

# County Council of Cuyahoga County, Ohio

## Ordinance No. O2012-0015

Sponsored by: <b>County Executive FitzGerald/Department of Law and Councilmember Miller</b>	<b>An Ordinance</b> 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 Mr. Miller, seconded by Ms. Conwell, the foregoing Ordinance was duly enacted.

Yeas: Jones, Rogers, Simon, Miller, Brady, Germana, Gallagher, Schron, Conwell and Connally

Nays: None

\_\_\_\_\_  
County Council President                      Date

\_\_\_\_\_  
County Executive                                      Date

\_\_\_\_\_  
Deputy Clerk of Council                      Date

First Reading/Referred to Committee: June 12, 2012  
Committee(s) Assigned: Public Works, Procurement & Contracting

Second Reading/Referred to Committee: July 10, 2012  
Committee(s) Assigned: Public Works, Procurement & Contracting

Amended on the Floor: July 24, 2012

Journal CC007  
July ~~14~~ 24, 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, July 24, 2012, Ordinance No. O2012-0015*

# Table of Contents

<b>Chapter 1: Establishment of the Board of Control.....</b>	<b>4</b>
Section 1.1: Board of Control Established.....	4
Section 1.2: County Council Vacancies.....	4
Section 1.3: Executive Branch Alternates.....	5
Section 1.4: Council Alternates .....	5
Section 1.5: Alternate Have Full Rights .....	5
Section 1.6: Officers .....	5
Section 1.7: No Additional Compensation, Collective Action, and Conflicts of Interest.....	6
Section 1.8: Clerk of the Board of Control .....	6
Section 1.9: Weekly Meetings .....	6
Section 1.10: Quorum .....	6
Section 1.11: Vote Required for Board of Control Actions.....	6
Section 1.12: Rules of Procedure.....	7
Section 1.13: Public Participation.....	7
Section 1.14: Agendas .....	7
Section 1.15: Special Meetings.....	7
Section 1.16: Minutes .....	8
Section 1.17: Executive Session .....	8
Section 1.18: Journal.....	8
Section 1.19: Public Meetings and Public Records .....	8
Section 1.20: Deadline for Agenda Items .....	8
Section 1.21: Consideration of Items Not on the Agenda.....	9
<b>Chapter 2: Contracts and Purchasing Board Established.....</b>	<b>9</b>
Section 2.1: Contracts and Purchasing Board Established.....	9
Section 2.2: Board Alternates .....	9
Section 2.3: Alternates Have Full Rights.....	10
Section 2.4: Officers .....	10
Section 2.5: No Additional Compensation, Collective Action, and Conflicts of Interest.....	11
Section 2.6: Clerk of the Contracts and Purchasing Board.....	11
Section 2.7: Weekly Meetings .....	11
Section 2.8: Quorum .....	11
Section 2.9: Vote Required for Board Actions .....	11
Section 2.10: Rules of Procedure.....	12
Section 2.11: Public Meetings and Public Records .....	12
Section 2.12: Public Participation.....	12
Section 2.13: Executive Session .....	12
Section 2.14: Agendas .....	13
Section 2.15: Deadline for Agenda Items .....	13
Section 2.16: Consideration of Items Not on the Agenda.....	13
Section 2.17: Special Meetings.....	13
Section 2.18: Minutes .....	14
Section 2.19: Journal.....	14
<b>Chapter 3: Approvals Required for Contracts, Purchases and Sales, Leases, Grants and Loans.....</b>	<b>14</b>
Section 3.1: County Executive’s Authority .....	14

Section 3.2:	Usage of the Terms “Contract and “Sale” .....	15
Section 3.3:	Definition of Value .....	15
Section 3.4:	Thresholds for Options of Contracts.....	15
Section 3.5:	Contracts with Multiple Vendors.....	15
Section 3.6:	Definition of New Item.....	16
Section 3.7:	Change Orders or Amendments on Contracts .....	16
Section 3.8:	Approval Thresholds for Change Orders or Amendments .....	16
Section 3.9:	Single Approval Generally Required; Exceptions .....	16
Section 3.10:	Items Requiring County Council Approval .....	17
Section 3.11:	Items Requiring Board of Control Approval .....	19
Section 3.12:	Items Requiring Contracts and Purchasing Board Approval.....	20
Section 3.13:	Monthly Reports on Contract Changes.....	20
Section 3.14:	Identification of Funding Sources.....	21
Section 3.15:	Experts or Consultants .....	21
Section 3.16:	County Executive Emergency Authority .....	21
Section 3.17:	Grant Application and Acceptance of Grants .....	22
Section 3.18:	Referral to County Council.....	22
Section 3.19:	Information Technology Purchases .....	22
<b>Chapter 4:</b>	<b>General Provisions.....</b>	<b>23</b>
Section 4.1:	Director of Procurement and Diversity to Execute Purchases.....	23
Section 4.2:	Legal Review .....	23
Section 4.3:	Appropriation and Warrant Procedures .....	23
Section 4.4:	Competitive Bidding Required; Exceptions .....	24
Section 4.5:	County’s Purchasing Policy and Procedure Manual.....	29
Section 4.6:	Updates to Purchasing Policy and Procedure Manual .....	29
Section 4.7:	Standards for Awarding Contracts.....	30
Section 4.8:	Required Certifications by Successful Bidders.....	31
Section 4.9:	Remedies for Breach of Contract.....	33
Section 4.10:	Ethics Compliance Required.....	34
Section 4.11:	Unlawful Interest in a Public Contract.....	34
Section 4.12:	Inspector General’s Authority.....	34
Section 4.13:	Home Rule Powers Asserted .....	35
Section 4.14:	Encouragement of Diversity .....	36
<b>Chapter 5:</b>	<b>Notification Requirements.....</b>	<b>36</b>
Section 5.1:	Procurement Database .....	36
Section 5.2:	Grants and Loans Database.....	37
Section 5.3:	Pending Transactions Database .....	37
Section 5.4:	Special Procurement Events Database.....	38
Section 5.5:	Notification to County Councilperson .....	38
Section 5.6:	Timeline for Databases and Notifications.....	38
Section 5.7:	Historical Information not Required in Databases.....	38
Section 5.8:	Exclusion of Confidential Information .....	39
Section 5.9:	Notice of Executed Contracts, Purchases and Sales .....	39

## 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.**
- c) **Any other contract, purchase, sale, lease, grant made by the County, loan made by the County, 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.**

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.
- (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 **six (6) 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.
- f) **One member of Cuyahoga County Council, appointed by the President of Council, to serve until the next Organizational Meeting of Cuyahoga County Council and then immediately following each Organizational Meeting of Cuyahoga County Council, who shall serve until their successors are appointed.**

**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~~ **Executive Branch** Alternates

For each of the five (5) executive branch members of the Contracts and Purchasing Board, ~~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: Council Alternates**

**At the same time that the President of Council appoints a member to the Contracts and Purchasing Board, the President of Council shall appoint at least two (2) alternates who shall serve as a pool of alternates if the Council member is 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 2.34: 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 2.45: 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 2.56: 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 2.67: 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 2.78: 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 2.89: Quorum

A quorum for the Contracts and Purchasing Board shall consist of **four** ~~(4) three (3)~~ members, or their alternates ~~or replacements~~.

Section 2.910: 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 **the majority of the members present, but a minimum of three votes shall be required for any item to be approved.** ~~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 2.40~~**11:** Rules of Procedure

(a) The Contracts and Purchasing Board shall, consistent with the provisions of this Ordinance, adopt its own rules of procedure.

(b) **The Board's rules may include procedures for the approval or preapproval of time sensitive, mission critical purchases not to exceed \$25,000.00 for any one time sensitive, mission critical purchase item.**

(c) Nothing in this Ordinance shall be interpreted to prohibit the Contracts and Purchasing Board from utilizing consent agendas.

(d) 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 2.41~~**12:** 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 2.42~~**13:** 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 2.43~~**14:** 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 2.4415:** 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 2.4516:** 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 2.4617:** 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 2.4718:** 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 2.1819: 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 2.1920: 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, except as provided for under the County Executive Emergency Authority and Time Sensitive, Mission Critical Purchases. 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~~ **resulting in the County's expenditure of** more than \$500,000.00;
  - 2) **All revenue generating agreements with anticipated revenue above \$500,000.00 during the term of the agreement. If the revenue generating agreement does not have an end date, the County shall calculate the anticipated revenue for purposes of determination of the appropriate approval authority based on a five-year term.**
  - 3) Any loan in which the county, or any entity thereof, is the borrower;
  - 4) All contracts, purchases, loans, leases, or other transactions which create an obligation which would require the appropriation of additional funds not previously authorized;
  - 5) 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;
  - 6) All purchases, sales, or leases of real estate in excess of six months other than at fair market value;

- 7) 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;
- 8) 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;
- 9) 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;
- 10) 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;
- 11) 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; **and**
- 12) **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 the Council President requests its transfer or review to the County Council by written communication to the County Executive and his or her designee prior to approval.**

- 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~~ **resulting in the County's expenditure of** 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 revenue generating agreements with anticipated revenue more than \$100,000 but not more than \$500,000.00 during the term of the agreement. If the revenue generating agreement does not have an end date, the County shall calculate the anticipated revenue for purposes of determination of the appropriate approval authority based on a five-year term.**
- c) 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.
- d) Any change order or amendment ~~with a value~~ **resulting in the County's expenditure** 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.
- e) ~~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.~~

- f) ~~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.~~
- g) 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.
- h) ~~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, **revenue generating agreements,** 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 **shall require approval by the Contracts and Purchasing Board.**
- 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.~~
- c) ~~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

**(a).** 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.

**(b).** **As an exception to 3.17(a), specific approval shall be required by the Board of Control for the County's acceptance of grants of more than \$100,000.00 or the Contracts and Purchasing Board for the County's acceptance of grants of \$500.00 or more that do not otherwise require the Board of Control approval, to accept a grant when either of the following applies:**

**(i).** **The County has the discretion to select from multiple potential grant sub-recipients, and the County voluntarily designates a specific sub-recipient as part of the application process.**

**(ii).** **Acceptance of the grant requires a local match for which a specific appropriation has not been provided in the applicable operating budget.**

*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.

**Section 3.20: Law Department Authority**

**The Law Department may authorize minor deviations from the original approval actions of contracts, revenue generating agreements, purchases, sales, leases, grants, loans, change orders, amendments, or any other approved transactions, including, but not limited to, the identification of the vendor's name and starting and ending dates. If the Law Department approves such deviations, the Office of Procurement and Diversity shall process the contractual documents. The Law Department shall report all such approved deviations from the original approval actions on a monthly basis to the requisite approval authorities.**

**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, **and Payment Methodology**

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.

**Notwithstanding any contrary requirements of the Ohio Revised Code and without regard to the transaction's dollar amount, provided that any prerequisite approvals are obtained pursuant to this Ordinance, the County shall be free to utilize any payment methodology approved by the Fiscal Officer, including, but not limited to, the use of credit cards, electronic transfers, p-cards, and vouchers.**

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 December 31, 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 January 1, 2013, 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 approved by the Office of Procurement and Diversity and the Law Department. The County shall make best efforts to ensure that the posting hours take place between 5:00 a.m. and 7:00 p.m. EST. If the online process does not result in at least three bids, the County shall exercise best efforts to obtain three bids through additional solicitation efforts.**
- g) **Effective through December 31, 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 January 1, 2013, if the County seeks to make contracts or purchases of \$25,000 or more, and it is unable to identify more than one source and a vendor provides the County with a verified statement, subject to the penalty of perjury, certifying its sole source status, the County shall then solicit the availability of vendors for the contract/purchase. The solicitation shall be for a period of no less than 48 hours on the County's web site and through a vendor email notification system that is approved by the Office of Procurement and Diversity and the Law Department. If the posting fails to identify any additional vendor, the County 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 vendor, the County shall only proceed with the procurement through the requisite competitive process under this Ordinance unless the County receives an appropriate exemption in accordance with the requirements of this Ordinance.** The request for 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.

**c) Should any conflict exist between the procedures, requirements, or any other terms of the County's Purchasing Policy and Procedure Manual or any other administrative policies and this Ordinance, the procedures, requirements, and terms of this Ordinance shall prevail.**

*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, including, but not limited to ORC 5543.19, the Ohio Administrative Code, or any other applicable law or regulation, pursuant to the County's home rule powers, the County's Department of Public Works may employ laborers and vehicles, use county employees and property, lease implements and tools, purchase materials, and do any other act as necessary in the construction, reconstruction, improvement, maintenance, or repair of roads, bridges, culverts, county property and facilities, or any other construction or property management undertaken by the County. In so doing, the Department shall obtain all requisite approvals for any contracts, purchases, change orders, or amendments from the appropriate approval authorities pursuant to the requirements of this Ordinance.**
- D.** 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:
- i. issue requests for bids, proposals, or qualifications which allow the responder to choose among two or more alternative approaches for completing the work;
  - ii. 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;

- iii. 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.