interest

- (a) No compensation in addition to a person's regular compensation as an employee of Cuyahoga County shall be provided for service on the Contracts and Purchasing Board.
- (b) The Contracts and Purchasing Board is a board created by law, and its members act collectively, and in their official capacities, in the award of contracts and in taking any other action. It shall not be a conflict of interest for a Board member, including the County Executive or a director of a department or an office, to advocate before the Board, deliberate on, and vote for or against a contract or any other item involving his or her department or office.

Section 2.6: Clerk of the Contracts and Purchasing Board

The County Executive shall designate one staff person to serve as the Clerk of the Contracts and Purchasing Board. The Clerk shall publish the meeting agendas and notices and shall record and publish the minutes.

Section 2.7: Weekly Meetings

The Contracts and Purchasing Board shall meet weekly at regular times determined by the Board. If the Board deems it necessary, it may elect to convene more than one regular meeting per week, through its rules of procedure. The Board's Chairperson, or his or her alternate, shall have the authority to cancel meetings.

Section 2.8: Quorum

A quorum for the Contracts and Purchasing Board shall consist of three (3) members, or their alternates or replacements.

Section 2.9: Vote Required for Board Actions

A motion to approve or disapprove any item before the Contracts and Purchasing Board shall require the affirmative vote of any three (3) or more members. Amendments to items before the Contracts and Purchasing Board and parliamentary motions may be adopted by a majority of those present, provided that a quorum is present.

Section 2.10: Rules of Procedure

- (a) The Contracts and Purchasing Board shall, consistent with the provisions of this Ordinance, adopt its own rules of procedure. **The Board's rules may include procedures for the approval or preapproval of time sensitive, mission critical purchases.**
- (b) Nothing in this Ordinance shall be interpreted to prohibit the Contracts and Purchasing Board from utilizing consent agendas.
- (c) Should any conflict arise between the rules of procedure of the Contracts and Purchasing Board and this Ordinance, the requirements of this Ordinance shall prevail.

Section 2.11: Public Meetings and Public Records

The Contracts and Purchasing Board shall be subject to all state laws and county ordinances concerning public meetings and public records.

Section 2.12: Public Participation

All meetings of the Contracts and Purchasing Board shall be open to the public and shall begin by providing time for public comment on matters that are on the agenda for that day. The Board shall also provide time for public comment, either at that time or later in the meeting, on matters that may come before the Board in the future. The Contracts and Purchasing Board may also require presenters to register with the Board before speaking and may set a time limit on presentations, which may be extended at the discretion of the Chairperson.

Section 2.13: Executive Session

Notwithstanding the requirements in Sections 2.10 and 2.11 for open meetings, the Contracts and Purchasing Board may go into Executive Session, only to discuss one or more of the topics permitted to be discussed in Executive Session pursuant to the Ohio Open Meetings Act or any other general law permitting such Executive Session. The published agenda for any meeting at which the Board goes into Executive Session must include notice of the intent to go into Executive Session and a general description of the subject matter to be discussed. Prior to going into Executive Session, the Board must approve a motion to go into Executive Session. The motion to go into Executive Session must be approved by a majority of members present by roll call vote, with a quorum being present, and the motion shall state the topic(s) to be discussed in Executive Session and that no other topics may be discussed.

Section 2.14: Agendas

The Clerk of the Contracts and Purchasing Board shall publish the notice and agenda for each Board meeting on the county's website, post them at its office, and send them by electronic mail to each member of County Council no later than 6:00 p.m. on the second business day before the meeting for a Contracts and Purchasing Board. For each proposed contract to be considered, the agenda shall list the type of contract, a summary of the scope of work, the anticipated costs, the source(s) of funding, the anticipated start date, and the vendor's name. For agenda items other than contracts, the Contracts and Purchasing Board shall specify in its rules what documentation shall be submitted with the request.

Section 2.15: Deadline for Agenda Items

The Clerk of the Contracts and Purchasing Board, in consultation with the Director of the Office of Procurement and Diversity, may set a deadline for the submission of items for consideration by the Contracts and Purchasing Board.

Section 2.16: Consideration of Items Not on the Agenda

The Contracts and Purchasing Board may, by vote of 2/3 of members present and a minimum of three (3) affirmative votes, allow consideration of items not included in the agenda published at or prior to the deadline provided for in Section 2.14 of this Ordinance.

Section 2.17: Special Meetings

- (a) The Contracts and Purchasing Board may conduct special meetings at a time other than its regularly scheduled meeting times.
- (b) In the event of an emergency, as determined by the County Executive in his or her discretion, or when the County Executive determines that it is advantageous to the County to have a special meeting, the Contracts and Purchasing Board may conduct a meeting with less notice than that required by Section 2.14 of this Ordinance. For any special or emergency meeting, in addition to the notice requirements of Section 2.14, the Board shall also send notice to all news media organizations that request to be notified of such meetings. A meeting may be conducted with less than twenty-four (24) hours only to respond to an emergency, as determined by the County Executive in his or her discretion, concerning which immediate official action is required, and the notice and agenda shall state the nature of the emergency requiring such action.

Section 2.18: Minutes

The Clerk of the Contracts and Purchasing Board shall promptly prepare and publish the minutes of each Board meeting on the county's website, which shall in no case occur later than one week after each meeting.

Section 2.19: Journal

The Clerk of the Contracts and Purchasing Board shall maintain a Journal of the Board, which shall be posted on the county's website and maintained as a permanent file, which may be in an electronic format. The

Journal shall include the notice, agenda, and minutes of all Board meetings.

Chapter 3: Approvals Required for Contracts, Purchases and Sales, Leases, Grants and Loans

Section 3.1: County Executive's Authority

- a) The County Executive, through the appropriate departments of county government acting under his/her direction or other county entities, may solicit bids, **proposals, qualification statements, or any other contractual solicitation**; enter into all contracts; manage contracts through their conclusion and execute all necessary documents for the administration and conclusion of contracts; accept completeness of projects; terminate contracts; release escrow funds upon conclusion of contracts; apply for, accept, or make grants; purchase, sell, and lease any real estate or real estate interests; accept or grant access, easements, licenses, and other rights of entry on real estate; and provide or enter into loans, provided that all requirements of this Ordinance applicable to that action are met. For actions requiring approval of the County Council, ~~or~~ the Board of Control, **or the Contracts and Purchasing Board**, such approvals shall be obtained prior to execution of the action. Actions not requiring approval of either the County Council, ~~or~~ the Board of Control, **or the Contracts and Purchasing Board** may be executed by the County Executive in accordance with procedures established by this Ordinance and the County Executive.
- b) The County Executive may perform any of the functions that he or she may perform under this Ordinance through his or her duly authorized designees.

Amended in Ordinance No. O2011-0030 on July 26, 2011.

Section 3.2: Usage of the Terms "Contract and "Sale"

For the purposes of this Ordinance:

- a) "contract" shall not include an employment contract between the County and any regular full-time or part-time employee of the County or any contract entered into in settlement of litigation; and
- b) "sale" shall include only sales of assets.

Section 3.3: Definition of Value

For the purposes of this Ordinance, the value of any contract, purchase, sale, grant **made by the County**, or loan shall be the total amount obligated, received or contracted for, even if over multiple years, but shall not include any optional extensions. Whenever a construction or renovation project requires the execution of two or more contracts, the sum of the value of the multiple contracts required shall be used as the value for each contract, except that contracts for phases of a construction or renovation project, executed before it is known whether the total project cost will exceed \$500,000, may be handled as a separate contract.

Section 3.4: Thresholds for Options of Contracts

Exercise of an option on a contract shall require approval of the County Council, the Board of Control, or the Contracts and Purchasing Board if the thresholds provided for in Sections 3.10, 3.11, and 3.12, respectively, for approval of contracts are met.

Section 3.5: Contracts with Multiple Vendors

- a) Unless an exemption is approved under Section 3.5(b) herein, the values of proposed contracts to be entered pursuant to a single Request for Bids (RFB), Request for Proposals (RFP), or Request for Qualifications (RFQ) **or any other contractual solicitation** shall be aggregated and treated as a single contract for purposes of applying the monetary thresholds under sections 3.10, 3.11, and 3.12.
- b) Requests for exemption from the requirements of Section 3.5(a) shall be submitted to the Board of Control, which is hereby authorized to review such requests and to approve or disapprove them.

Amended in Ordinance No. O2011-0030 on July 26, 2011.

Section 3.6: Definition of New Item

For the purposes of this Ordinance, a "new item" in a change order or amendment to a contract is any item not provided for in the prior version of the contract, and does not include a change in the quantity, version, style, manufacturer, or supplier of any item included in the prior version of the contract.

Section 3.7: Change Orders or Amendments on Contracts

A change order or amendment to a contract may be presented in the form of a list of proposed changes, rather than submitting items individually. For the purposes of this Ordinance, the value of a change order or amendment submitted as a list of items shall be the greater of:

- a) the net change to the value of the contract after all additions, are added and all deletions or reductions are subtracted; or
- b) the total value of all new items, as defined in Section 3.6 of this Ordinance, in the change order or amendment.
- c) the term "change order or amendment" shall include the use of county contingency funds.

Section 3.8: Approval Thresholds for Change Orders or Amendments

For the purposes of this Ordinance, a change order or amendment to a contract shall not be considered a separate contract and shall be subject to the requirements of Sections 3.10(a)(7) and 3.11(c) of this Ordinance.

Section 3.9: Single Approval Generally Required; Exceptions

- a) Except as provided for in Sections 3.10(a)(7) and (8) and Sections 3.11(c) and (d), approvals provided for in Sections 3.10, 3.11, and 3.12 of the Ordinance shall be required to enter into a contract, lease, purchase, sale, loans made by the County, and grants made by the County and not at other stages of the process of completing these transactions.
- b) Purchases made under a requirements, supplies, or other contract under which multiple purchases are to be made, such as an office supply contract or a county printing contract, shall not require additional individualized approvals by the County Council, Board of Control, or the Contracts and Purchasing Board so long as the contract under which the purchases are to be made is properly approved under this Ordinance.

Section 3.10: Items Requiring County Council Approval

- a) The following transactions and other actions shall require approval by the County Council:

- 1) All contracts, purchases, sales, grants provided by the county, or loans provided by the county for more than \$500,000.00;
- 2) Any loan in which the county, or any entity thereof, is the borrower;
- 3) All contracts, purchases, loans, leases, or other transactions which create an obligation which would require the appropriation of additional funds not previously authorized;
- 4) All purchases or sales of real estate or real estate interests for any purpose other than making or repairing roads, including bridges, for more than \$50,000.00 and all leases of real estate or real estate interests as lessor or lessee in which the value of the purchase, sale, or lease is more than \$50,000.00;
- 5) All purchases, sales, or leases of real estate in excess of six months other than at fair market value;
- 6) All transfers of cash or appropriation authority between accounts within the county budget and all appropriation changes that result in an increase or decrease in authorized appropriations;
- 7) Any change order or amendment to a contract that is submitted to the Board of Control and does not receive an affirmative vote of one County Council member on the Board of Control;
- 8) Any other specific contract, purchase, sale, lease, grant made by the County, or loan made by the County, or any exemption, procedure, or other action within the process of completing any such contract, purchase, sale, lease, grant made by the County, or loan made by the County for which the County Council, by Motion of Council, requires approval of the County Council;
- 9) Any other contract, contract amendment, change order, purchase, sale, lease, grant made by the County, loan made by the County, exemption, procedure, or other action that requires approval by the County Council pursuant to any other provision of this Ordinance or any other County Ordinances;

- 10) Any other contract, purchase, sale, lease, grant made by the County, loan made by the County, or any exemption, procedure, or other action within the process of completing any such contract, purchase, sale, lease, grant, exemption, or loan that does not otherwise require Council approval, but the County Executive, Board of Control, or Contracts and Purchasing Board determines to submit to Council for its consideration, review, and approval or denial.
- b) Sections 3.10(a)(4) and (5) are not intended to interfere with the Executive and Director of Public Works' ability to manage the County's property, including, without limitation, granting access, easements, licenses, rights of way, or other rights of entry on the County's property and establishing the terms for such entry without seeking Council approval for such action.

Amended in Ordinance No. O2011-0030 on July 26, 2011, and in Ordinance No. O2011-0033 on August 9, 2011.

Section 3.11: Items Requiring Board of Control Approval

The following transactions and other actions shall require approval by the Board of Control:

- a) All contracts, purchases, sales, grants provided or by the County, or loans provided by the County for more than \$100,000.00 but not more than \$500,000.00, except that the County Executive and/or the Director of Economic Development may make loans of not more than \$200,000.00 without approval from the Board of Control for the limited purpose of implementing the Federal Neighborhood Stabilization Program.
- b) All purchases or sales of real estate or real estate interests for more than \$10,000.00 but not more than \$50,000.00 and all leases of real estate or real estate interests as lessor or lessee in which the total value of the transaction is more than \$10,000.00 but not more than \$50,000.00.
- c) Any change order or amendment with a value of \$25,000.00 or more using the definition provided in Section 3.7 of this Ordinance for contracts with a value of less than five million dollars or \$50,000.00 or more for contracts with a value of five million dollars or more.
- d) Any other specific contract, purchase, sale, lease, grant, or loan or any procedure within the process of completing any such contract,

purchase, sale, lease, grant or loan for which the County Council, by Motion of Council, requires approval of the Board of Control.

- e) ~~Any other specific contract, purchase, sale, lease, grant made by the County, loan made by the County, or any exemption, procedure, or other action within the process of completing any such contract, purchase, sale, lease, grant, exemption, or loan that does not otherwise require Council or Board of Control approval, but the County Executive determines to submit to the Board of Control for its consideration, review, and approval or denial.~~
- f) All purchases, including, the acquisition through settlement of eminent-domain litigation, of any real estate interests for the purpose of making or repairing roads, including bridges, in excess of \$50,000.00.
- g) ~~Any other contract, contract amendment, change order, purchase, sale, lease, grant made by the County, loan made by the County, exemption, procedure, or other action that requires approval by the Board of Control pursuant to any other provision of this Ordinance or any other County ordinances.~~

Amended in Ordinance No. O2011-0030 on July 26, 2011, and in Ordinance No. O2011-0033 on August 9, 2011.

Section 3.12: Items Requiring Contracts and Purchasing Board Approval

The following transactions and other actions shall require approval by the Contracts and Purchasing Board:

- a) All contracts, purchases, sales, grants provided by the County, and loans provided by the County for \$500.00 or more that do not otherwise require County Council or Board of Control approval.
- b) ~~Any other contract, contract amendment, change order, purchase, sale, lease, grant, loan, exemption, procedure, or any other action that requires approval by the Contracts and Purchasing Board pursuant to any other provision of this Ordinance or any other County ordinances.~~
- e) ~~Any other contract, contract amendment, change order, purchase, sale, lease, grant, loan, exemption, procedure, or other action that does not otherwise require approval by the County Council, Board of Control, or the Contracts and Purchasing Board, but the County Executive determines to submit to the Contracts and Purchasing Board for its consideration, review, and approval or denial.~~

Section 3.13: Monthly Reports on Contract Changes

During any construction or renovation project, the director of the department responsible for the project in conjunction with the project manager, or other person responsible for the project shall provide the following information monthly to the Board of Control:

- a) A description of all changes made in the project since the previous report and the cost or savings associated with each change, and
- b) The percentage of contingency funds used in the project up to that point and how that percentage compares with the projected use of contingency funds at that point in the project.

Amended in Ordinance No. O2011-0030 on July 26, 2011.

Section 3.14: Identification of Funding Sources

Any item submitted to the County Council, the Board of Control, or the Contracts and Purchasing Board which includes a request for approval for the expenditure of money shall specify the funding source(s) to be used.

Section 3.15: Experts or Consultants

The County Executive may enter into a contract with experts or consultants in connection with the administration of the affairs of the county, as provided for in Article 3, Section 9, Subsection 3 of the Cuyahoga County Charter, subject to the approval process and other requirements regarding contracts provided for in this Ordinance and the specific notice requirement provided for in Section 5.4 of this Ordinance.

Section 3.16: County Executive Emergency Authority

In an emergency which threatens the life, health, or property in the county, as declared and determined by the County Executive, and in which official action is needed prior to when a meeting of the County Council, the Board of Control, or the Contracts and Purchasing Board could take place, the County Executive may enter into contracts or leases or make purchases not to exceed ~~\$500,000.00~~ **\$2,000,000.00** for any one emergency event, without obtaining the approval of the County Council, the Board of Control, or the Contracts and Purchasing Board. Whenever this power is exercised, the County Executive shall immediately send a report to County Council and post the report on the county's website, describing the nature

of the emergency, the actions taken, and the estimated cost and sources of funding for the actions taken.

Amended in Ordinance No. O2011-0030 on July 26, 2011.

Section 3.17: Grant Application and Acceptance of Grants

The County Executive may apply for and accept grants on behalf of the county, **and execute all agreements and any other documents in connection with same**, without specific approval from the Contracts and Purchasing Board, the Board of Control, or the County Council, provided that any expenditures of grant funds shall be made from funds properly appropriated and any purchases, grants, leases, or loans made using grant funds shall be done in accordance with the provisions of this Ordinance.

Amended in Ordinance No. O2011-0030 on July 26, 2011.

Section 3.18: Referral to County Council

The County Executive may refer an item to the County Council for approval that otherwise would require approval from the Board of Control or the Contracts and Purchasing Board.

Section 3.19: Information Technology Purchases

All information technology purchases by the County, its officers, departments, offices, agencies, boards, commissions, courts, or other authorities of the County shall be coordinated with the County's Chief Information Officer and approved by him/her, in accordance with the procedures and policies established by his/her office, before being submitted for approval to the appropriate approval authority under Sections 3.10, 3.11, or 3.12 of this Ordinance.

Chapter 4: General Provisions

Section 4.1: Director of Procurement and Diversity to Execute Purchases

All purchases of goods and services shall be done by the ~~Director of~~ **Office of** Procurement and Diversity, under the direction of the County Executive. The various departments may use office vouchers and procurement cards for purchases not to exceed \$500.00.

Section 4.2: Legal Review

All contracts, purchases, sales, leases, grants, or loans must undergo legal review before being executed. Use of a standard form, approved in advance by the Law Department for a specific type of transaction, shall satisfy the requirement of this section.

Section 4.3: Appropriation and Warrant Procedures

All expenditures related to any contract, purchase, sale, lease, grant, or loan must be made in accordance with the appropriation and proper warrant provisions of Section 5705.41 of the Ohio Revised Code.

Section 4.4: Competitive Bidding Required; Exceptions

a) Except as otherwise provided in this Ordinance, including, but not limited to, Sections 4.4, 4.7, and 4.13, all contracts, purchases, or leases shall be done in accordance with the competitive bidding procedures provided for in Sections 307.86 through 307.921 of the Ohio Revised Code. 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.

b) Competitive bidding is not required when any of the following apply:

1. The estimated cost is less than \$25,000.00;
2. The purchase is for professional services, such as architectural, legal, medical, veterinary, financial, insurance, information technology, engineering, consulting, surveying, appraisal, brokerage, or construction management services;
3. The purchase is made in response to an emergency as provided for in Section 3.16 of this Ordinance or the purchase is approved by the County Council, the Board of Control, or the Contracts and Purchasing Board, as applicable, to be made without competitive bidding in response to an emergency;
4. ~~Contracts for the~~ **The transaction is for the purchase, sale, lease (as lessor or lessee), conveyance, transfer, exchange, easement, right of way, license, or any other disposition or acquisition** of real property or real-estate interests;
5. ~~Leases of real estate or real estate interests as lessee, in which all of the following apply:~~

- i. ~~The contracting authority develops requests for proposals for leasing the property, specifying the criteria that will be considered prior to leasing the property, including the desired size and geographic location of the property;~~
 - ii. ~~The contracting authority receives responses from prospective lessors with property meeting the criteria specified in the requests for proposals by giving notice in a manner substantially similar to the procedures established for giving notice under section 307.87 of the Ohio Revised Code as modified by Section 4.13 of this Ordinance; and~~
 - iii. ~~The contracting authority negotiates with the prospective lessors to obtain a lease at the best and lowest price reasonably possible considering the fair market value of the property and any relocation and operational costs that may be incurred during the period the lease is in effect.~~
6. The purchase is for used personal property, material, or supplies which are to be sold by the submission of written bids or at an auction open to the public;
 7. The purchase is for services, supplies, replacements or supplemental parts, for a product or equipment owned or leased by the county, and the only source of the services, supplies, replacements or parts is limited to a single supplier;
 8. The purchase is for services related to information technology, such as programming services, that are proprietary or limited to a single source;
 9. The contract **transaction** is with ~~or the purchase is from~~ the federal government, ~~the~~ **a state or a political subdivision thereof, another** county or contracting authority **thereof**, ~~of another county,~~ a board of education, a township, a municipal corporation **or a contracting authority thereof**, a court, or any other one or more political subdivisions **or other governmental entities, including, but not limited to, a county hospital, a regional transportation authority, a board of developmental disabilities, an alcohol, drug addiction and mental health services board, a veterans service commission, a county land reutilization corporation (land bank), a sewer district, or a port authority;**

10. The purchase is made by a county department performing the duties provided for in Section 329.04 of the Ohio Revised Code and consists of family services duties or workforce development activities;
11. The purchase is made by a public children services agency performing the duties provided for in Section 5153.16 of the Ohio Revised Code and consists of family services, programs, or ancillary services that provide case management, prevention, or treatment services for children at risk of being or alleged to be abused, neglected, or dependent children;
12. The purchase consists of criminal justice services, social services programs, family services, or workforce development activities from nonprofit corporations or associations under programs funded by the federal government or by state grants;
13. The purchase is for an insurance policy, health care plan, or child care services for provision to county employees ~~and is done in accordance with Section 307.86(F) of the Ohio Revised Code;~~
14. The purchase is for goods and services provided by persons with severe disabilities and provided for in Sections 4115.31 through 4115.35 of the Ohio Revised Code;
15. The Contracts and Purchasing Board determines, upon its review of a request for an exemption from the requirements of competitive bidding, that the use of competitive sealed proposals would be advantageous to the county and the contracting authority complies with Section 307.862 of the Ohio Revised Code, as modified by Section 4.13(B) of this Ordinance;
16. The Board of Control determines, upon its review of a request for an exemption from the requirements of competitive bidding, that an alternative procurement process would be advantageous to the County. The request to the Board must specify the details of the proposed alternative procurement process, and the Board may approve the request as presented or may impose any other changes or additional requirements as it deems appropriate.
17. The program, contract, or agreement is funded through a federal, state, or other grant or program and is awarded by the County to the recipient(s) pursuant to the criteria or

requirements of the grant or program, such as contracts entered pursuant to the Community Development Block Grant Program, the Store Front Renovation Rebate Program, the McKinney Vento Homeless Assistance Renewal Grant, or other similar grants or programs. To be eligible for this exemption, the program's criteria and requirements for the selection of the recipients must first be approved by the Contracts and Purchasing Board. This approval can be done singularly for the entire program without the need for individualized consideration.

18. The purchase is for any other purpose that may be done without competitive bidding according pursuant to ~~Section 307.86~~ of the Ohio Revised Code;
 19. The purchase is made through a joint purchasing program authorized by the Ohio Revised Code, including, but not limited to, Ohio Revised Code Section 9.48; and,
 20. The purchase is made through a state contract authorized by the Ohio Revised Code, including, but not limited to, Ohio Revised Code Section 125.04 and Ohio Revised Code Section 5513.01.
- c) Any purchase of professional design services provided by architects, engineers, or surveyors shall be done as provided for in Sections 153.65 through 153.71 of the Ohio Revised Code. The contracting authority, however, may deviate from the requirements of Ohio Revised Code Section 153.691 if the County Executive, with the approval of the Board of Control, determines that doing so would be advantageous to the County.
- d) Except in the case of contracts and purchases made under, Sections 4.4(b)(9), 16 and 17 herein, unless a request for an exemption is granted by the Contracts and Purchasing Board, as presented or with any other changes or additional requirements deemed appropriate by the Board, if the County seeks to make contracts or purchases of \$25,000.00 or more other than by competitive bidding, and the contracting authority is able to identify more than one source through which the purchase could be made, the contracting agency shall:
1. Develop requests for proposals or qualifications, specifying the products or services to be purchased and the criteria that will be considered prior to making the purchase;
 2. Receive responses from prospective vendors/contracting parties meeting the criteria specified in the request for

proposals or qualifications by giving notice in a manner substantially similar to the procedures established for giving notice under section 307.87 of the Ohio Revised Code as modified by Section 4.13(B) of this Ordinance; and

3. The contracting authority negotiates with the prospective vendors/**contracting parties** to obtain a contract which best satisfies the criteria specified in the request for proposals or qualifications.
- e) **Effective through September 30, 2012, if** ~~If~~ the County seeks to make contracts or purchases greater than \$1,000.00, but less than \$25,000.00, and the contracting authority is able to identify multiple sources through which the contract or purchase could be made, the contracting authority shall seek informal quotes or proposals from multiple vendors in accordance with the procedures established by the Office of Procurement and Diversity.
 - f) **Effective October 1, 2012, if the County seeks to make contracts or purchases greater than \$1,000, but less than \$25,000, the County shall solicit bids for the contract/purchase for a period of no less than eight (8) hours on the County's web site and through a vendor email notification system that is preapproved by the Office of Procurement and Diversity and the Law Department. The County shall make good faith efforts to ensure that the posting hours take place between 5:00 a.m. and 7:00 p.m. EST.**
 - g) **Effective through September 30, 2012, a** A contracting authority that is unable to identify more than one source through which the contract or purchase can be made pursuant to the requirements of Sections 4.4(d) and (e) herein shall make a request to the Contracts and Purchasing Board for approval to seek a contract with or purchase from the sole-source provider. The request for approval shall be made on a form established by the Office of Procurement and Diversity, and approved by the Law Department, and shall include a verified statement by the vendor, subject to the penalty of perjury, certifying the vendor's sole-source status. If the sole-source request is approved, the purchase or contract must still receive the requisite approval by the County Council, Board of Control, or Contracts and Purchasing Board pursuant to Section 3.10, 3.11, or 3.12.
 - h) **Effective October 1, 2012, if a county contracting authority seeks to make contracts or purchases of \$25,000 or more, and the contracting authority is unable to identify more than one**

source through which the contract or purchase can be made, it shall solicit the availability of vendors for the contract/purchase for a period of no less than 48 hours on the County's web site and through a vendor email notification system that is preapproved by the Office of Procurement and Diversity and the Law Department. If the posting results in the identification of only a single provider, the contracting authority may then proceed to submit the proposed purchase/contract to the appropriate approval authority as a sole source. If, however, the posting results in the identification of more than one possible provider, the contracting authority shall then only proceed with the procurement through a competitive process unless the contracting authority receives an appropriate exemption in accordance with the requirements of this Ordinance. The request for approval ~~approval~~ **an exemption** shall be made on a form established by the Office of Procurement and Diversity, and approved by the Law Department, and shall include a verified statement by the vendor, subject to the penalty of perjury, certifying the vendor's sole-source status. If the sole-source request is approved, the purchase or contract must still receive the requisite approval by the County Council, Board of Control, or Contracts and Purchasing Board pursuant to Section 3.10, 3.11, or 3.12

Amended in Ordinance No. O2011-0030 on July 26, 2011.

Section 4.5: County's Purchasing Policy and Procedure Manual

Except as otherwise provided in this Ordinance, all contracts, purchases, sales, or leases shall be done in accordance with:

- a) Effective October 1, 2011, all contracts, purchases, sales, and leases shall be approved and done in accordance with the County's Purchasing Policy and Procedure Manual, as adopted and approved by County Council.
- b) Effective January 1, 2012, all contracts, purchases, sales, and leases shall also be approved and done in accordance with the County's Small Business Enterprise (SBE) Program Policies and Procedures, as approved and adopted by County Council. In the interim until January 1, 2012, all contracts, purchases, sales, and leases shall continue to be approved and done in accordance with the County's existent Small Business Enterprise (SBE) Program Policies and Procedures.

Amended in Ordinance No. O2011-0046 on September 27, 2011.

Section 4.6: Updates to Purchasing Policy and Procedure Manual

The County Executive, through the Office of Procurement and Diversity, shall continually assess the need for any revisions or updates to the County's Purchasing Policy and Procedure Manual. The County Executive, through the Office of Procurement and Diversity, shall report to County Council on a bi-annual basis beginning on October 1, 2013, and every two years thereafter, regarding the need for any such updates or revisions.

Amended in Ordinance No. O2011-0046 on September 27, 2011.

Section 4.7: Standards for Awarding Contracts

Contracts and purchases which require competitive bidding, and are awarded in accordance with this Ordinance shall be awarded to the lowest and best bidder meeting the specifications that are most advantageous to Cuyahoga County. The County reserves the right to consider all elements entering into the question of determining the lowest and best bid, including the following:

- a) whether the bidder has the appropriate experience, reputation, and workforce to perform the required work;
- b) the bidder's past performance on legal and ethical matters;
- c) whether the bidder exhibits a history of workforce stability and workplace safety, and provides workers a fair wage and fair benefits, as evidenced by payroll and employee records, for the required work, based on market conditions;
- d) whether the bidder has adhered to all conditions and requirements of the bid and specifications;
- e) the quality of the product or service provided by the bidder on previous projects;
- f) with respect to a bidder whose bid is substantially below that of the next lowest bidder, supplemental details regarding the bid and/or historical information regarding performance and costs on similar contracts to demonstrate the bidder's ability to complete the contract at the price specified;

- g) whether the bidder is able to comply with the criteria outlined in Section 4.8 of this Ordinance;
- h) whether the bidder's past performance has demonstrated a commitment to diversity in employment and subcontracting;
- i) maintenance costs and warranty provisions provided for in the bid;
- j) the delivery or completion date provided for in the bid;
- k) whether, with respect to work done in construction trades , the bidder will use only construction trades personnel who were trained in a state or federally approved apprenticeship program or career technical program, or who are currently enrolled in a state or federally approved apprenticeship program or career technical program, or who have at least three years of experience in a particular trade; except that for the purposes of full inclusion and creation of entry-level opportunities, up to ten percent (10%) of the construction trades personnel may be participants in pre-apprenticeship programs or otherwise have less training and experience;
- l) whether the bidder, unless otherwise agreed to in a collective bargaining agreement, contributes to an employee pension or retirement plan for those employees working on the contract, such benefits being part of the employees' regular compensation and not merely on the contract, and provides evidence thereof upon request;
- m) whether the bidder, unless otherwise agreed to in a collective bargaining agreement, makes available a minimum health care plan for those employees working on the contract, such benefits being part of the employees' regular compensation and not merely on the contract and provides a copy of the plan on request;
- n) whether the bidder has had the professional license of any of its principals or employees revoked for malfeasance or misfeasance;
- o) ~~whether the bidder meets~~ any other requirements determined by the County to be specifically relevant to the proposed contract;
- p) on federally or state funded projects, which require the County to comply with specific federal and/or state criteria in selecting the lowest and best bid and/or bidder, the County shall comply with the applicable federal or state mandated criteria to avoid the loss of federal or state funding for the project(s).

Amended in Ordinance No. O2011-0030 on July 26, 2011, and in Ordinance No. O2011-0055 on December 6, 2011.

Section 4.8: Required Certifications by Successful ~~Bidders~~ **Contractors**

On federally or state funded projects, which require the County to comply with specific federal and/or state criteria or forms for certifications by the successful **contractor** ~~bidders~~ (s), the County shall comply with the federal and/or state requirements to avoid the loss of federal or state funds, including the use of the federal and/or state certification forms in lieu of the County's mandated certification forms. Where possible on federally or state funded projects and on all other projects, at the time of execution of the contract, the successful **contractor** ~~bidders~~ shall certify that it:

- a) shall be in compliance with Ohio's Drug-Free Workplace requirements, including, but not limited to, maintaining a substance abuse policy that its personnel are subject to on the contract (the successful **contractor** ~~bidders~~ shall provide this policy upon request);
- b) does not have an Experience Modification Rating greater than 1.5 with respect to the Bureau of Workers Compensation risk assessment rating;
- c) is in compliance and will remain in compliance with Federal and Ohio Equal Opportunity Employment Laws;
- d) shall pay the prevailing wage rate and comply with other provisions set forth in Sections 4115.03 through 4115.16 of the Ohio Revised Code and Sections 4101:9-4-01 through 4101:9-4-28 of the Ohio Administrative Code, including but not limited to the filing of certified payroll reports;
- e) has not been debarred from public contracts for prevailing wage violations or found or determined by the state to have underpaid the required prevailing wage, whether intentionally or unintentionally, even if settled subsequent to the finding, more than three (3) times in the last ten (ten) years, provided that, when aggregating for any single project, no finding of an underpaid amount of less than \$1,000.00 shall be considered, and no single finding based upon a journeyman-to-apprenticeship ratio shall be considered a violation of this provision unless as part of multiple, similar findings;
- f) has not been penalized or debarred from any federal, state, or local public contract or falsified certified payroll records, or has otherwise been found, after appeals, to have violated the Fair Labor Standards

Act in the past seven (7) years, or during the bidder's entire time of doing business, if less than seven (7) years;

- g) has not violated any unemployment or workers compensation law during the past five (5) years, or during the bidder's entire time of doing business, if less than five (5) years;
- h) at the time of contract award, does not have final, unsatisfied judgments against it which in total amount to 50% or more of the contract amount;
- i) will utilize, for work performed under the contract supervisory personnel that have three (3) or more years of experience in the specific trade and who maintain the appropriate state license(s), if any;
- j) shall be properly licensed to perform all work as follows:
 - 1. if performing a trades contract, shall be licensed pursuant to Ohio Revised Code Section 4740 as a heating, ventilating, and air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor, or hydronics contractor;
 - 2. if performing work regulated under Section 3737.65 of the Ohio Revised Code, be certified by the State Fire Marshall;
 - 3. if performing work under any other trade, occupation, or profession licensed under Title 47 of the Ohio Revised Code, be licensed for that trade, occupation, or profession as provided in the Ohio Revised Code;
- k) shall, if performing a trade contract pursuant to Ohio Revised Code Section 4740, not subcontract more than twenty-five percent (25%) of the labor, excluding materials, for its awarded contract, unless to subcontractors also licensed pursuant to Ohio Revised Code Section 4740 or certified by the State Fire Marshall pursuant to Ohio Revised Code Section 3737.65;
- l) shall provide access as needed and allow the Agency of the Inspector General to perform the functions provided for in Section 4.12 of this Ordinance.
- m) shall require all of its subcontractors, at the time of execution of a subcontract, to make all of the certifications required in Section 4.8, except for Subsections g and i.

Amended in Ordinance No. O2011-0030 on July 26, 2011, and in Ordinance No. O2011-0055 on December 6, 2011.

Section 4.9: Remedies for Breach of Contract

If any material breach of contractual obligations or the certifications provided for in Section 4.8 of this Ordinance occurs during the contract performance by the vendor, the County may exercise any or all contractual remedies, including, but not limited to, contract termination for cause.

Section 4.10: Ethics Compliance Required

No contract shall be entered into unless all the provisions of state law and county ordinances related to ethics policy have been met.

Section 4.11: Unlawful Interest in a Public Contract

Any contract entered into in violation of Ohio Revised Code Section 2921.42(H) and/or related county ordinances concerning unlawful personal interest in a public contract shall be void and unenforceable.

Section 4.12: Inspector General's Authority

The Inspector General shall have the power to audit, investigate, inspect and review the operations, activities, and performance of the contracting and procurement processes of Cuyahoga County government in order to detect corruption and fraud and insure compliance with this Ordinance and state and county ethics laws relating to contracting and procurement. Areas within the purview of such power shall include the following:

- a) the establishment of bid specifications,
- b) bid submittals,
- c) activities of contractors, including their departments, agents, and employees that specifically relate to performance on a contract with the county,
- d) relevant activities of public officials and employees of the county.

Provided that, in the reasonable judgment of the Inspector General's agency, doing so does not jeopardize any existing or anticipated investigation, the Inspector General's agency shall promptly report any wrongdoing to the County Executive, the County Council, Director of

Public Works, the Director of Procurement and Diversity, the Director of Law, the Prosecuting Attorney, and other appropriate officials, as needed, to insure that proper action is taken in response to its findings.

Section 4.13: Home Rule Powers Asserted

A. The County expressly asserts its home rule powers with respect to all contracting and procurement matters, including, but not limited to, all competitive bidding requirements and the County's contracting capabilities.

B. Notwithstanding any requirements or limitations of the Ohio Revised Code, Ohio Administrative Code, or any other applicable law or regulation, pursuant to the County's home rule powers, the County may enter into any real-estate and real-estate related transactions, and there shall be no limitations on the duration of any such transaction.

C. Notwithstanding any requirements **or limitations** of the Ohio Revised Code, Ohio Administrative Code, or any other applicable law or regulation, pursuant to the County's home rule powers, the County Executive or his/her designees may:

- a) issue requests for bids, proposals, or qualifications which allow the responder to choose among two or more alternative approaches for completing the work;
- b) advertise for bids or request proposals or qualifications either on-line through the county's website or through a newspaper of general circulation that serves the county, or both, with the option to supplement such advertising through the use of additional media;
- c) on or after August 1, 2011, and in accordance with any implementing legislation on alternative construction delivery systems enacted by County Council, choose among the various available construction project delivery systems, in order to achieve the best possible combination of cost, quality, time to completion, and risk control.

Section 4.14: Encouragement of Diversity

In designing specifications for bids, requests for proposals, and requests for qualifications, the county shall consider dividing requests into smaller components when doing so would create a larger pool of potential bidders without reducing the cost-effectiveness of the project.

Section 4.15: General Contracting Authority of the County Executive

- a) This Ordinance is intended to fulfill any state, federal, or other requirement for a Resolution or Ordinance granting the County Executive the authority to apply for or accept grants on behalf of the County.
- b) This Ordinance is intended to fulfill any state, federal, or other requirement for a Resolution or Ordinance granting the County Executive the authority to enter into a contract or perform any other act allowed by this Ordinance unless approval for such action is specifically required under Sections 3.10, 3.11, and 3.12.
- c) **This Ordinance is also intended to fulfill any state, federal, or other requirement for a Resolution or Ordinance of Support to apply or accept grants on behalf of the County or to enter into a contract or perform any other act allowed by this Ordinance.**
- d) This Ordinance shall not be construed to limit or to restrict the powers, duties, and responsibilities of the County Executive as provided by the Charter or state law and the listing of any specific powers, duties, or responsibilities of the County Executive in this Ordinance shall not be construed to exclude any other power, duty, or responsibility provided for the Charter or by the general law of the State of Ohio.

Amended in Ordinance No. O2011-0030 on July 26, 2011.

Chapter 5: Notification Requirements

Section 5.1: Procurement Database

The County Executive shall develop, maintain, and post on the county's website a procurement database, which shall include two separate parts, which shall contain descriptions of:

- a) all executed contracts, purchases, and sales, other than real estate transactions, for \$1000.00 or more; and
- b) all executed purchases, sales, leases (as either lessor or lessee) of real estate.

The database shall be searchable by purpose, vendor, purchaser, dollar amount, funding source, department, transaction date, and other relevant factors.

Section 5.2: Grants and Loans Database

The County Executive shall develop, maintain, and post on the county's parts, which shall contain descriptions of:

- a) all grants and loans received, searchable by purpose, funding source, department, date of receipt, length of term, and other relevant factors; and
- b) all grants and loans provided, searchable by purpose, recipient, funding source, department, date provided, and other relevant factors.

Section 5.3: Pending Transactions Database

The County Executive shall develop, maintain, and post on the county's website a pending transactions database, which shall include four separate parts, describing all pending transactions of \$50,000.00 or more which have been initiated by formal, public action but not yet completed, as follows:

- a) contracts, purchases, and sales, other than real estate transactions,
- b) real estate transactions,
- c) grants and loans to be received, and
- d) grants and loans to be provided.

The database shall provide a log of date and event for each major step in the process for each transaction and shall be searchable by purpose, department, date of initiation, funding source, and other relevant factors.

Section 5.4: Special Procurement Events Database

The County Executive shall develop, maintain and post on the county's website a special procurement events database, which shall include two parts, as follows:

- a) Any time that the County Executive initiates formal, public action to contract for goods or services that are substantially different from goods or services that the county currently contracts for or has contracted for within the last three (3) years. Contracting to achieve the same purpose using improved technology shall not require notice under this subsection unless the new technology is sufficiently different so as to constitute an entirely new product; and

- b) Any time that the County Executive initiates formal public action to contract for the services of experts or consultants as provided for in Article 3, Section 9, Subsection 3 of the Charter.

The County Executive shall promptly send specific notice to the County Council whenever any of these events occur.

Section 5.5: Notification to County Councilperson

Whenever the County Executive initiates the formal, public action for a contract, purchase, sale, lease, grant, or loan with an expected value of \$25,000.00 or more that is located in or primarily affects a particular County Council District, the County Executive shall provide written notification to the Councilperson from that district.

Section 5.6: Timeline for Databases and Notifications

The County shall exercise best efforts to ensure that the databases provided for in Sections 5.1 through 5.4 of this Ordinance are in operation and posted on the county's website and the notification process provided for in Section 5.5 of this Ordinance are in operation starting not later than September 30, 2011, with the exception that the searchable features of the databases are in operation no later than March 31, 2012. Prior to the required initiation dates for the databases and notification processes provided for in Sections 5.1 through 5.5 of this Ordinance, the County Executive shall use available resources to make available to the County Council and the public as much as possible of the information required in these sections.

Section 5.7: Historical Information not Required in Databases

The databases provided for in Sections 5.1 and 5.2 of this Ordinance shall be required to include only transactions executed on or after the initiation date of each part of these databases. The databases provided for in Sections 5.3 and 5.4 shall be required to include only transactions initiated by formal, public action on or after the initiation date of each part of these databases.

Section 5.8: Exclusion of Confidential Information

Notwithstanding any other provisions of this chapter, the databases provided for in Sections 5.1, 5.2, 5.3, and 5.4 of this Ordinance shall not include any information required to be kept confidential by federal or state law or federal or state administrative rule and may exclude any other

information that is not a public record according to Section 149.43 of the Ohio Revised Code.

~~Section 5.9: Notice of Executed Contracts, Purchases and Sales~~

~~On or about the 5th calendar day prior to each regular meeting of County Council, the Executive shall provide the County Council a list of all contracts, purchases or sales executed and all grants or loans made or received for more than \$50,000.00 since the previous list was provided. Any change or amendment in which the total additions exceed \$50,000.00 shall also be included. Provided that all other requirements of this Ordinance have been met, this list does not need to be provided prior to the transactions being executed.~~

County Council of Cuyahoga County, Ohio

Ordinance No. O2012-0017

| | |
|--|--|
| Sponsored by: Councilmember Greenspan | An Ordinance establishing a County Road Maintenance Program for the Department of Public Works in order to reinstate the financial responsibility of the County for design, construction, repair and road surface maintenance projects for County Roads, effective March 1, 2014. |
|--|--|

WHEREAS, Cuyahoga County had historically required a local funding match from municipalities on roadway projects;

WHEREAS, the County has instituted a two-year moratorium on requiring a local funding match for roadway projects, effective February 29, 2012;

WHEREAS, the State has cut the budgets of the local municipalities causing them financial hardship;

WHEREAS, in light of the financial hardship resulting from the State's budget cuts, the County Council considers it in the interest of the County that the Department of Public Works implement a moratorium on requiring local funding from municipalities on County Road projects, effective March 1, 2014; and

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

SECTION 1. The Cuyahoga County Department of Public Works shall implement an indefinite moratorium on requiring local funding for County Road projects, effective March 1, 2014. Items covered by this moratorium shall be restricted to resurfacing, restoration, rehabilitation, design, construction, repair and maintenance of County Roads.

SECTION 2. Cuyahoga County shall have sole financial responsibility for resurfacing, restoration, rehabilitation, design, construction, repair and maintenance of County Roads, effective March 1, 2014.

SECTION 3. Nothing herein creates any responsibility on the part of Cuyahoga County for the general cleaning, clearing of debris, or removal of snow and ice from roads.

SECTION 4. This Ordinance in no way relieves any municipality of any of its responsibility, legal or otherwise, for these roads other than in those areas covered in Section 1.

SECTION 5. 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

Deputy Clerk of Council

Date

First Reading/Referred to Committee: June 26, 2012

Committee(s) Assigned: Public Works, Procurement & Contracting

Journal _____

_____, 2012