



12650 DETROIT AVENUE 44107 216-529-6055

www.lakewoodoh.gov

Lakewood City Council
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JOHN LITTEN, WARD 3
CINDY MARX, WARD 4

Issued 11/10/23

PUBLIC NOTICE – FINANCE COMMITTEE

Finance Committee will meet Monday November 13, 2023 at 6:00 p.m. in the Auditorium of Lakewood City Hall at 12650 Detroit Avenue. The meeting is open to the public.

Individuals with disabilities who require accommodations for participation in meetings must request accommodations at least 3 business days ahead of the scheduled meeting. Contact Michelle Nochtka at (216) 529-5906 michelle.nochtka@lakewoodoh.net.

The meeting will be livestreamed on the City's website at the following link:

www.lakewoodoh.gov/councilvideos

PUBLIC COMMENT PROTOCOL (Updated 6/21)

The public is invited to comment on agenda items in person or by submitting a written comment in advance of the meeting using the eComment platform available [HERE](#). New users must create an eComment account.

The agenda is as follows:

Approval of the minutes of the October 30, 2023 meeting of the Finance Committee.

ORDINANCE 18-2023 - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, establishing new purchasing limits in line with the Ohio Revised Code for the City of Lakewood. (*1st read & referred to Finance Committee 9/5/23; 2nd reading 9/18/23*)

Jason Shachner, Chair
Tom Bullock, Sarah Kepple; Members
FINANCE COMMITTEE

ORDINANCE NO. 18-2023

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, establishing new purchasing limits in line with the Ohio Revised Code for the City of Lakewood.

WHEREAS, HB 33 has been adopted by the General Assembly and has increased the state bidding threshold to \$75,000 through the creation of ORC §9.17; and

WHEREAS, Lakewood's bidding threshold has been at \$7,500 for more than 40 years; and

WHEREAS, many communities in Ohio have adopted the ORC bidding threshold; and

WHEREAS, in order for Lakewood to remain competitive when purchasing and contracting, it is necessary to review these bidding and contracting thresholds; and

WHEREAS, as set forth in Section 2.12 of the Third Amended Charter of the City of Lakewood, this Council by a vote of at least two thirds of its members determines that this ordinance is an emergency measure and that it shall take effect immediately, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal departments in that the Lakewood Codified Ordinances should be updated to reflect modern purchasing requirements of the State of Ohio; now, therefore

BE IT ORDAINED BY THE CITY OF LAKEWOOD:

Section 1. That Section 111.01 Departmental Public Improvement Contracts, of the Lakewood Codified Ordinances, currently reading as follows:

111.01 DEPARTMENTAL PUBLIC IMPROVEMENT CONTRACTS.

(a) Contracts for public improvements and work and repairs with respect to public improvements shall be awarded by the Director of Public Works upon approval by Council. Adoption of an ordinance or resolution authorizing the preparation of plans or specifications, an ordinance or resolution authorizing the advertising of request for bids (where bidding shall be required) or any other ordinance or resolution which authorizes or approves the award of contracts, and specifies the limit to be spent, shall constitute the approval of Council required by the Charter and this section, except that any contract for an amount which exceeds the amount specified for a line item detailed in the ordinance or resolution shall not be valid or enforceable unless first specifically authorized by a separate resolution of Council.

(b) Contracts for architectural, engineering and design services, other than for street reconstruction projects including water main and sewer line replacement projects, shall specify not to exceed dollar amounts and are subject to separate ordinance and approval of Council.

(c) Contracts described in subsections (a) and (b) hereof in excess of seven thousand five hundred dollars (\$7,500) shall be awarded by competitive bidding pursuant to Section 111.04 unless competitive bidding is not required pursuant to such section.

is hereby repealed.

Section 2. That new section 111.01 Departmental Public Improvement Contracts of the Lakewood Codified Ordinances shall be enacted to read as follows:

(a) Contracts for public improvements and work and repairs with respect to public improvements shall be awarded by the Director of Public Works upon approval by Council. Adoption of an ordinance or resolution authorizing the preparation of plans or specifications, an ordinance or resolution authorizing the advertising of request for bids (where bidding shall be required) or any other ordinance or resolution which authorizes or approves the award of contracts, and specifies the limit to be spent, shall constitute the approval of Council required by the Charter and this section, except that any contract for an amount which exceeds the amount specified for a line item detailed in the ordinance or resolution shall not be valid or enforceable unless first specifically authorized by a separate resolution of Council.

(b) Contracts for architectural, engineering and design services, other than for street reconstruction projects including water main and sewer line replacement projects, shall specify not to exceed dollar amounts and are subject to separate ordinance and approval of Council.

(c) Contracts described in subsections (a) and (b) hereof ~~in excess of seven thousand five hundred dollars (\$7,500)~~ shall not exceed the amount prescribed in ORC §9.17 or shall be awarded by competitive bidding pursuant to Section 111.04 unless competitive bidding is not required pursuant to ~~such~~ section 111.04.

Section 3. That Section 111.02 Other Departmental Contracts, of the Lakewood Codified Ordinances, currently reading as follows:

111.02 OTHER DEPARTMENTAL CONTRACTS.

(a) All contracts or purchases, other than contracts for public improvements described in Section 111.01, shall be awarded by the Mayor, the Director of Law, the Director of Finance, the Director of Public Works or the Procurement Officer, upon approval by Council. Adoption of an ordinance or resolution authorizing the preparation of plans or specifications, an ordinance or resolution authorizing the advertising of request for bids (where bidding shall be required) or any other ordinance or resolution which authorizes or approves the award of contracts, and specifies the limit to be spent, shall constitute the approval of Council except that any contract for an amount which exceeds the amount specified for a line item detailed in the ordinance or resolution shall not be valid or enforceable unless first specifically authorized by a separate resolution of Council. Contracts or purchases in excess of seven thousand, five hundred dollars (\$7,500) shall, in addition, require the approval of the Board of Control established in subsection (b) hereof. Council hereby grants its approval of contracts for professional services not in excess of five thousand dollars (\$5,000) and all other contracts not in excess of seven thousand, five hundred dollars (\$7,500).

(b) A Board of Control, consisting of the Mayor, the Director of Law, the Director of Finance and the Director of Public Works, who may be represented by designees, is hereby established. Contracts shall be approved by the Board of Control by the execution of a written authorization or ratification of the contract by three of its members or their respective designees, with or without a meeting.

is hereby repealed.

Section 4. That new Section 111.02 Other Departmental Contracts, of the Lakewood Codified Ordinances, is hereby enacted to read as follows:

(a) All contracts or purchases, other than contracts for public improvements described in Section 111.01, shall be awarded by the Mayor, the Director of Law, the Director of Finance, the Director of Public Works, the Director of Planning and Development, the Director of Human Services, the Director of Human Resources, or the Procurement Officer, upon approval by Council. Adoption of an ordinance or resolution authorizing the preparation of plans or specifications, an ordinance or resolution authorizing the advertising of request for bids (where bidding shall be required) or any other ordinance or resolution which authorizes or approves the award of contracts, and specifies the limit to be spent, shall constitute the approval of Council except that any contract for an amount which exceeds the amount specified for a line item detailed in the ordinance or resolution shall not be valid or enforceable unless first specifically authorized by a separate resolution of Council. Contracts or purchases in excess of ~~seven thousand, five hundred dollars (\$7,500)~~ shall the amount prescribed in ORC §9.17, in addition, require the approval of the Board of Control established in subsection (b) hereof. Council hereby grants its approval of contracts ~~for professional services not in excess of five thousand dollars (\$5,000) and all other contracts not in excess of seven thousand, five hundred dollars (\$7,500)~~ which do not exceed the amount prescribed in ORC §9.17.

(b) A Board of Control, consisting of the Mayor, the Director of Law, the Director of Finance and the Director of Public Works, who may be represented by designees, is hereby established. Contracts shall be approved by the Board of Control by the execution of a written authorization or ratification of the contract by three of its members or their respective designees, with or without a meeting.

Section 5. That Section 111.04 Bidding, of the Lakewood Codified Ordinances, currently reading as follows:

111.04 BIDDING.

(a) Contracts awarded by the Director of Public Works pursuant to Section 111.01(a), and contracts awarded by the Mayor, the Director of Public Works, the Director of Finance, the Director of Law or the Procurement Officer pursuant to Section 111.02(a) which are in excess of seven thousand five hundred dollars (\$7,500), shall be awarded to the lowest and best bidder after advertisement for not less than once in a newspaper of general circulation within the City, except

that the following contracts may be awarded without advertising and competitive bidding and without meeting other requirements imposed by this section:

(1) Contracts for professional or technical services, including, without limitation, services of engineers, architects, attorneys, accountants or other professional or technical consultants;

(2) Contracts for the services and work of a construction manager. As used in this subsection "construction manager" means a person, firm or corporation with substantial discretion and authority to manage or direct a project for the construction, demolition, alteration, repair or reconstruction of any public building, structure, street, highway or other improvement; whenever the City intends to enter into a contract to engage a construction manager, the Awarding Authority shall first advertise, in a newspaper of general circulation in the County where the contract is to be performed, notice of its intent to engage a construction manager, which notice shall invite interested parties to submit proposals for consideration and which notice shall be published at least thirty days prior to the date for accepting such proposals; and the Awarding Authority may also advertise the information contained in the notice in appropriate trade journals, as determined by the Awarding Authority, and the Awarding Authority may otherwise notify persons, firms or corporations believed by the Awarding Authority to be interested in such engagement;

(3) Contracts which are determined by the Council to be necessary to meet an emergency arising in connection with the operation or maintenance of any City department or agency or any equipment, property, improvement or facility of the City, including, without limitation, contracts for work, services, construction, reconstruction, renovation or repairs;

(4) Contracts for the purchase or lease of real property, which contracts are specifically approved by Council;

(5) Contracts for the purchase of 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;

(6) Contracts for the purchase of real or personal property, services, work, equipment, supplies or materials from any department, division, agency, political subdivision or district or authority of the State or any agency of a political subdivision or a regional council of governments;

(7) Contracts awarded pursuant to Section 111.02 for the purchase or lease of computer hardware or software where the Board of Control has determined that it is either impractical to award the contract under competitive bidding procedures, or cost effective and in the best interests of the City to award the contract without competitive bidding, and, in such cases, the Board of Control has approved a form of the contract to be awarded without competitive bidding,

(8) Contracts, including leases, which may be awarded under the statutes, or rules promulgated thereunder, of the State without competitive bidding;

(9) Contracts for such purposes which may be awarded without competitive bidding under principles of the common law or case law of the State; and

(10) Contracts under other circumstances, where the Council determines that it is either impractical to award the contract under competitive bidding procedures, or cost-effective and in

the best interests of the City to award the contract without competitive bidding, and, in such cases, Council has approved a form of the Contract to be awarded without competitive bidding.

(b) As used in this section, "Awarding Authority" means:

(1) In the case of contracts awarded pursuant to Section 111.01, the Director of Public Works;

(2) In the case of contracts awarded pursuant to Section 111.02, the Mayor, the Director of Public Works, the Director of Finance, the Director of Law or the Procurement Officer, as determined by the Board of Control.

(c) Bids shall be opened by the Awarding Authority or his designee at the time, date and place as announced in the notice to bidders, the newspaper advertising or the specifications. The time, place, and date of bid openings may be extended to a later date by the Awarding Authority provided that written or oral notice of the change shall be given to all persons who have received or requested specifications no later than ninety-six hours prior to the original time and date fixed for the opening. The Awarding Authority or his designee shall publicly read each bid. Each bid shall contain the full name of each person interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and its performance properly secured unless the bid is for a contract for the construction, demolition, alteration, repair or reconstruction of a public improvement, in which case it shall meet the requirements of Ohio R. C. 153.54. If the work bid embraces both labor and material, such items shall be separately stated with the price thereof.

The Awarding Authority may reject any bid. Where there is reason to believe there is collusion or combination among bidders, the bids of those concerned therein shall be rejected. Ohio R.C. 9.31, as it may be amended from time to time, or any successor statute, shall be applicable under this section with respect to the matter of the withdrawal of bids made in error.

(d) The contract shall be between the City and the bidder who is awarded the contract. The contract may provide for liquidated damages for delays beyond a specified date. When, in the opinion of the Awarding Authority it becomes necessary, in the prosecution of any work or improvement under contract, to make alterations or modifications in the contract, such alterations or modifications shall only be made upon the order of the Awarding Authority and the approval of the Board of Control or the approval of the Board of Trustees of Lakewood Hospital when the Administrator of Lakewood Hospital is the Awarding Authority, but such order shall be of no effect until the price to be paid for the work and any additional work or material, or both, under the altered or modified contract, has been agreed upon in writing and signed by the Awarding Authority on behalf of the City and the contractor.

No contractor may recover anything for work or material because of any such alteration or modification unless the contract is made in such manner, nor shall he be allowed to recover for such work or material, or either, more than the agreed price. Alterations and modifications to contracts may be made without advertising and competitive bidding.

(e) The unit or lump sum price stated in the contract shall be used in determining the amount to be paid and shall constitute full and final compensation for all the work. Partial payment to the contractor for work performed under the lump sum price shall be based on a well-balanced schedule prepared by the contractor and approved by the Awarding Authority or his designee who

shall apportion the lump sum price to the principal features entering into or forming a part of the work under the lump sum price.

Partial payment to the contractor for labor performed under either a unit or lump sum price contract shall be made at the rate of ninety percent (90%) of the estimates prepared by the contractor and approved by the Awarding Authority, provided that all labor performed after the job is fifty percent (50%) completed, shall be paid for at the rate of one hundred percent (100%) of the estimates submitted by the contractor and approved by the Awarding Authority.

(f) At the time named in the contract for payment to the person, firm, corporation, partnership or association with whom or with which it is made, the Awarding Authority or his designee shall make a full, accurate, and detailed estimate of the various kinds of labor performed and materials furnished under the contract, with the amount due for each kind of labor and material and the amount due in the aggregate. The estimate shall be based upon the actual measurement of such labor and materials, and shall give the amounts of preceding estimate and the amount of labor performed and materials furnished since the last estimate. From the date of completion or either acceptance or occupancy by the City, a sufficient amount shall be retained as additional security for ninety days for the faithful performance of the contract, after which time if the contract has been faithfully performed nothing shall be retained.

(g) The estimates referred to in subsection (f) hereof shall be filed by the Awarding Authority and a certified copy thereof delivered to the Director of Finance. Unless otherwise provided in the contract or other documents incorporated into the contract, all material and equipment shall become the property of the City upon its installation or when it otherwise becomes a part of the building, construction, alteration, addition or other improvement, provided that the City reserves all of its rights and remedies against the contractor or material provider under the contract and applicable law.

All materials furnished and delivered after the job is fifty percent (50%) completed shall be paid for at the rate of ninety percent (90%) of the invoice value of the materials. The balance of such estimate shall be paid when the material is incorporated into and becomes a part of the building, construction, addition, improvement, alteration, or installation, unless the contractor does not prosecute the work with diligence and as specified or intended in the contract.

When the rate of work and amounts involved are so large that it is deemed advisable by the Awarding Authority, estimates and payments shall be made twice each month.

(h) The general laws of Ohio pertaining to the State's prevailing wage law shall be applicable under this section.

(i) The provisions of Ohio R.C. 153.59, to the extent appropriate to application to the City, shall apply to persons, firms, corporations or other entities (the "contractor") who contract with the City and the subcontractors of such contractors.

(j) The general laws of Ohio pertaining to the award of any contract for the construction, reconstruction, improvement, enlargement, alteration, repair, painting or decorating of a public improvement of the City shall, to the extent appropriate to application to the City, apply under this section; provided that:

(1) The provisions of the City's Charter, Codified Ordinances, noncodified ordinances or resolutions, and administrative rules and actions taken pursuant thereto shall prevail over the general laws of Ohio.

(2) Ohio R.C. Chapter 149 shall not be applicable to this section.

(3) Council may determine that the provisions of the general laws of Ohio, currently Ohio R.C. 153.51 to 153.53, inclusive, requiring separate bids for each trade or kind of mechanical labor, employment or business and pertaining to performance bonds and specifications of sureties, shall not apply to the City and its contracts.

is hereby repealed.

Section 6. New Section 111.04 Bidding, of the Codified Ordinances of the City of Lakewood is hereby enacted to read as follows:

111.04 BIDDING.

(a) Contracts awarded by the Director of Public Works pursuant to Section 111.01(a), and contracts awarded by the Mayor, the Director of Public Works, the Director of Finance, the Director of Law, the Director of Planning and Development, the Director of Human Services, the Director of Human Resources, or the Procurement Officer pursuant to Section 111.02(a) which are in excess of ~~seven thousand five hundred dollars (\$7,500)~~ the amount prescribed in ORC §9.17, shall be awarded to the lowest and best bidder after advertisement for not less than once in a newspaper of general circulation within the City, except that the following contracts may be awarded without advertising and competitive bidding and without meeting other requirements imposed by this section:

(1) Contracts for professional or technical services, including, without limitation, services of engineers, architects, attorneys, accountants or other professional or technical consultants;

(2) Contracts for the services and work of a construction manager. As used in this subsection "construction manager" means a person, firm or corporation with substantial discretion and authority to manage or direct a project for the construction, demolition, alteration, repair or reconstruction of any public building, structure, street, highway or other improvement; whenever the City intends to enter into a contract to engage a construction manager, the Awarding Authority shall first advertise, in a newspaper of general circulation in the County where the contract is to be performed, notice of its intent to engage a construction manager, which notice shall invite interested parties to submit proposals for consideration and which notice shall be published at least thirty days prior to the date for accepting such proposals; and the Awarding Authority may also advertise the information contained in the notice in appropriate trade journals, as determined by the Awarding Authority, and the Awarding Authority may otherwise notify persons, firms or corporations believed by the Awarding Authority to be interested in such engagement;

(3) Contracts which are determined by the Council to be necessary to meet an emergency arising in connection with the operation or maintenance of any City department or agency or any

equipment, property, improvement or facility of the City, including, without limitation, contracts for work, services, construction, reconstruction, renovation or repairs;

(4) Contracts for the purchase or lease of real property, which contracts are specifically approved by Council;

(5) Contracts for the purchase of 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;

(6) Contracts for the purchase of real or personal property, services, work, equipment, supplies or materials from any department, division, agency, political subdivision or district or authority of the State or any agency of a political subdivision or a regional council of governments;

(7) Contracts awarded pursuant to Section 111.02 for the purchase or lease of computer hardware or software where the Board of Control has determined that it is either impractical to award the contract under competitive bidding procedures, or cost effective and in the best interests of the City to award the contract without competitive bidding, and, in such cases, the Board of Control has approved a form of the contract to be awarded without competitive bidding,

(8) Contracts, including leases, which may be awarded under the statutes, or rules promulgated thereunder, of the State without competitive bidding;

(9) Contracts for such purposes which may be awarded without competitive bidding under principles of the common law or case law of the State; and

(10) Contracts under other circumstances, where the Council determines that it is either impractical to award the contract under competitive bidding procedures, or cost-effective and in the best interests of the City to award the contract without competitive bidding, and, in such cases, Council has approved a form of the Contract to be awarded without competitive bidding.

(b) As used in this section, "Awarding Authority" means:

(1) In the case of contracts awarded pursuant to Section 111.01, the Director of Public Works;

(2) In the case of contracts awarded pursuant to Section 111.02, the Mayor, the Director of Public Works, the Director of Finance, the Director of Law or the Procurement Officer, as determined by the Board of Control.

(c) Bids shall be opened by the Awarding Authority or his designee at the time, date and place as announced in the notice to bidders, the newspaper advertising or the specifications. The time, place, and date of bid openings may be extended to a later date by the Awarding Authority provided that written or oral notice of the change shall be given to all persons who have received or requested specifications no later than ninety-six hours prior to the original time and date fixed for the opening. The Awarding Authority or his designee shall publicly read each bid. Each bid shall contain the full name of each person interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and its performance properly secured unless the bid is for a contract for the construction, demolition, alteration, repair or reconstruction of a public improvement, in which case it shall meet the

requirements of Ohio R. C. 153.54. If the work bid embraces both labor and material, such items shall be separately stated with the price thereof.

The Awarding Authority may reject any bid. Where there is reason to believe there is collusion or combination among bidders, the bids of those concerned therein shall be rejected. Ohio R.C. 9.31, as it may be amended from time to time, or any successor statute, shall be applicable under this section with respect to the matter of the withdrawal of bids made in error.

(d) The contract shall be between the City and the bidder who is awarded the contract. The contract may provide for liquidated damages for delays beyond a specified date. When, in the opinion of the Awarding Authority it becomes necessary, in the prosecution of any work or improvement under contract, to make alterations or modifications in the contract, such alterations or modifications shall only be made upon the order of the Awarding Authority and the approval of the Board of Control or the approval of the Board of Trustees of Lakewood Hospital when the Administrator of Lakewood Hospital is the Awarding Authority, but such order shall be of no effect until the price to be paid for the work and any additional work or material, or both, under the altered or modified contract, has been agreed upon in writing and signed by the Awarding Authority on behalf of the City and the contractor.

No contractor may recover anything for work or material because of any such alteration or modification unless the contract is made in such manner, nor shall he be allowed to recover for such work or material, or either, more than the agreed price. Alterations and modifications to contracts may be made without advertising and competitive bidding.

(e) The unit or lump sum price stated in the contract shall be used in determining the amount to be paid and shall constitute full and final compensation for all the work. Partial payment to the contractor for work performed under the lump sum price shall be based on a well-balanced schedule prepared by the contractor and approved by the Awarding Authority or his designee who shall apportion the lump sum price to the principal features entering into or forming a part of the work under the lump sum price.

Partial payment to the contractor for labor performed under either a unit or lump sum price contract shall be made at the rate of ninety percent (90%) of the estimates prepared by the contractor and approved by the Awarding Authority, provided that all labor performed after the job is fifty percent (50%) completed, shall be paid for at the rate of one hundred percent (100%) of the estimates submitted by the contractor and approved by the Awarding Authority.

(f) At the time named in the contract for payment to the person, firm, corporation, partnership or association with whom or with which it is made, the Awarding Authority or his designee shall make a full, accurate, and detailed estimate of the various kinds of labor performed and materials furnished under the contract, with the amount due for each kind of labor and material and the amount due in the aggregate. The estimate shall be based upon the actual measurement of such labor and materials, and shall give the amounts of preceding estimate and the amount of labor performed and materials furnished since the last estimate. From the date of completion or either acceptance or occupancy by the City, a sufficient amount shall be retained as additional security for ninety days for the faithful performance of the contract, after which time if the contract has been faithfully performed nothing shall be retained.

(g) The estimates referred to in subsection (f) hereof shall be filed by the Awarding Authority and a certified copy thereof delivered to the Director of Finance. Unless otherwise provided in the contract or other documents incorporated into the contract, all material and equipment shall become the property of the City upon its installation or when it otherwise becomes a part of the building, construction, alteration, addition or other improvement, provided that the City reserves all of its rights and remedies against the contractor or material provider under the contract and applicable law.

All materials furnished and delivered after the job is fifty percent (50%) completed shall be paid for at the rate of ninety percent (90%) of the invoice value of the materials. The balance of such estimate shall be paid when the material is incorporated into and becomes a part of the building, construction, addition, improvement, alteration, or installation, unless the contractor does not prosecute the work with diligence and as specified or intended in the contract.

When the rate of work and amounts involved are so large that it is deemed advisable by the Awarding Authority, estimates and payments shall be made twice each month.

(h) The general laws of Ohio pertaining to the State's prevailing wage law shall be applicable under this section.

(i) The provisions of Ohio R.C. 153.59, to the extent appropriate to application to the City, shall apply to persons, firms, corporations or other entities (the "contractor") who contract with the City and the subcontractors of such contractors.

(j) The general laws of Ohio pertaining to the award of any contract for the construction, reconstruction, improvement, enlargement, alteration, repair, painting or decorating of a public improvement of the City shall, to the extent appropriate to application to the City, apply under this section; provided that:

(1) The provisions of the City's Charter, Codified Ordinances, noncodified ordinances or resolutions, and administrative rules and actions taken pursuant thereto shall prevail over the general laws of Ohio.

(2) Ohio R.C. Chapter 149 shall not be applicable to this section.

(3) Council may determine that the provisions of the general laws of Ohio, currently Ohio R.C. 153.51 to 153.53, inclusive, requiring separate bids for each trade or kind of mechanical labor, employment or business and pertaining to performance bonds and specifications of sureties, shall not apply to the City and its contracts.

Section 7. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including R.C. Section 121.22.

Section 8. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this ordinance, and provided it receives the affirmative vote of at least two thirds of the members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

John Litten, President of Council

Maureen M. Bach, Clerk of Council

Approved: _____

Meghan F. George, Mayor

ORDINANCE NO.

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, establishing new purchasing limits in line with the Ohio Revised Code for the City of Lakewood.

WHEREAS, HB 33 has been adopted by the General Assembly and has increased the state bidding threshold to \$75,000 through the creation of ORC §9.17; and

WHEREAS, Lakewood's bidding threshold has been at \$7,500 for more than 40 years; and

WHEREAS, many communities in Ohio have adopted the ORC bidding threshold; and

WHEREAS, in order for Lakewood to remain competitive when purchasing and contracting, it is necessary to review these bidding and contracting thresholds; and

WHEREAS, as set forth in Section 2.12 of the Third Amended Charter of the City of Lakewood, this Council by a vote of at least two thirds of its members determines that this ordinance is an emergency measure and that it shall take effect immediately, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal departments in that the Lakewood Codified Ordinances should be updated to reflect modern purchasing requirements of the State of Ohio; now, therefore

BE IT ORDAINED BY THE CITY OF LAKEWOOD:

Section 1. That Section 111.01 Departmental Public Improvement Contracts, of the Lakewood Codified Ordinances, currently reading as follows:

111.01 DEPARTMENTAL PUBLIC IMPROVEMENT CONTRACTS.

(a) Contracts for public improvements and work and repairs with respect to public improvements shall be awarded by the Director of Public Works upon approval by Council. Adoption of an ordinance or resolution authorizing the preparation of plans or specifications, an ordinance or resolution authorizing the advertising of request for bids (where bidding shall be required) or any other ordinance or resolution which authorizes or approves the award of contracts, and specifies the limit to be spent, shall constitute the approval of Council required by the Charter and this section, except that any contract for an amount which exceeds the amount specified for a line item detailed in the ordinance or resolution shall not be valid or enforceable unless first specifically authorized by a separate resolution of Council.

(b) Contracts for architectural, engineering and design services, other than for street reconstruction projects including water main and sewer line replacement projects, shall specify not to exceed dollar amounts and are subject to separate ordinance and approval of Council.

(c) Contracts described in subsections (a) and (b) hereof in excess of seven thousand five hundred dollars (\$7,500) shall be awarded by competitive bidding pursuant to Section 111.04 unless competitive bidding is not required pursuant to such section.

is hereby repealed.

Section 2. That new section 111.01 Departmental Public Improvement Contracts of the Lakewood Codified Ordinances shall be enacted to read as follows:

(a) Contracts for public improvements and work and repairs with respect to public improvements shall be awarded by the Director of Public Works upon approval by Council. Adoption of an ordinance or resolution authorizing the preparation of plans or specifications, an ordinance or resolution authorizing the advertising of request for bids (where bidding shall be required) or any other ordinance or resolution which authorizes or approves the award of contracts, and specifies the limit to be spent, shall constitute the approval of Council required by the Charter and this section, except that any contract for an amount which exceeds the amount specified for a line item detailed in the ordinance or resolution shall not be valid or enforceable unless first specifically authorized by a separate resolution of Council.

(b) Contracts for architectural, engineering and design services, other than for street reconstruction projects including water main and sewer line replacement projects, shall specify not to exceed dollar amounts and are subject to separate ordinance and approval of Council.

(c) Contracts described in subsections (a) and (b) hereof ~~in excess of seven thousand five hundred dollars (\$7,500)~~ shall not exceed the amount prescribed in ORC §9.17 or in excess of seventy-five thousand dollars (\$75,000) shall be awarded by competitive bidding pursuant to Section 111.04 unless competitive bidding is not required pursuant to such section 111.04.

Section 3. That Section 111.02 Other Departmental Contracts, of the Lakewood Codified Ordinances, currently reading as follows:

111.02 OTHER DEPARTMENTAL CONTRACTS.

(a) All contracts or purchases, other than contracts for public improvements described in Section 111.01, shall be awarded by the Mayor, the Director of Law, the Director of Finance, the Director of Public Works or the Procurement Officer, upon approval by Council. Adoption of an ordinance or resolution authorizing the preparation of plans or specifications, an ordinance or resolution authorizing the advertising of request for bids (where bidding shall be required) or any other ordinance or resolution which authorizes or approves the award of contracts, and specifies the limit to be spent, shall constitute the approval of Council except that any contract for an amount which exceeds the amount specified for a line item detailed in the ordinance or resolution shall not be valid or enforceable unless first specifically authorized by a separate resolution of Council. Contracts or purchases in excess of seven thousand, five hundred dollars (\$7,500) shall, in addition, require the approval of the Board of Control established in subsection (b) hereof. Council hereby grants its approval of contracts for professional services not in excess of five thousand dollars (\$5,000) and all other contracts not in excess of seven thousand, five hundred dollars (\$7,500).

(b) A Board of Control, consisting of the Mayor, the Director of Law, the Director of Finance and the Director of Public Works, who may be represented by designees, is hereby established. Contracts shall be approved by the Board of Control by the execution of a written authorization or ratification of the contract by three of its members or their respective designees, with or without a meeting.

is hereby repealed.

Section 4. That new Section 111.02 Other Departmental Contracts, of the Lakewood Codified Ordinances, is hereby enacted to read as follows:

(a) All contracts or purchases, other than contracts for public improvements described in Section 111.01, shall be awarded by the Mayor, the Director of Law, the Director of Finance, the Director of Public Works, the Director of Planning and Development, the Director of Human Services, the Director of Human Resources, or the Procurement Officer, upon approval by Council. Adoption of an ordinance or resolution authorizing the preparation of plans or specifications, an ordinance or resolution authorizing the advertising of request for bids (where bidding shall be required) or any other ordinance or resolution which authorizes or approves the award of contracts, and specifies the limit to be spent, shall constitute the approval of Council except that any contract for an amount which exceeds the amount specified for a line item detailed in the ordinance or resolution shall not be valid or enforceable unless first specifically authorized by a separate resolution of Council. Contracts or purchases in excess of fifty thousand dollars (\$50,000), seven thousand, five hundred dollars (\$7,500) shall the amount prescribed in ORC §9.17, in addition, require the approval of the Board of Control established in subsection (b) hereof. Council hereby grants its approval of contracts for professional services not in excess of five thousand dollars (\$5,000) and all other contracts not in excess of seven thousand, five hundred dollars (\$7,500) which do not exceed the amount prescribed in ORC §9.17.

(b) A Board of Control, consisting of the Mayor, the Director of Law, the Director of Finance and the Director of Public Works, who may be represented by designees, is hereby established. Contracts shall be approved by the Board of Control by the execution of a written authorization or ratification of the contract by three of its members or their respective designees, with or without a meeting.

Section 5. Department of Finance Reports

(a) The Department of Finance shall apply specific internal controls for contracts or purchases less than seventy-five thousand dollars (\$75,000), which will include a canvassing of qualified available suppliers. The Director of Finance shall include an outline of the internal controls in the written budget submitted to and approved annually by Council. Council's approval of the annual written budget shall be considered approval of the internal controls.

(b) The Department of Finance shall submit to Council on at least a monthly basis a report of contracts or purchases in amounts less than fifty thousand dollars (\$50,000) containing information substantially similar as set forth in the form filed with the Clerk of Council.

Section 6. That Section 111.04 Bidding, of the Lakewood Codified Ordinances, currently reading as follows:

111.04 BIDDING.

(a) Contracts awarded by the Director of Public Works pursuant to Section 111.01(a), and contracts awarded by the Mayor, the Director of Public Works, the Director of Finance, the Director of Law or the Procurement Officer pursuant to Section 111.02(a) which are in excess of seven thousand five hundred dollars (\$7,500), shall be awarded to the lowest and best bidder after advertisement for not less than once in a newspaper of general circulation within the City, except that the following contracts may be awarded without advertising and competitive bidding and without meeting other requirements imposed by this section:

(1) Contracts for professional or technical services, including, without limitation, services of engineers, architects, attorneys, accountants or other professional or technical consultants;

(2) Contracts for the services and work of a construction manager. As used in this subsection "construction manager" means a person, firm or corporation with substantial discretion and authority to manage or direct a project for the construction, demolition, alteration, repair or reconstruction of any public building, structure, street, highway or other improvement; whenever the City intends to enter into a contract to engage a construction manager, the Awarding Authority shall first advertise, in a newspaper of general circulation in the County where the contract is to be performed, notice of its intent to engage a construction manager, which notice shall invite interested parties to submit proposals for consideration and which notice shall be published at least thirty days prior to the date for accepting such proposals; and the Awarding Authority may also advertise the information contained in the notice in appropriate trade journals, as determined by the Awarding Authority, and the Awarding Authority may otherwise notify persons, firms or corporations believed by the Awarding Authority to be interested in such engagement;

(3) Contracts which are determined by the Council to be necessary to meet an emergency arising in connection with the operation or maintenance of any City department or agency or any equipment, property, improvement or facility of the City, including, without limitation, contracts for work, services, construction, reconstruction, renovation or repairs;

(4) Contracts for the purchase or lease of real property, which contracts are specifically approved by Council;

(5) Contracts for the purchase of 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;

(6) Contracts for the purchase of real or personal property, services, work, equipment, supplies or materials from any department, division, agency, political subdivision or district or authority of the State or any agency of a political subdivision or a regional council of governments;

(7) Contracts awarded pursuant to Section 111.02 for the purchase or lease of computer hardware or software where the Board of Control has determined that it is either impractical to award the contract under competitive bidding procedures, or cost effective and in the best interests of the City to award the contract without competitive bidding, and, in such cases, the Board of Control has approved a form of the contract to be awarded without competitive bidding,

(8) Contracts, including leases, which may be awarded under the statutes, or rules promulgated thereunder, of the State without competitive bidding;

(9) Contracts for such purposes which may be awarded without competitive bidding under principles of the common law or case law of the State; and

(10) Contracts under other circumstances, where the Council determines that it is either impractical to award the contract under competitive bidding procedures, or cost-effective and in the best interests of the City to award the contract without competitive bidding, and, in such cases, Council has approved a form of the Contract to be awarded without competitive bidding.

(b) As used in this section, "Awarding Authority" means:

(1) In the case of contracts awarded pursuant to Section 111.01, the Director of Public Works;

(2) In the case of contracts awarded pursuant to Section 111.02, the Mayor, the Director of Public Works, the Director of Finance, the Director of Law or the Procurement Officer, as determined by the Board of Control.

(c) Bids shall be opened by the Awarding Authority or his designee at the time, date and place as announced in the notice to bidders, the newspaper advertising or the specifications. The time, place, and date of bid openings may be extended to a later date by the Awarding Authority provided that written or oral notice of the change shall be given to all persons who have received or requested specifications no later than ninety-six hours prior to the original time and date fixed for the opening. The Awarding Authority or his designee shall publicly read each bid. Each bid shall contain the full name of each person interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and its performance properly secured unless the bid is for a contract for the construction, demolition, alteration, repair or reconstruction of a public improvement, in which case it shall meet the requirements of Ohio R. C. 153.54. If the work bid embraces both labor and material, such items shall be separately stated with the price thereof.

The Awarding Authority may reject any bid. Where there is reason to believe there is collusion or combination among bidders, the bids of those concerned therein shall be rejected. Ohio R.C. 9.31, as it may be amended from time to time, or any successor statute, shall be applicable under this section with respect to the matter of the withdrawal of bids made in error.

(d) The contract shall be between the City and the bidder who is awarded the contract. The contract may provide for liquidated damages for delays beyond a specified date. When, in the

opinion of the Awarding Authority it becomes necessary, in the prosecution of any work or improvement under contract, to make alterations or modifications in the contract, such alterations or modifications shall only be made upon the order of the Awarding Authority and the approval of the Board of Control or the approval of the Board of Trustees of Lakewood Hospital when the Administrator of Lakewood Hospital is the Awarding Authority, but such order shall be of no effect until the price to be paid for the work and any additional work or material, or both, under the altered or modified contract, has been agreed upon in writing and signed by the Awarding Authority on behalf of the City and the contractor.

No contractor may recover anything for work or material because of any such alteration or modification unless the contract is made in such manner, nor shall he be allowed to recover for such work or material, or either, more than the agreed price. Alterations and modifications to contracts may be made without advertising and competitive bidding.

(e) The unit or lump sum price stated in the contract shall be used in determining the amount to be paid and shall constitute full and final compensation for all the work. Partial payment to the contractor for work performed under the lump sum price shall be based on a well-balanced schedule prepared by the contractor and approved by the Awarding Authority or his designee who shall apportion the lump sum price to the principal features entering into or forming a part of the work under the lump sum price.

Partial payment to the contractor for labor performed under either a unit or lump sum price contract shall be made at the rate of ninety percent (90%) of the estimates prepared by the contractor and approved by the Awarding Authority, provided that all labor performed after the job is fifty percent (50%) completed, shall be paid for at the rate of one hundred percent (100%) of the estimates submitted by the contractor and approved by the Awarding Authority.

(f) At the time named in the contract for payment to the person, firm, corporation, partnership or association with whom or with which it is made, the Awarding Authority or his designee shall make a full, accurate, and detailed estimate of the various kinds of labor performed and materials furnished under the contract, with the amount due for each kind of labor and material and the amount due in the aggregate. The estimate shall be based upon the actual measurement of such labor and materials, and shall give the amounts of preceding estimate and the amount of labor performed and materials furnished since the last estimate. From the date of completion or either acceptance or occupancy by the City, a sufficient amount shall be retained as additional security for ninety days for the faithful performance of the contract, after which time if the contract has been faithfully performed nothing shall be retained.

(g) The estimates referred to in subsection (f) hereof shall be filed by the Awarding Authority and a certified copy thereof delivered to the Director of Finance. Unless otherwise provided in the contract or other documents incorporated into the contract, all material and equipment shall become the property of the City upon its installation or when it otherwise becomes a part of the building, construction, alteration, addition or other improvement, provided that the City reserves all of its rights and remedies against the contractor or material provider under the contract and applicable law.

All materials furnished and delivered after the job is fifty percent (50%) completed shall be paid for at the rate of ninety percent (90%) of the invoice value of the materials. The balance of such

estimate shall be paid when the material is incorporated into and becomes a part of the building, construction, addition, improvement, alteration, or installation, unless the contractor does not prosecute the work with diligence and as specified or intended in the contract.

When the rate of work and amounts involved are so large that it is deemed advisable by the Awarding Authority, estimates and payments shall be made twice each month.

(h) The general laws of Ohio pertaining to the State's prevailing wage law shall be applicable under this section.

(i) The provisions of Ohio R.C. 153.59, to the extent appropriate to application to the City, shall apply to persons, firms, corporations or other entities (the "contractor") who contract with the City and the subcontractors of such contractors.

(j) The general laws of Ohio pertaining to the award of any contract for the construction, reconstruction, improvement, enlargement, alteration, repair, painting or decorating of a public improvement of the City shall, to the extent appropriate to application to the City, apply under this section; provided that:

(1) The provisions of the City's Charter, Codified Ordinances, noncodified ordinances or resolutions, and administrative rules and actions taken pursuant thereto shall prevail over the general laws of Ohio.

(2) Ohio R.C. Chapter 149 shall not be applicable to this section.

(3) Council may determine that the provisions of the general laws of Ohio, currently Ohio R.C. 153.51 to 153.53, inclusive, requiring separate bids for each trade or kind of mechanical labor, employment or business and pertaining to performance bonds and specifications of sureties, shall not apply to the City and its contracts.

is hereby repealed.

Section ~~67~~. New Section 111.04 Bidding, of the Codified Ordinances of the City of Lakewood is hereby enacted to read as follows:

111.04 BIDDING.

(a) Contracts awarded by the Director of Public Works pursuant to Section 111.01(a), and contracts awarded by the Mayor, the Director of Public Works, the Director of Finance, the Director of Law, the Director of Planning and Development, the Director of Human Services, the Director of Human Resources, or the Procurement Officer pursuant to Section 111.02(a), which ~~are in excess of seven thousand five hundred dollars (\$7,500)~~ the amount prescribed in ORC §9.17, are in excess of seventy-five thousand dollars (\$75,000) shall be awarded to the lowest and best bidder after advertisement for not less than once in a newspaper of general circulation within the City, except that the following contracts may be awarded without advertising and competitive bidding and without meeting other requirements imposed by this section:

(1) Contracts for professional or technical services, including, without limitation, services of engineers, architects, attorneys, accountants or other professional or technical consultants, which shall be selected on the basis of qualifications;

(2) Contracts for the services and work of a construction manager. As used in this subsection "construction manager" means a person, firm or corporation with substantial discretion and authority to manage or direct a project for the construction, demolition, alteration, repair or reconstruction of any public building, structure, street, highway or other improvement; whenever the City intends to enter into a contract to engage a construction manager, the Awarding Authority shall first advertise, in a newspaper of general circulation in the Cuyahoga County ~~where the contract is to be performed~~, notice of its intent to engage a construction manager, which notice shall invite interested parties to submit proposals for consideration and which notice shall be published at least thirty days prior to the date for accepting such proposals; and the Awarding Authority may also advertise the information contained in the notice in appropriate trade journals, as determined by the Awarding Authority, and the Awarding Authority may otherwise notify persons, firms or corporations believed by the Awarding Authority to be interested in such engagement;

(3) Contracts which are determined by the Council to be necessary to meet an emergency arising in connection with the operation or maintenance of any City department or agency or any equipment, property, improvement or facility of the City, including, without limitation, contracts for work, services, construction, reconstruction, renovation or repairs;

(4) Contracts for the purchase or lease of real property, which contracts are specifically approved by Council;

(5) Contracts for the purchase of 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;

(6) Contracts for the purchase of real or personal property, services, work, equipment, supplies or materials from any department, division, agency, political subdivision or district or authority of the State or any agency of a political subdivision or a regional council of governments;

(7) Contracts awarded pursuant to Section 111.02 for the purchase or lease of computer hardware or software where the Board of Control has determined that it is either impractical to award the contract under competitive bidding procedures, or cost effective and in the best interests of the City to award the contract without competitive bidding, and, in such cases, the Board of Control has approved a form of the contract to be awarded without competitive bidding,

(8) Contracts, including leases, which may be awarded under the statutes, or rules promulgated thereunder, of the State without competitive bidding;

(9) Contracts for such purposes which may be awarded without competitive bidding under principles of the common law or case law of the State; and

(10) Contracts under other circumstances, where the Council determines that it is either impractical to award the contract under competitive bidding procedures, or cost-effective and in the best interests of the City to award the contract without competitive bidding, and, in such cases, Council has approved a form of the Contract to be awarded without competitive bidding.

(b) As used in this section, "Awarding Authority" means:

(1) In the case of contracts awarded pursuant to Section 111.01, the Director of Public Works;

(2) In the case of contracts awarded pursuant to Section 111.02, the Mayor, the Director of Public Works, the Director of Finance, the Director of Law, the Director of Planning and Development, the Director of Human Resources, the Director of Health and Human Services or the Procurement Officer, as determined by the Board of Control.

(c) Bids shall be opened by the Awarding Authority or ~~his~~its designee at the time, date and place as announced in the notice to bidders, the newspaper advertising or the specifications. The time, place, and date of bid openings may be extended to a later date by the Awarding Authority provided that written or oral notice of the change shall be given to all persons who have received or requested specifications no later than ninety-six hours prior to the original time and date fixed for the opening. The Awarding Authority or ~~his~~its designee shall publicly read each bid. Each bid shall contain the full name of each person interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and its performance properly secured unless the bid is for a contract for the construction, demolition, alteration, repair or reconstruction of a public improvement, in which case it shall meet the requirements of Ohio R. C. 153.54. If the work bid embraces both labor and material, such items shall be separately stated with the price thereof.

The Awarding Authority may reject any bid. Where there is reason to believe there is collusion or combination among bidders, the bids of those concerned therein shall be rejected. Ohio R.C. 9.31, as it may be amended from time to time, or any successor statute, shall be applicable under this section with respect to the matter of the withdrawal of bids made in error.

(d) The contract shall be between the City and the bidder who is awarded the contract. The contract may provide for liquidated damages for delays beyond a specified date. When, in the opinion of the Awarding Authority it becomes necessary, in the prosecution of any work or improvement under contract, to make alterations or modifications in the contract, such alterations or modifications shall only be made upon the order of the Awarding Authority and the approval of the Board of Control ~~or the approval of the Board of Trustees of Lakewood Hospital when the Administrator of Lakewood Hospital is the Awarding Authority~~, but such order shall be of no effect until the price to be paid for the work and any additional work or material, or both, under the altered or modified contract, has been agreed upon in writing and signed by the Awarding Authority on behalf of the City and the contractor.

No contractor may recover anything for work or material because of any such alteration or modification unless the contract is made in such manner, nor shall he be allowed to recover for such work or material, or either, more than the agreed price. Alterations and modifications to contracts may be made without advertising and competitive bidding.

(e) The unit or lump sum price stated in the contract shall be used in determining the amount to be paid and shall constitute full and final compensation for all the work. Partial payment to the contractor for work performed under the lump sum price shall be based on a well-balanced schedule prepared by the contractor and approved by the Awarding Authority or his designee who

shall apportion the lump sum price to the principal features entering into or forming a part of the work under the lump sum price.

Partial payment to the contractor for labor performed under either a unit or lump sum price contract shall be made at the rate of ninety percent (90%) of the estimates prepared by the contractor and approved by the Awarding Authority, provided that all labor performed after the job is fifty percent (50%) completed, shall be paid for at the rate of one hundred percent (100%) of the estimates submitted by the contractor and approved by the Awarding Authority.

(f) At the time named in the contract for payment to the person, firm, corporation, partnership or association with whom or with which it is made, the Awarding Authority or his designee shall make a full, accurate, and detailed estimate of the various kinds of labor performed and materials furnished under the contract, with the amount due for each kind of labor and material and the amount due in the aggregate. The estimate shall be based upon the actual measurement of such labor and materials, and shall give the amounts of preceding estimate and the amount of labor performed and materials furnished since the last estimate. From the date of completion or either acceptance or occupancy by the City, a sufficient amount shall be retained as additional security for ninety days for the faithful performance of the contract, after which time if the contract has been faithfully performed nothing shall be retained.

(g) The estimates referred to in subsection (f) hereof shall be filed by the Awarding Authority and a certified copy thereof delivered to the Director of Finance. Unless otherwise provided in the contract or other documents incorporated into the contract, all material and equipment shall become the property of the City upon its installation or when it otherwise becomes a part of the building, construction, alteration, addition or other improvement, provided that the City reserves all of its rights and remedies against the contractor or material provider under the contract and applicable law.

All materials furnished and delivered after the job is fifty percent (50%) completed shall be paid for at the rate of ninety percent (90%) of the invoice value of the materials. The balance of such estimate shall be paid when the material is incorporated into and becomes a part of the building, construction, addition, improvement, alteration, or installation, unless the contractor does not prosecute the work with diligence and as specified or intended in the contract.

When the rate of work and amounts involved are so large that it is deemed advisable by the Awarding Authority, estimates and payments shall be made twice each month.

(h) The general laws of Ohio pertaining to the State's prevailing wage law shall be applicable under this section.

(i) The provisions of Ohio R.C. 153.59, to the extent appropriate to application to the City, shall apply to persons, firms, corporations or other entities (the "contractor") who contract with the City and the subcontractors of such contractors.

(j) The general laws of Ohio pertaining to the award of any contract for the construction, reconstruction, improvement, enlargement, alteration, repair, painting or decorating of a public improvement of the City shall, to the extent appropriate to application to the City, apply under this section; provided that:

(1) The provisions of the City's Charter, Codified Ordinances, noncodified ordinances or resolutions, and administrative rules and actions taken pursuant thereto shall prevail over the general laws of Ohio.

(2) Ohio R.C. Chapter 149 shall not be applicable to this section.

(3) Council may determine that the provisions of the general laws of Ohio, currently Ohio R.C. 153.51 to 153.53, inclusive, requiring separate bids for each trade or kind of mechanical labor, employment or business and pertaining to performance bonds and specifications of sureties, shall not apply to the City and its contracts.

Section 78. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including R.C. Section 121.22.

Section 89. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this ordinance, and provided it receives the affirmative vote of at least two thirds of the members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

John Litten, President of Council

Maureen M. Bach, Clerk of Council

Approved: _____

Meghan F. George, Mayor