

# Ordinance No. 677-2022

By Council Members Kazy and Griffin  
(by departmental request)

**FOR PASSAGE**  
**July 13, 2022**

## **AN EMERGENCY ORDINANCE**

Authorizing the Director of Public Utilities to enter into an amendment to Contract No. RC 2021-54 with Carus, LLC to provide a specific water treatment chemical at a recalculated price due to the war in Ukraine resulting in limited global supply and rapidly increasing prices.

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WHEREAS, under Section 129.24 of the Codified Ordinances of Cleveland, Ohio, 1976, after competitive bidding, the Director of Public Utilities entered into Contract No. RC 2021-54 with Carus, LLC (“Carus”) for the City’s requirements for two years for the water treatment chemical known as orthophosphoric acid which is critical for lead and copper corrosion control as it provides a protective coating inside service lines and household plumbing; and

WHEREAS, failure to include this chemical in the water treatment process will violate U.S. and Ohio EPA requirements and potentially cause an impending public health disaster; and

WHEREAS, phosphorous is an integral component in the production of orthophosphoric acid; and

WHEREAS, the war in Ukraine has significantly impacted the supply of phosphorous worldwide as a major phosphorous mine is located in Belarus and as a result of the war, no shipments of the raw ore are leaving that mine; and

WHEREAS, because of the limited supply and continued demand, Carus and other suppliers now provide the raw ore on an allotment basis and, as a result, costs have skyrocketed; and

WHEREAS, because other orthophosphoric acid suppliers have informed the City that they have no available capacity to supply the City’s requirements, Carus is presently the sole source of supply for the City and competitive bidding would be futile; and

WHEREAS, while Carus has the capacity to meet the City’s needs for orthophosphoric acid, it has notified the City that its costs doubled in the past year and it can no longer provide the orthophosphoric acid at the current contract price and cannot get price guarantees commensurate with the current contract rate due to rapidly increasing prices; and

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WHEREAS, an amendment to Contract No. RC 2021-54, without competitive bidding, is necessary for recalculation, now and after six months, of Carus' unit price to the City for the remaining term of the contract which ends June 14, 2023; and

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 Director of Public Utilities is authorized to enter into an amendment to Contract No. RC 2021-54 with Carus, LLC for the purchase of the City's requirements for orthophosphoric acid to implement the recalculation, now and after six months, of the unit price to the City for the product for the remaining term of the contract due to significantly limited supplies and increased prices resulting in part from the war in Ukraine. The recalculation shall be based on published, objective, established industry cost indices. All other terms and conditions of the contract shall remain unchanged and in full force and effect.

Section 2. That the above-authorized amendment shall be prepared by the Director of Law.

Section 3. That the costs of the contract shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of any purchase under the contract, each of which purchases shall be made on order of the Commissioner of Purchases and Supplies by a delivery order issued against the contract or contracts and certified by the Director of Finance. (RQN 2002, RL 2022-32)

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.

GB:nl  
7-13-2022  
FOR: Director Keane

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**REPORT  
after second Reading**

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**READ FIRST, SECOND AND THIRD TIME**

**READ FIRST TIME**

**REPORTS**

referred to

**CITY CLERK**

**READ SECOND TIME**

**CITY CLERK**

**READ THIRD TIME on JULY 13, 2022**

**PRESIDENT**

**CITY CLERK**

**APPROVED**

**MAYOR**

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