

County Council of Cuyahoga County, Ohio

Ordinance No. O2015-0006

Sponsored by: Council President Brady	An Ordinance enacting the Board of Control Consolidation Act, and declaring the necessity that this Ordinance become immediately effective.
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WHEREAS, Sections 205.01 & 205.02 of the Cuyahoga County Code establish the Board of Control and Contracts and Purchasing Board for the purpose of reviewing, approving, or denying county contracts in accordance with the Contracts and Purchasing Procedures established in Chapter 501 of the County Code; and,

WHEREAS, the County Council, the Board of Control and the Contracts and Purchasing Board are each responsible for approving various exemptions and contracts up to and between various dollar thresholds; and,

WHEREAS, County Council is responsible, generally, for approving contracts exceeding \$500,000.00 in value; and,

WHEREAS, items before the Board of Control or the Contracts and Purchasing Board may be referred for Council approval by the respective board, the County Executive, the Council President, or by a resolution of County Council; and,

WHEREAS, in the interest effective and efficient operations, the Council now intends to consolidate the Board of Control and Contracts and Purchasing Board into a single Board of Control to approve all contracts above \$500.00 that do not otherwise require approval of County Council; and,

WHEREAS, the newly consolidated Board of Control will be responsible for reviewing, approving, or denying any contract or exemption that would have previously come before either the Contracts and Purchasing Board or the Board of Control; and,

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

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

SECTION 1. Section 205.01 of the Cuyahoga County Code is hereby amended as follows (additions are marked in bold and underline, deletions are struck-through):

Section 205.01: Board of Control

A. Board of Control Established

1. Establishment: There is hereby created the Cuyahoga County Board of Control, consisting of seven 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
 - e. Three members of Cuyahoga County Council, appointed by the President of Council ~~within seven (7) days after the enactment of this Section of the County Code and~~ immediately following each Organizational Meeting of Cuyahoga County Council, who shall serve until their successors are appointed.
 2. 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 Chapter 501 of Cuyahoga County Code or any other County Code provisions.
 - 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; or 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~~ Resolution or Ordinance of Council, requires approval of the Board of Control.
- B. County Council Vacancies: Whenever any of the three 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.

- C. Executive Branch Alternates: For each of the four executive branch members of the Board of Control, the County Executive shall appoint 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.
- D. Council Alternates: At the same time that the President of Council appoints members to the Board of Control, the President of Council shall appoint at least three alternates who shall serve as a pool of alternates if any of the Council members are unavailable. Alternates shall be members **or employees** 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.
- E. 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.
- F. 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.
- G. No Additional Compensation, Collective Action, and Conflicts of Interest:
1. 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.
 2. 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 or** 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 or** vote for or against a contract within his or her District or involving a purchase by County Council.

- H. 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.
- I. Weekly Meetings: The Board of Control shall meet weekly, at a regular time determined by the Board of Control.
- J. Quorum: A quorum for the Board of Control shall consist of four (4) members attending personally or through their alternates.
- K. Vote Required for Board of Control Actions: Except as provided in Section **501.04(A)(g)** of the County Code, 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.
- L. Rules of Procedure:
1. The Board of Control shall, consistent with the provisions of this Section 205.01, adopt its own rules of procedure.
 2. Should any conflict arise between the rules of procedure of the Board of Control and ~~Section 205.01~~ of the County Code, the requirements of County Code shall prevail.
 3. **The rules of the Board of Control 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.**
 4. **Nothing in this Section shall be interpreted to prohibit the Board of Control from utilizing consent agendas.**
- M. 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.
- N. 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.

- O. **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 205.01(N) of the County Code. For any special or emergency meeting, in addition to the notice requirements of Section 205.01(N), 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 24 hours notice 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.
- P. **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.
- Q. **Executive Session:** Notwithstanding the requirement in Section 205.01(M) 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.
- R. **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.
- S. **Public Meetings and Public Records:** The Board of Control shall be subject to all state and county laws concerning public meetings and public records.
- T. **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.

- U. 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.

SECTION 2. Section 205.02 of the Cuyahoga County Code is hereby repealed.

SECTION 3. Chapter 501 of the Cuyahoga County Code is hereby amended as follows (additions are marked in bold and underline, deletions are struck-through):

Section 501.03: 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; 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 Chapter 501 of the County Code 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 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 Chapter 501 of the County Code and the County Executive.
- B. The County Executive may perform any of the functions that he or she may perform under Chapter 501 of the County Code through his or her duly authorized designees.
- C. Chapter 501 of the County Code 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.
- D. Chapter 501 of the County Code 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 Chapter 501 of the County Code unless approval for such action is specifically required under Section 501.04 of the Code.
- E. Chapter 501 is 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 Chapter.

- F. Chapter 501 shall not be construed to limit or 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 Chapter 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.

Section 501.04: Required Approvals

A. Items Requiring County Council Approval.

- 1. The following transactions and other actions shall require approval by the County Council:
 - a. All contracts, purchases, sales, grants provided by the county, or loans provided by the county resulting in the County's expenditure of more than \$500,000.00;
 - b. 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;
 - c. Any loan in which the County, or any entity thereof, is the borrower;
 - d. All contracts, purchases, loans, leases, or other transactions which create an obligation that would require the appropriation of additional funds not previously authorized;
 - e. 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;
 - f. All purchases, sales, or leases of real estate in excess of six months other than at fair market value;
 - g. 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;
 - h. 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;

- i. 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 **Resolution Motion** of Council, requires approval of the County Council; 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 Chapter 501 or any other provision of the County Code;
 - j. 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, **or** Board of Control, ~~or Contracts and Purchasing Board~~ determines to submit to Council for its consideration, review, and approval or denial; and
 - k. 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.
2. Sections 501.04(A)(1)(e) and (f) 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.
- B. Items Requiring Board of Control Approval. The following transactions and other actions shall require approval by the Board of Control:
- 1. All contracts, purchases, sales, grants provided or by the County, or loans provided by the County resulting in the County's expenditure of more than **\$500.00** ~~\$100,000.00~~ but not more than \$500,000.00;
 - 2. All revenue generating agreements with anticipated revenue more than ~~\$100,000~~ **\$500.00** 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;

3. All purchases or sales of real estate or real estate interests for more than ~~\$10,000.00~~ **\$500.00** 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~~ **\$500.00** but not more than \$50,000.00;
 4. Any change order or amendment resulting in the County's expenditure of **more than \$25,000.00 \$500.00 that do not otherwise require Council approval** using the definition provided in Section 501.02(D) of the County Code 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~~; and
 5. 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.
- C. ~~Items Requiring Contracts and Purchasing Board Approval.~~
~~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.~~

Section 501.05 Approval Procedures

- A. Single Approval Generally Required; Exceptions
 1. Except as provided for in Sections 501.04(A)(1)(h) and (i), Section 501.04(B)(4), and Sections **501.04(A) and (B)** of the County Code, the approvals provided for in Section 501.04 of the County Code 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.
 2. 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, **or** 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 Chapter 501 of the County Code.
- B. Thresholds for Exercise of Options. Exercise of an option on a contract shall require approval of the County Council, **or** the Board of Control, ~~or the Contracts and Purchasing Board~~ if the thresholds provided for in Section 501.04(A), **or** (B), ~~or (C)~~, respectively, for approval of contracts are met.
- C. Contracts with Multiple Vendors
 1. Unless an exemption is approved under Section 501.05(C)(2) herein, the values of proposed contracts to be entered pursuant to a single Request for Bids (RFB), Request for Proposals (RFP), 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 Section 501.04 of the County Code.

2. Requests for exemption from the requirements of Section 501.05(C)(1) shall be submitted to the Board of Control, which is hereby authorized to review such requests and to approve or disapprove them.

D. Approval Thresholds for Change Orders or Amendments

For the purposes of Chapter 501 of the County Code, a change order or amendment to a contract shall not be considered a separate contract and shall be subject to the requirements of Sections 501.04(A)(1)(h) and 501.04(B)(4).

E. 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:

1. A description of all changes made in the project since the previous report and the cost or savings associated with each change; and
2. 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.

F. Identification of Funding Sources.

Any item submitted to the County Council, or 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 501.07 Referral to Council

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

Section 501.08 Emergency Contracting Authority

- A. 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, or 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 for any one emergency event, without obtaining the approval of the County Council, or 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.

Section 501.09 Application for 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 Chapter 501 of the Cuyahoga County Code.
- B. As an exception to Section 501.09(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 that do not otherwise require the Board of Control approval~~, when either of the following applies:
 - 1. 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; or
 - 2. Acceptance of the grant requires a local match for which a specific appropriation has not been provided in the applicable operating budget.

Section 501.12 Competitive Bidding Requirements and Exceptions

- A. Except as otherwise provided in Chapter 501 of the County Code, including, but not limited to, Sections 501.12, 501.14, and 501.01, 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 Chapter 501 of the County Code, the procedures, requirements, and terms of this Chapter 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 501.08 of the County Code or the purchase is approved by the County

Council, or the Board of Control, ~~or the Contracts and Purchasing Board~~, as applicable, to be made without competitive bidding in response to an emergency;

4. 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. 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;
6. 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;
7. The purchase is for services related to information technology, such as programming services, that are proprietary or limited to a single source;
8. The transaction is with the federal government, a state or a political subdivision thereof, a county or contracting authority thereof, 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;
9. 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;
10. 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;
11. 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;
12. The purchase is for an insurance policy, health care plan, or child care services for provision to county employees;

13. 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;
 14. The ~~Contracts and Purchasing Board~~ **Board of Control** 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 501.01 of this Chapter;
 15. 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.
 16. 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 **Board of Control** ~~Contracts and Purchasing Board~~. This approval can be done singularly for the entire program without the need for individualized consideration.
 17. The purchase is for any other purpose that may be done without competitive bidding pursuant to the Ohio Revised Code;
 18. 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,
 19. 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; and,
- 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 501.12(B)(8), (15), and (16) of the County Code, unless a request for an exemption is granted by

the **Board of Control** ~~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 501.01(D) of the County Code; 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 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.~~

E. Effective January 1, 2013, if **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 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.

~~F. Effective through December 31, 2012, 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 Section 501.12(D) of the County Code 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 501.04 of the County Code.~~

F. ~~Effective January 1, 2013, if~~ **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 Chapter 501 of the Cuyahoga County Code unless the County receives an appropriate exemption in accordance with the requirements of the Code. The request for 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, **or** Board of Control, ~~or~~ ~~Contracts and Purchasing Board~~ pursuant to Section 501.04 of the County Code.

SECTION 4. It is necessary that this Ordinance become immediately effective for the usual daily operation of the County; the preservation of public peace, health, or safety in the County; and any additional reasons set forth in the preamble. Provided that this Ordinance receives the affirmative vote of at least eight members of Council, it shall take effect and be in force immediately upon the earliest occurrence of any of the following: (1) its approval by the County Executive through signature, (2) the expiration of the time during which it may be disapproved by the County Executive under Section 3.10(6) of the Cuyahoga County Charter, or (3) its passage by at least eight members of Council after disapproval pursuant to Section 3.10(7) of the Cuyahoga County Charter. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

SECTION 5. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of the Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by Mr. Brady, seconded by Mr. Miller, the foregoing Ordinance was duly enacted.

Yeas: Simon, Greenspan, Miller, Germana, Jones, Brown, Hairston and Brady

Nays: None

County Council President Date

County Executive Date

Clerk of Council Date

First Reading/Referred to Committee: February 24, 2015
Committee(s) Assigned: Public Works, Procurement & Contracting

Committee Report/Second Reading: April 14, 2015

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