

Ordinance No. 1256-2023

By Council Members Bishop and Griffin
(by departmental request)

AN EMERGENCY ORDINANCE

To amend Sections 185.01 and 185.08 of the Codified Ordinances of Cleveland, Ohio, as amended by various ordinances; to repeal Section 185.02, Advertisement for Bids; and to supplement the codified ordinances by enacting new Sections 185.011, 185.012, and 185.02 relating to construction contracting.

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the following sections of the Codified Ordinances of Cleveland, Ohio, 1976:

Section 185.01, as amended by Ordinance No. 1737-08, passed December 8, 2008, and

Section 185.08, as amended by Ordinance No. 1236-60, passed June 20 1960,

are amended to read as follows:

Section 185.01 Authorization, Advertising and Making of Contracts

Whenever any work or construction is to be done, or any improvement is to be made for the City which the department, division, or office concerned is not equipped or prepared to do or make, the performance of which involves an expenditure of more than fifty thousand dollars (\$50,000.00), a contract for the work or construction, including contracts for planning, design, construction management, or other professional services or any public improvement, shall first be authorized by ordinance of Council. ~~When so authorized the Commissioner of Purchases and Supplies shall advertise for bids once a week for two (2) consecutive weeks in the *City Record* for the doing of the work, and immediately report the bids received, with his or her recommendations to the director of the department involved, who, in turn, shall transmit the bids to the Board of Control for consideration at its next regular meeting. Any or all bids may be rejected. No contract shall be awarded without the approval of the Board, and then only to the lowest responsible bidder. Contracts so approved shall be reduced to writing and signed on behalf of the City by the director of the department involved. No contract shall be made except if it is reduced to writing and entered into under these Codified Ordinances. Any work, construction or improvement which involves an expenditure of less than fifty thousand dollars (\$50,000.00) may be made on open order, given in the same manner as purchase orders of like amount.~~

Section 185.08 Unacceptable Bids; Proposals

No bid or proposal will be accepted from, or contract awarded to, any person, firm or corporation that is in arrears or is in default to the City upon any debt or contract, or that is a defaulter as surety or otherwise, upon any obligation to the City, or has failed to perform faithfully any previous contract with the City.

Section 2. That the following existing sections of the Codified Ordinances of Cleveland, Ohio, 1976:

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Section 185.01, as amended by Ordinance No. 1737-08, passed December 8, 2008,

Section 185.02, Advertisement for Bids, as amended by Ordinance No. 2929-76, passed December 20, 1976, and

Section 185.08, as amended by Ordinance No. 1236-60, passed June 20 1960,

are repealed.

Section 3. That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Sections 185.011, 185.012, and 185.02 to read as follows:

Section 185.011 Advertisement for Bids and Making of Contracts

When so authorized, the Commissioner of Purchases and Supplies shall advertise for bids once a week for two (2) consecutive weeks in the *City Record* for the doing of the work. Every advertisement for bids shall specify the place where bids will be received and the day and place when the same will be opened, and shall state that at 12:00 noon on the last day for filing bids in response to the advertisement, the Commissioner of Purchases and Supplies will open and read all bids. After opening and reading, the Commissioner of Purchases and Supplies shall immediately report the bids received, with his or her recommendations to the director of the department involved, who, in turn, shall transmit the bids to the Board of Control for consideration at its next regular meeting. Any or all bids may be rejected. No contract shall be awarded without the approval of the Board, and then only to the lowest responsible bidder.

Section 185.012 Contracts Combining Design, Construction, and Management Services

In addition and as an alternative to the construction contracting method authorized in Section 185.011, a public improvement may be made by one or more contracts combining professional design services and construction services in one or more design-build, including but not limited to bridging design-build and variants, or engineer-procure-construct contracts, or by combining construction management services, professional design services, and construction services in one or more construction-management contracts or one or more construction-manager-at-risk contracts or other similar contracts, which may utilize open-book pricing and/or guaranteed maximum price, duly let to the person, firm, or corporation or combination of them submitting the best proposal, after a competitive qualifications-based selection process, also taking into consideration the engineering and design, the proposed design and construction costs, the construction method, the schedule, the total life-cycle costs, the qualifications of the proposed design professional(s), construction firm(s) and construction management firm(s), the community benefits offered, and the risks and the objectives of the Improvement.

The selection of the person, firm, or corporation to design, construct and/or manage the Improvement shall be made by the Board of Control on the nomination of the appropriate department director(s) from a list of qualified and available persons, firms, or corporations, as may be determined by the director(s) after making a full and

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complete canvass for the purpose of compiling the list. The Board of Control shall fix the total compensation to be paid for all design and construction and/or construction management, or any combination of them, necessary for the Improvement. The contract or contracts shall be prepared by the Director of Law, approved by the appropriate department director(s) and certified by the Director of Finance.

Section 185.02 Form and Execution of Contracts

Contracts approved or authorized under Sections 185.01, 185.011 and 185.012 shall be reduced to writing and signed on behalf of the City by the director of the department involved. No contract shall be made unless it is reduced to writing and entered into under these Codified Ordinances. Any work, construction or improvement which involves an expenditure of less than fifty thousand dollars (\$50,000.00) may be made on open order, given in the same manner as purchase orders of like amount.

Section 4. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

JBM/JHO:nl
10-30-2023
FOR: Council Member Griffin and Director DeRosa

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**REPORT
after second Reading**

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READ FIRST TIME on OCTOBER 30, 2023

**and referred to DIRECTORS of Capital Projects, Public Works,
Port Control, Public Utilities, Finance, Law;
COMMITTEES on Municipal Services and Properties,
Finance Diversity Equity and Inclusion**

REPORTS

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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Published in the City Record _____

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COMMITTEE ON
MUNICIPAL SERVICES
AND PROPERTIES**

FILED WITH COMMITTEE

**PASSAGE RECOMMENDED BY
COMMITTEE ON
FINANCE, DIVERSITY, EQUITY
and INCLUSION**

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