

ORDINANCE 0-31-2021

AN ORDINANCE TO ACCEPT WATER LINE, SANITARY SEWER, STREET AND STORM SEWER **IMPROVEMENTS** AND APPURTENANCES THERETO FOR THE COURTYARDS AT NEW ALBANY, PHASE 2B, AS REQUESTED BY EPCON COMMUNITIES

WHEREAS, in accordance with New Albany Ordinance 77-91; and pursuant to written certification by the city engineer that the improvements and appurtenances thereto for The Courtyards at New Albany, Phase 2B, have been completed to the standards set by Codified Ordinance 1187; and

WHEREAS, a two-year maintenance bond in the amount of \$35,482, an engineering inspection fee deposit in the amount of \$1,394, and a five-year settlement bond of \$12,250 will be provided by the applicant prior to the second reading.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

Section 1: The improvements and appurtenances thereto for are hereby accepted.

Section 2. It is hereby found and determined that all formal actions of council concerning and relating to the adoption of this legislation were adopted in an open meeting of council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with Section 121 of the Ohio Revised Code.

Section 3: Pursuant to Article VI, Section 6.07(B) of the City of New Albany Charter, this ordinance shall take effect on and after the earliest period allowed by law.

CERTIFIED AS ADOPTED this ______ day of _____

Attest:

Sloan T. Spalding

Mayor

Iennifer H. Mason

Clerk of Council

Approved as to form:

Mitchell H. Banchefsley Law Director

Legislation dates:

08/13/2021 08/24/2021 Prepared: Introduced:

Revised:

Adopted: Effective:



ORDINANCE O-32-2021

AN ORDINANCE TO AMEND CHAPTER 123 "DEPARTMENT OF FINANCE" OF THE CITY OF NEW ALBANY, OHIO'S CODIFIED ORDINANCES AS REQUESTED BY THE CITY OF NEW ALBANY

WHEREAS, in response to the most recent amendments made to the City of New Albany Charter as proposed by the 2019 Charter Review Commission and adopted by the residents of the City of New Albany, a review of the Codified Ordinances of the City of New Albany, Chapter 123 was performed and updates have been found necessary; and

WHEREAS, it has been found that Codified Ordinances of the City of New Albany, Chapter 123, needs to be updated to modernize the code to allow for changes to requirements for: Fiscal Officer Certificates, purchase orders, Council's authorization threshold for contracts and/or agreements, and competitive bidding.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of New Albany, Counties of Franklin and Licking, State of Ohio, that:

Section 1. That portions of Codified Ordinance Chapter 123 "Department of Finance" be amended as set forth in Exhibit A, which depicts these amendments in colored ink.

Section 2. It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of the council, and that all deliberations of the council and or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with Section 121 of the Ohio Revised Code, and further pursuant to Ohio General Assembly 133 – House Bill 197 effective March 27, 2020.

Section 3. Pursuant to Article VI, Section 6.07(B) of the charter of the City of New Albany, this ordinance shall be in effect on and after the earliest period allowed by law.

Attest:

Sloan T. Spalding

Mayor

Jennifer H. Mason Clerk of Council

O-32-2021 Page 1 of 2

Approved as to form:

MH Banchefsky
Mitchell H. Banchefsky

Law Director

Legislation dates:

Prepared: 08/13/2021 Introduced: 08/24/2021

Revised: 08/30/2021 – exhibit A

Adopted: 09/07/2021 Effective: 09/07/2021

EXHIBIT A - O-32-2021

CHAPTER 123 - DEPARTMENT OF FINANCE [5]

Footnotes:

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Cross reference— Department of Finance - see CHTR. 8.01 Director of Finance - see CHTR. 8.05

123.01 - DUTIES OF DIRECTOR.

The Department of Finance shall be under the direction of the Director of Finance who shall be appointed by the AdministratorCity Manager with consent of Council. The Director of Finance shall be the Chief Fiscal Officer of the Municipality and shall perform the following duties:

- (a) Keep a full and accurate account of all the moneys received and disbursed by him on behalf of the Municipality as well as all outstanding sums due the Municipality and all orders and contracts for which the Municipality is obligated.
- (b) Receive and have custody of all moneys paid to the Municipality and disburse moneys in accordance with the Charter and ordinances.
- (c) Render regular reports to the AdministratorCity Manager and Council reflecting the financial condition of the Municipality.
- (d) Determine that funds are available to pay all contracts, agreements or other obligations for the expenditure of public funds entered into by any official of the municipal government.
- (e) Keep an accurate account of the bonded debt of the Municipality and of the payment of interest and principal thereon.
- (f) Prepare the municipal payroll.
- (g) Prepare and submit such reports as may be required by law.
- (h) Assist the AdministratorCity Manager in preparing the annual budget.
- (i) Compile bond transcripts and notes.
- (j) Perform such other duties as may be required by the AdministratorCity Manager.

(Ord. 49-97. Passed 12-16-97; Ord. 32-2021. Passed - -2021.)

123.02 - DIRECTOR AS FISCAL AGENT.

The Director of Finance shall be the fiscal agent of the Municipality in all transactions under the Uniform Bond Law.

(Ord. 49-97. Passed 12-16-97.)

123.03 - SIGNATURE ON NOTES AND BONDS.

The Administrator City Manager and the Director of Finance are designated as officials to sign all notes and/or bonds issued by the City, except as otherwise provided by law.

(Ord. 49-97. Passed 12-16-97.); Ord. 32-2021. Passed - - -2021.)

123.04 - PAYMENTS ON CONTRACTS.

Payments on signed contracts shall be made in accordance with the terms of such contracts when the conditions laid down in such contracts have been faithfully complied with by the contractor.

(Ord. 49-97. Passed 12-16-97.)

123.05 - SALE OR OTHER DISPOSITION OF SURPLUS PROPERTY.

The Finance Director is authorized and directed to provide for the sale or disposition of surplus equipment and supplies, including motor vehicles, in the following manner:

- (a) At such time as equipment, including motor vehicles, and supplies of the Municipality serve no useful municipal purpose, the Finance Director shall provide for the sale or disposition of such equipment or supplies as provided in this section.
- (b) The sale of surplus equipment shall be by one or more of the following methods:
 - (1) The acceptance of sealed bids, after advertising not less than one time in a newspaper of general circulation in the Municipality.
 - (2) Public auction, after advertisement for not less than one time in a newspaper of general circulation in the Municipality.
 - (3) Internet/on-line auction, without formal advertising or notice.
 - (4) Trade in, when advantageous to the Municipality, without formal advertising or notice.
- (c) Assets that are deemed by the Finance Director to have nominal or no marketable value may be disposed of as directed by the Finance Director with the consent and approval of the Village Administrator. City Manager.
- (d) The Finance Director shall use generally acceptable methods to estimate the value of assets to be sold or traded in under the provisions of this section.
 - (1) The sale or trade-in of any asset having an estimated value greater than ten thousand dollars (\$10,000.00) shall require Council authorization prior to any sale or trade-in as provided in subsection (b) hereof. Council may waive, by Resolution, the advertisement requirement in subsection (b)(1) and (b)(2).
 - (2) The sale or trade-in of any asset having an estimated value of ten thousand dollars (\$10,000.00) or less may be sold or traded in as provided in subsection (b) hereof by the Finance Director with the consent and approval of the Village Administrator. City Manager.
- (e) The proceeds for the sale of surplus property shall be deposited in the Municipal Treasury to the credit of the General Fund.
- (f) The Finance Director shall estimate the value of assets to be sold under the provisions of this section.
- (g) The proceeds from surplus equipment may be credited against the purchase price of other vehicles, equipment or machinery.
- (h) Vehicles or equipment may be used as a trade-in on replacement equipment without requiring competitive bids.

State Law reference— ORC 721.15

123.06 - RETURNED CHECK POLICY.

The Finance Director is hereby authorized to establish and maintain an approved returned check policy and procedures.

(Ord. 49-97. Passed 12-16-97.)

123.07 - EXPENDITURE APPROVAL SYSTEM.

Any person who expends funds on behalf of the Municipality over the sum of five thousand dollars (\$5,000.00) shall obtain the approval of the department head, Finance Director or designee, and the City Manager prior to the expenditure. Any expenditure below the sum of five thousand dollars (\$5,000.00) requires the approval of the department head and Finance Director or designee. Any expenditure that does not have the required approval may be void. The unauthorized expenditure may become the responsibility of the person making the expenditure.

(Ord. 49-97. Passed 12-16-97; +Ord. O-19-2015. Passed 5-19-15)

123.08 - MUNICIPAL PAYROLL.

The municipal payroll shall be prepared by the Department of Finance and shall include the name and pay rate of each person. The expenditure for the payment of current payrolls shall be charged to an appropriation for such purpose, provided that the positions of each employee and their compensation have been determined prior thereto by resolution or ordinance, and approved by the City Manager. The Administrator Director of Finance shall finally approve the payroll, and the Director of Finance shall prepare and payments for the amounts shown to the employees named shall be prepared. It shall not be necessary to encumber payrolls before payment is made.

(Ord. 49-97. Passed 12-16-97.); Ord. 32-2021. Passed - -2021.)

State Law reference—ORC 9.41, 5705.46

123.09 - COLLECTION OF PUBLIC MONEYS.

All officials and employees are liable for all public money received or collected by them or their subordinates under color of office. All money received or collected by an official or employee and not otherwise paid out according to law shall be paid to the Department of Finance for deposit in the Municipal Treasury within two (2) working days after receipt. Money held on deposit shall be retained until claimed by its lawful owner. If not claimed within a period of five (5) years, the money shall revert to the General Fund.

(Ord. 49-97. Passed 12-16-97.)

State Law reference— ORC 9.38, 9.39

123.10 - APPROPRIATION REQUIRED FOR EXPENDITURE.

No contract or purchase order involving the expenditure of money for one thousand dollars (\$1,000.00) or more shall be entered into until the Director of Finance first determines that the amount

required to meet the obligation has been lawfully appropriated for such purpose. In the case of a continuing contract or lease to be performed in part in a continuing year, the amount to be appropriated is limited to the amount to be spent in the current fiscal year. The amount of the obligation under such contract or lease remaining unfulfilled at the end of the fiscal year shall be included in the annual appropriation measure for the next year.

(Ord. 49-97. Passed 12-16-97; Ord. 32-2021. Passed - - 2021.)

State Law reference— ORC 5705.41, 5705.44

123.101 - "FISCAL OFFICER CERTIFICATE" AND PURCHASE ORDER REQUIREMENTS.

Except as listed below, no contract involving the expenditure of money shall be entered into or authorized by the City Manager unless the Director of Finance or designee shall first certify that: (1) funds required for the contract are in the City's treasury or in the process of collection; and (2) funds have been appropriated by Council for the specified purpose and remain unencumbered. This certification may be outlined in a "Fiscal Officer Certificate" and/or included on a system generated purchase order.

The following items, due to their recurring nature and the manner in which they are budgeted, do not require a "Fiscal Officer Certificate" and/or system generated purchase order prior to payment processing, provided that required funds are available and have been appropriated by Council for the specified purpose and remain unencumbered:

- (a) Debt service payments as authorized in agreements (Bonds, Notes, Loans, etc.)
- (b) Utility services including but not limited to electricity, gas, water, sewer, and communications
- (c) Bank fees, credit card processing fees, County auditor and treasurer fees, income tax collection fees and similar fees incurred related to the collection of, processing of, or custody of City funds
- (d) Real estate taxes related to City-owned property
- (e) Income tax and property tax revenue sharing with other entities in accordance with authorized agreements
- (f) Payments related to economic development incentive agreements
- (g) Purchases for items and services less than one thousand dollars (\$1,000.00)
- (h) Purchases in which a separate "Fiscal Officer Certificate" and City Manager authorization have been obtained as part of a contract prior to purchase and in which a one-time payment in the full amount of the contract will be made
- (i) Purchases in which the invoice or obligation date precedes the "Fiscal Officer Certificate" date, so long as the Finance Director determines: (1) funds were available at the time of purchase and accounted for in the current appropriations; (2) the purchase is related to an existing project, grant or agreement; and, (3) the purchase has obtained City Manager approval

(Ord. 32-2021. Passed - -2021.)

123.102 - COUNCIL AUTHORIZATION.

All contracts and/or agreements for the purchase of goods and materials or the provision of labor (not including professional services) that exceed \$100,000 must first be authorized by City Council resolution prior to entering into the contract or agreement. Contracts and/or agreements for professional services may, but are not required to be brought to City Council for approval. All contracts and/or agreements for the purchase of goods and materials or the provision of labor under \$100,000 shall not require legislative approval -by council, may be authorized by the City Manager.

(Ord. 32-2021. Passed __-_-2021.)

123.11 - PROCESSING INVOICES.

Vendors supplying goods and services to the Municipality shall render invoices therefor. Invoices shall be delivered to the Department of Finance for processing. Prior to processing payment, the Department of Finance shall receive from the official or employee ordering the goods or services an assurance that the goods were received or the services rendered. The Director of Finance shall establish procedures for providing the assurance.

(Ord. 49-97. Passed 12-16-97.)

123.12 - COMPETITIVE BIDDING REQUIREMENT.

- (a)—The AdministratorCity Manager shall make contracts, purchase supplies and materials, and provide labor for any work under the Administrator'sCity Manager's supervision involving not more than fiftyseventy-fiveone hundred thousand dollars (\$50100,000.00) without requiring competitive bidding. When an expenditure, other than the compensation of persons employed by the Municipality, exceeds fifty thousand dollars (\$50,000.00), the expenditure shall first be authorized and directed by ordinance of the Council.
- (b) When so authorized and directed, for construction contracts, except where the contract is for equipment, services, materials, or supplies to be purchased under ORC 125.04, 713.23(D), or 5513.01 or available from a qualified nonprofit agency pursuant to ORC 4115.31 through 4115.35, or required to be purchased from a qualified nonprofit agency under ORC 125.60 through 125.6012, the AdministratorCity Manager shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) nor more than four (4) consecutive weeks in a newspaper of general circulation within the Municipality. The bids shall be opened and shall be publicly read by the AdministratorCity Manager or a person designated by the AdministratorCity Manager at the time, date and place specified in the advertisement to bidders or specifications. The time, date and place of bid openings may be extended to a later date by the AdministratorCity Manager, provided that written or oral notice of the change shall be given to all persons who have received or requested specifications no later than ninety-six (96) hours prior to the original time and date fixed for the opening. All construction contracts shall be executed in the name of the Municipality and signed on its behalf by the AdministratorCity Manager and the Clerk.
- (c) When so authorized and directed, for procurement contracts, the City Manager shall make a written contract with the lowest and best bidder after solicitation of bids from persons producing or dealing in the relevant field of equipment, materials, supplies, services, or professional services after advertisement for not less than two (2) nor more than (4) consecutive weeks in a newspaper of general circulation within the Municipality. Direct solicitation of vendors for procurement contracts in addition to the required general advertisement is acceptable for specialized purchases or contracts. Additional information may be requested from one (1) or more bidders to determine the lowest and best bid.
- (d) A general notice of upcoming bids for construction or procurement contracts shall be included on the city's website.
- (be) —The Council may provide, by ordinance, for central purchasing for all offices, departments, divisions, boards, and commissions of the Municipality, under the direction of the AdministratorCity Manager who shall make contracts, purchase supplies or materials, and provide labor for any work of the Municipality in the manner provided by this section.
- (ef) —Each bid shall contain the full name of every person interested in the bid. If the bid is for a contract for construction, demolition, alteration, repair, or reconstruction of an improvement, it shall meet the requirements of Section 123.14. The AdministratorCity Manager may reject any and all bids. The contract shall be between the Municipality and the bidder.

- (dg) —If it is necessary to make alterations or modifications to the contract, the alterations or modifications shall be made in writing. The <u>AdministratorCity Manager</u> and the contractor shall sign the alteration or modification.
- (eh) —Bids for the erection, repair, alteration, construction, reconstruction, improvement, enlargement, alteration or rebuilding of a public building, culvert, or improvement may require separate and distinct proposals to be made for furnishing materials or doing work for each of the following classes of work to be performed:
 - (1) Plumbing and gas fitting;
 - (2) Steam and hot-water heating, ventilating apparatus, and steam-power plant;
 - (3) Electrical equipment.

If the architect designing a public improvement believes that the cost would be lower if bids are aggregated, then a single bid and contract award may be made for the entire project. The award shall be made to the lowest responsive and responsible bidder.

(Ord. 49-97. Passed 12-16-97; Ord. 25-98. Passed 8-18-98; Ord. 37-2001. Passed 8-21-01; Ord. O-25-2012. Passed 10-16-12); Ord. 32-2021. Passed _ - _ -2021.)

State Law reference— ORC 153.50, 153.51; ORC 731.15; ORC 731.16; ORC 731.141

123.121 - EXEMPTION FROM COMPETITIVE BIDDING REQUIREMENT.

- (a) Professional services. Contracts for professional services, including, but not limited to, architectural services, engineering services, accounting services, bond counsel services, legal services, underwriting services, and construction management services shall be exempt from the requirement for competitive bidding and shall not require further legislative authorization where the current adopted appropriations provide sufficient funding. In obtaining such services, the AdministratorCity Manager may use requests for qualifications or requests for proposals. If possible, a minimum of three (3) persons or firms shall be interviewed. If the VillageCity has acquired professional services from a vendor and those services have been acceptable, and the services are of a continuing nature, there is no need to interview other vendors.
- (b) Cooperative purchasing programs. As an alternative to competitive bidding, the City Manager shall have the authority to obtain goods and/or services for which funds have been appropriated through cooperative purchasing programs. As part of any cooperative purchasing program, the City Manager may agree that the city will be bound by contract terms and conditions prescribed by that program, including, without limitation, payment of a reasonable fee by the city to cover the administrative costs incurred by the program officials as a result of purchases by the city. The City Manager may also agree that the city will pay the vendor directly for items received by the city.
- -(c) Intergovernmental purchases. The proposed purchase is from or with another political subdivision, the Ohio State Government, or the United States Government.
- (d) Construction-manager-at-risk. The proposed purchase is a construction-manager-at-risk project let under the procedures established by the City Manager or his or her designee.
- (e) Purchase contracts for proprietary computer software programs.
- (f) Purchases that do not exceed the bidding threshold set by Council in Section 123.12(a).
- (g) Procurement contracts for equipment, services, materials, or supplies to be purchased under ORC 125.04, 713.23(D), or 5513.01 or available from a qualified nonprofit agency pursuant to ORC 4115.31 through 4115.35, or required to be purchased from a qualified nonprofit agency under ORC 125.60 through 125.6012,

(Ord. 28-98. Passed 9-15-98.); Ord. 32-2021. Passed - -2021.)

123.13 - LOWEST RESPONSIVE AND RESPONSIBLE BIDDER.

Editor's note— Former Section 123.13 was repealed by Ordinance 37-2001, passed August 21, 2001.

123.14 - BID GUARANTEES FOR PUBLIC IMPROVEMENTS.

Each person bidding for a contract for the construction, reconstruction, improvement, enlargement, alteration, repair, painting, or decoration of a public improvement shall file a bid guarantee with the bid in the form of either:

- (a) A bond for the full amount of the bid;
- (b) A certified check, cashier's check, or letter of credit equal to ten percent (10%) of the bid.

The bid guarantee shall be conditioned to provide that, if the bid is accepted, the bidder will enter into a contract in accordance with the bid. If for any reason, other than as authorized by Section 123.15, the bidder fails to enter into a contract and the award is made to the next lowest bidder, the bidder is liable for the difference between the bid and the next lowest bidder, or for a sum not to exceed ten percent (10%) of the amount bid, whichever is less.

All bid guarantees filed pursuant to this section shall be deposited with the Finance Director. A surety company authorized to do business in Ohio shall issue all bonds filed pursuant to this section.

Bid guarantees shall be returned to all unsuccessful bidders immediately after the contract is executed.

If the bidder enters into the contract, at the time the contract is entered into, a bond shall be filed for the amount of the contract to indemnify the Municipality against all damage suffered by failure to perform the contract. The bond shall be used to pay all lawful claims of subcontractors, materialmen, and laborers for labor performed or material furnished in carrying forward, performing, or completing the contract. The bid guarantee shall be returned upon the filing of the bond.

(Ord. 49-97. Passed 12-16-97.)

State Law reference— ORC 153.54

123.15 - WITHDRAWING A BID.

A bidder for a contract for a public improvement may withdraw his bid from consideration if the price bid was substantially lower than other bids. To be withdrawn, the reason has to involve a clerical mistake as opposed to a judgment mistake and has to be due to an unintentional and substantial arithmetic error or an unintentional omission of a substantial quantity of work, labor or material. Notice of a claim of right to withdraw the bid must be made in writing within two (2) business days after the conclusion of the bid opening procedure. The notice is to be sent to the Finance Director.

No bid may be withdrawn when the result would be awarding of the contract on another bid to the same bidder.

No bidder who is permitted to withdraw a bid shall supply any material or labor to the person to whom the contract is awarded.

If a bid is withdrawn, the Finance Director may award the contract to the next lowest bidder or reject all bids and resubmit the project for bidding.

If the Finance Director contests the right of the bidder to withdraw a bid, a hearing shall be held within ten (10) days after the opening of the bids. The Finance Director shall give the withdrawing bidder timely and reasonable notice of the time and place of the hearing.

A record of the testimony and other evidence shall be taken. The bidder shall pay the costs of the hearing. A decision shall be rendered within five (5) days after the hearing.

If the claim for withdrawal is denied and the bidder elects to appeal or otherwise refuses to perform, the Finance Director may reject all bids or award to the next lowest bidder.

(Ord. 49-97. Passed 12-16-97.)

State Law reference— ORC 9.31

123.16 - CONTRACTS FOR PUBLIC IMPROVEMENTS.

With respect to a contract for a public improvement, the award and execution of the contract shall be made within sixty (60) days after the date on which the bids are open unless the Finance Director extends the time. If the price of the contract exceeds the estimate by ten percent (10%) or more, the project may be rebid.

The price stated on the contract shall be used in determining the amount to be paid and shall constitute full and final compensation for all the work.

Partial payment to the contractor for work performed under the lump sum price shall be based on a schedule prepared by the contractor and approved by the architect or engineer and the Finance Director.

(Ord. 49-97. Passed 12-16-97.)

State Law reference— ORC 153.12

123.17 - RETAINAGE.

The Finance Director shall withhold ten percent (10%) from each payment to the contract as retainage. The money from retainage shall be returned to the contractor after the project is completed and accepted. The retainage may be used to complete the project if the contractor fails to perform.

(Ord. 49-97. Passed 12-16-97.)

State Law reference— ORC 153.13

123.18 – CONSIDERING MINORITY BUSINESS ENTERPRISE (MBE), WOMEN-OWNED BUSINESS ENTERPRISE (WBE), AND ENCOURAGING DIVERSITY, GROWTH AND EQUITY (EDGE) CERTIFIED BUSINESSES IN CONTRACTS.

MBE/WBE/EDGE vendors shall have equal business opportunity in the city's contracting process. This applies to all contracts, subcontracts, and procurement for services (including engineering and legal), supplies, equipment, and construction. The city shall strive to make MBE/WBE/EDGE firms aware of contracting opportunities to the fullest extent practicable thorough outreach and recruitment activities.

On no less than an annual basis, the Finance Director shall review and establish the participation goals for MBE/WBE/EDGE contracts. The goals are not and may not be treated as mandatory quotas. The annual review shall also be used to aid the city in its evaluation of the effectiveness of this chapter, and to identify areas in which the program may need to be modified.

All vendors presenting themselves as MBE/WBE/EDGE must be certified with the Ohio Department of Administrative Services, and have an active certificate. Such vendors shall be tracked in the city's financial software.

(Ord. 32-2021. Passed __-_-2021.)