

ORDINANCE 2005-47  
Passed October 4, 2005

AN ORDINANCE ADOPTING A POLICY OF PURCHASING PROCEDURES FOR THE CITY OF POWELL.

WHEREAS, Council's objective is to provide the most value to citizens per tax dollar expended, and

WHEREAS, this goal can be best accomplished through consistent adherence to a policy of purchasing procedures, and

WHEREAS, Council has determined that it is necessary and desirable to adopt such policy, which is attached hereto and incorporated herein by reference, in order to aid departmental personnel in the purchasing process.

NOW THEREFORE BE IT ORDAINED BY THE MUNICIPALITY OF POWELL, DELAWARE COUNTY, OHIO AS FOLLOWS:

**Section 1:** Council hereby ratifies any purchases made in accordance with these procedures retroactive to January 1, 2005.

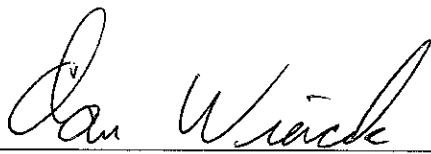
**Section 2:** That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of the Council and that all deliberations of the Council and any of the decision making bodies of the Municipality of Powell which resulted in such formal actions were in meetings open to the public in compliance with all legal requirements of the Municipality of Powell, Delaware County, Ohio.

**Section 3:** That this Ordinance shall take effect at the earliest period allowed by law.

VOTE ON ORDINANCE 2005-47:

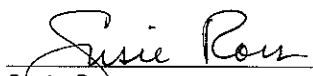
Y 7

N 0

 10/4/05

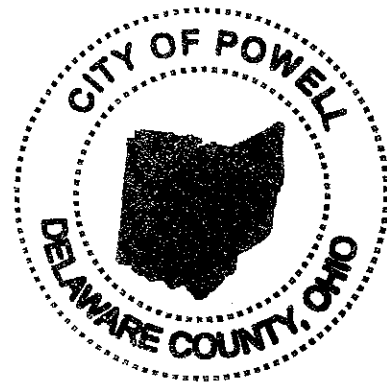
Dan Wiencek  
Mayor

Date

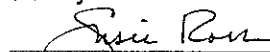
 10/4/05

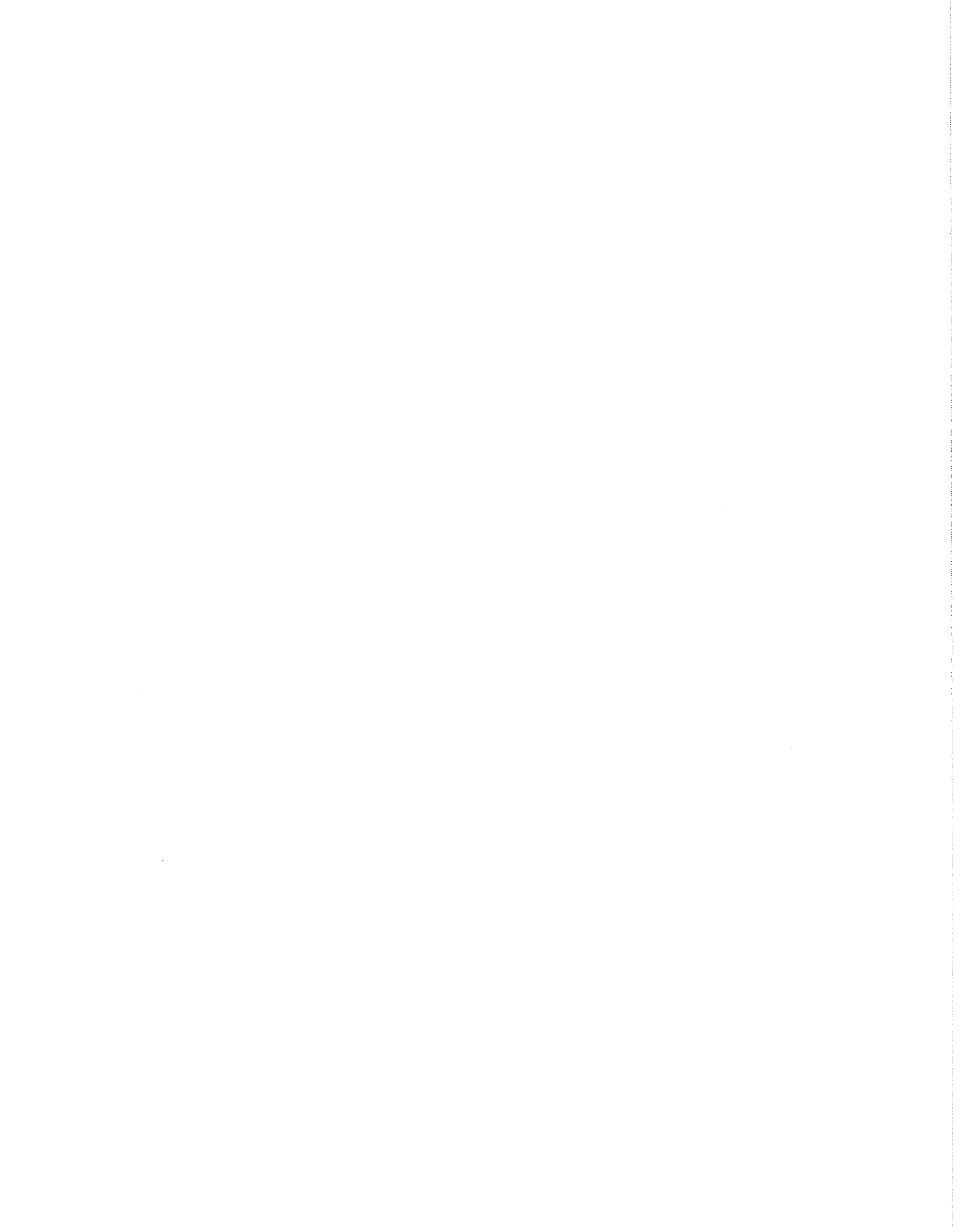
Susie Ross  
City Clerk

Date



This legislation has been posted in accordance with the City Charter on this date 10/5/05.

  
Clerk of Council



## I. OBJECTIVES AND BENEFITS

The purpose of this manual is to formalize purchasing procedures in order to aid departmental personnel in the purchasing process. Full cooperation of all Village City personnel is needed in order that the methods promulgated in this manual may be successful.

The objective of a formal purchasing program is to provide the most value to citizens per tax dollar expended. This goal can be best accomplished through purchasing planning, competitive bidding, quantity buying, annual purchase agreements and blanket purchase orders with approved vendors.

Among the benefits to be gained are a reduction in unit costs, standardization of specifications, improvements in the quality of materials, a reduction in the number of rush orders and control of confirmation orders through better planning, simplification and consolidation of vendor problems, closer accounting control over expenditures, and the reduction of paperwork by consolidation of orders.

The result of formal purchasing procedures should be that goods and services are efficiently obtained and provided as required. Moreover, by obtaining the best price for such goods and services, each department will have the capacity to offer more efficient services to the community and perhaps even to increase service levels.

## II. RESPONSIBILITY AND AUTHORITY

- A. Village City Council – The Village City of Powell Council approves and adopts the budget. In addition, all specific purchases for amounts over ~~\$10,000~~ **\$25,000** must be approved by the Village City Council in accordance with Section 5705-9-02 of the Ohio Administrative Code.
- B. Village City Manager – The Village City Manager has the direct responsibility to see that the Village City is operated in the most efficient and effective manner possible within the budgetary limitations established by the Village City Council. The Village City Manager has the responsibility to prepare the budget for submission to Council.
- C. Finance Director – The Finance Director has the responsibility to establish purchasing procedures that will ensure the procurement of goods and services consistent with the best interest of the Village City, to certify that all purchases and expenditures are within budgetary constraints, and to establish and maintain adequate controls.
- D. Department Heads – The Director of each Village City Department shall have purchasing authority of their individual budgets. He/she shall have the responsibility to see that all purchases and purchasing requests are within budgetary limitations and consistent with the actual needs of the department. Furthermore, the Director has the responsibility to see that no delays develop within his/her department from failure to prepare, sign and forward purchasing requests to the Finance Department.

## III. INFORMAL PURCHASING PROCEDURES

All purchases made require the issuance of a Purchase Order ~~except for personal salary services (payroll), refunds and petty cash expenditures.~~

- ~~Purchases up to \$250~~ **\$999**: No quotations required but quotations are suggested; ~~confirming orders allowed with prior approval of the Department Head.~~
- ~~Purchases from \$251~~ **\$1,000 to \$4,999**: At least three (3) telephone quotations required from vendors qualified to fulfill requirements. Prior approval of Department Head and/or Village City Manager.
- ~~Purchases from \$5,000 to 9,999~~ **\$24,999**: Three written quotations required from qualified vendors. Prior approval of Department Head and City Manager.
- ~~Purchases over \$10,000~~ **\$25,000**: Formal bidding procedures are required.

Requisitions will be rounded to the nearest whole dollar for consideration of purchasing limits.

When telephone or written quotations are required, a "no bid" or "not available" response from a vendor is not considered a quotation. Actual pricing is to be obtained from the minimum required number of sources. Making separate purchases for the same item to avoid the quotation limits will constitute "splitting" which is prohibited.

Obtaining the required number of quotations, and identifying the low bidder, and preparing a purchasing request does not authorize the using department to place an order. A purchase order is needed for the authorization to place an order for a department.

Documentation of quotes shall be attached to the request for purchase. The Finance Department reserves the right to review all telephone and written quotations, verify pricing and terms with the named vendors, and obtain additional quotations if deemed necessary.

~~Manual check will not be issued to vendors under any circumstances.~~ A manual check will not be issued to vendors except when it serves the best interests of the City. Under normal conditions, only one (1) signature is required on checks: however, all checks issued in excess of \$2,500 require the signature of both two of the following: Finance Director and or the Village City Manager or Assistant Finance Director.

Exemptions from quotations or formal bids are granted for the following:

1. The equipment or service is only provided by one vendor. Documentation of this "sole provider status" shall be included with the request for purchase.
2. Professional services, including but not limited to, accounting services, bond counsel services, legal services, underwritings services, financial institution services, and construction management services shall be exempt from the requirement of quotations, formal and competitive bidding. In obtaining such services, the Department Head shall use requests for qualifications or requests for proposals. If possible, a minimum a three persons or firms shall be reviewed. If the City has acquired professional services from a vendor and those services have been acceptable, and the services are of a continuing nature, the length of service and scope may be up to five years.
3. Professional design services such as architect, landscape architect, professional engineer or surveyor have an established procedure for the solicitation of professional design services in Ordinance 2005-54.

#### IV. REQUISITION/PURCHASE ORDER APPROVAL PROCESS

1. The Department Head reviews and sign the requisition for completeness, available budget, and consistency with the actual needs of the department. The Department Head or his/her designee must sign the invoice to certify the goods/services were received.
2. The Finance staff review the requisition to ensure that it is reasonable and in conformance with Village City purchasing policies. The Finance staff will review pricing and may obtain additional quotations and change the suggested vendor if it should be advantageous to the Village City.
3. Once the requisition is approved, a purchase order can be issued. ~~A valid purchase order can be issued.~~ A valid purchase order does not exist until it has been approved and signed by the Village City Manager, and Finance Director as the Fiscal Officer, and Department Head.
4. The City Manager has contract authority to award contracts, purchase supplies and materials, and provide labor for any work under his supervision involving not more than twenty five thousand dollars (\$25,000.00).

5. All original contracts are to be kept by the Finance Department until the City's records retention schedule is met.
6. No City official or employee shall have authority to create an obligation against the City by oral agreement. Unauthorized expenditures may become the responsibility of the person making the expenditure.
7. Any expenditure that does not have the required purchase order and contract may be void. Any goods delivered or work performed prior to the date of issue of the purchase or contract, legally signed and delivered, is at the risk of the vendor or contractor.
8. All capital items must be listed in the capital budget. Any item not listed in the budget needs City Manager approval prior to purchase.
9. The City Manager has contract authority to make union contracts or agreements.
10. Invoices or receipts shall be itemized.

V. FORMAL PURCHASING PROCEDURES – PURCHASES IN EXCESS OF ~~\$10,000~~ \$25,000

1. Use of Competitive Sealed Bids – All purchases made by the Village City in excess of ~~\$10,000~~ \$25,000 shall be by competitive sealed bidding, except as otherwise provided for, with the contract for goods or services being awarded to the lowest and/or best responsible bidder.
2. Bids shall be advertised for not less than two (2) or more than four (4) consecutive weeks in a newspaper of general circulation within the Village City. The bids shall be opened and publicly read by the clerk or a person designated by the clerk at the time, date, and place specified in the advertisements to bidders and specifications. The time, date, and place of bid openings may be extended by Council provided oral or written notice shall be given to persons requesting or receiving specifications no later than 96 hours prior to the original specified opening time and date. The City has the option of waiving any irregularities in the bidding process or bidding documents at the option of the City Manager.
3. The Village City of Powell will conduct a non-mandatory pre-bid meeting. The City must state in the advertisement if the pre-bid meeting is mandatory. It will be at the discretion of the City Manager or Department Head when to have a mandatory pre-bid meeting. The pre-bid meeting consist of the following:
  - A. Introductions of all attendees including contractors, subs, suppliers, the Village City staff members, the project manager, and the consultant (if utilized).
  - B. All attendees will be asked to sign in and the following criteria will be set forth:
    1. The purpose of the pre-bid meeting
    2. Review of applicable minority requirements, goals, and mandatory compliance procedures
    3. Review of the plans and specifications
  - C. Insurance and bonding requirements will be discussed. Surety company requirements will be explained.
  - D. Make everyone aware how many calendar days their bids must remain in force after the bid opening. For constructions projects, substantial completion and final completion days should be stated along with liquidated damages that will be assessed if completion deadlines are not met.
  - E. A question and answer period. If possible, a guided tour of the proposed construction area will be conducted.
  - F. Powell income tax requirements will be discussed.

4. Each bid on any contracts shall contain the full name of every person and company interested in the bid. It shall be accompanied by sufficient bond or certified check, cashier's check or money order on a solvent bank or savings and loan association that if the bid is accepted the contract will be entered into, its performance properly secured. If the work provides for both labor and materials, they shall be separately stated. Bid guarantees on public improvement construction contracts must conform to ~~O.R.C. Section 153.54~~ requirements of Ohio law.
5. The Village City Manager has the authority to reject any and or all bids. The contract shall be between the Village City and the bidder. If there is reason to believe there is collusion or a combination among bidders, the bids of those concerned shall be rejected.
6. When it becomes necessary in the opinion of the Village City Manager to make alterations and modifications of the contract, they shall be made only by the Village City Manager in writing.
7. The Village City Manager shall make contracts, purchase supplies and materials, and provide labor for any work under his supervision involving ~~not more than ten thousand dollars (\$10,000.00)~~ twenty five thousand dollars (\$25,000.00) when City Council has passed an ordinance authorizing the specific purchase.
8. Use of consultants for developing bid specification is permissible when City Council has deemed in the best interest of the City. Use of vendor specifications are permissible for new or modified equipment/material for which the City has no or limited experience. Specifications must be written in a fashion that would not exclude other vendors from participating in the competitive process. Consultants who are used to develop bid specification are not permitted to bid on project.
9. Department Heads shall be cognizant of the timing of requisition submittals. Factors determining bid timing include: advertising requirements; pre-bid meetings; preparation of bid documents; and City Council scheduling.

#### VI. EMERGENCY PURCHASES

~~In the case of a real and present emergency arising in connection with the operation and maintenance of the department of public service, including all municipally owned utilities, or any other department, division, commission, bureau, or board of the Village City, the legislative authority of the municipality may by a two-thirds vote of all the members elected thereto, authorize the director of public service, Village City Manager, or other duly authorized contracting officer, commission, board, or authority, to enter into a contract for work to be done or for the purchase of supplies or materials without formal bidding and advertising.~~

Section 3.082 of the Powell Charter authorizes the City Manager to declare a public disaster. When a public disaster has been declared, the purchasing procedures may be waived by the City Manager to allow the continuance of the operations of the City. It is the responsibility of the City Manager or his/her designee to present an after public disaster report to City Council if the purchasing procedures were waived.

Unforeseen events may occur that are not a public disaster but may also disrupt the continuance of the operations of the City. The City Manager may waive purchasing procedures when it is in the best interest of the City. It is the responsibility of the City Manager or his/her designee to present an unforeseen event report to City Council if the purchasing procedures were waived.

#### VII. INTERGOVERNMENTAL CONTRACTS

Contracts for services, material, equipment or supplies may be made with any agency, department, division, or political subdivision of the State without advertising and bidding. The Council must authorize the contract by an ordinance that: designates the officer to execute the contract; sets the maximum amount that may be expended under the contract; describes the services, material, equipment or supplies that may be purchased; and appropriates funds to meet the maximum amount that may be expended under the contract, unless funds have been previously appropriated.

#### VIII. AWARD OF CONSTRUCTION CONTRACTS

Construction and other similar contracts must be awarded and executed within sixty days after bids are opened. Failure to award within that period invalidates the entire bid proceeding and all bids submitted, unless the time for awarding and executing the contract is extended by mutual consent.

When awarding contracts, the Village City will comply with the following section of the Ohio Revised Code: Ohio laws such as:

~~§ 2921.42~~ Having an unlawful interest in a public contract.

(A) No public official shall knowingly do any of the following:

- (1) Authorize, or employ the authority or influence of his office to secure authorization of any public contract in which he, a member of his family, or any of his business associates has an interest.
- (2) Authorize, or employ the authority or influence of his office to secure the investment of public funds in any share, bond, mortgage, or other security, with respect to which he, a member of his family, or any of his business associates either has an interest, is an underwriter, or receives any brokerage, origination, or serving fees.
- (3) During his term of office or within one year thereafter, occupy any position or office in the prosecution of a public contract authorized by him or by a legislative body, commission, or board of which he was a member at the time of authorization, unless the contract was let by competitive bidding to the lowest and best bidder.
- (4) Have an interest in the profits or benefits of a public contract entered into by or for the use of the political subdivision or governmental agency or instrumentality with which he is connected;
- (5) Have an interest in the profits or benefits of public contract that is not let by competitive bidding if required by law and that involves more than one hundred fifty dollars.

(C) This section does not apply to a public contract in which a public official, member of his family, or one of his business associates has an interest, when all of the following apply:

- (1) The subject of the public contract is necessary supplies or services for the political subdivision or governmental agency or instrumentality involved;
- (2) The supplies or services are unobtainable elsewhere for the same or lower cost, or are being furnished to the political subdivision or governmental agency or instrumentality as part of a continuing course of dealing established prior to the public official's becoming associated with the political subdivision or governmental agency or instrumentality involved;
- (3) The treatment accorded the political subdivision or governmental agency or instrumentality is either preferential or the same as that accorded other customers or clients in similar transactions;
- (4) The entire transaction is conducted at arm's length, with full knowledge by the political subdivision or government agency or instrumentality involved, of the interest of the public official, member of his family, or business associated, and the public official takes no part in the deliberations or decision of the political subdivision or governmental agency or instrumentality with respect to the public contract.

(D) Division (A) (4) of this section does not prohibit participation by a public employee in any housing program funded by public

moneys if the public employee otherwise qualifies for the program and does not use the authority of influence of his office or employment to secure benefits from the program and if the moneys are to be used on the primary residence of the public employee. Such participation does not constitute an unlawful interest in a public contract in violation of this section.

- (E) Whoever violates this section is guilty of having an unlawful interest in a public contract. Violation of division (A) (1) or (2) of this section is a felony of the fourth degree. Violation of division (A) (3), (4), or (5) of this section is a misdemeanor of the first degree.
- (F) It is not a violation of this section for a prosecuting attorney to appoint assistants and employees in accordance with sections 309.06 and 2921.421 [2921.421.1] of the Revised Code, for a chief legal officer of a municipal corporation or an official designated as prosecutor in a municipal corporation to appoint assistants and employees in accordance with sections 733.621 [733.621.] and 2921.421 [2921.421.1] of the Revised Code.\*

~~(F)~~ (G) This section does not apply to a public contract in which a township trustee in a township with a population of five thousand or less in its unincorporated area, a member of the township trustee's family, or one of his business associates has an interest, if all of the following apply:

(1) The subject of the public contract is necessary supplies or services for the township and the amount of the contract is less than five thousand dollars per year.

(2) The supplies or services are being furnished to the township as part of a continuing course of dealing established before the township trustee held that office with the township;

(3) The treatment accorded the township is either preferential to or the same as that accorded other customers or clients in similar transactions;

(4) The entire transaction is conducted with full knowledge by the township of the interest of the township trustee, member of his family, or his business associate.\*\*

~~(G)~~ (H) As used in this section:

(1) "Public contract" means any of the following:

(a) The purchase or acquisition, or a contract for the purchase or acquisition, of property or services by or for the use of the state, any of its political subdivisions, or any agency or instrumentality of either, including the employment of an individual by the state, any of its political subdivisions, or any agency or instrumentality of either;

(b) A contract for the design, construction, alteration, repair, or maintenance of any public property.

(2) "Chief legal officer" has the same meaning as in section 733.621 [733.621.1] of the Revised Code.

A construction contract bidder may request to have his bid withdrawn from consideration if the price bid was substantially lower than other bids to the City Manager. The City Manager has the right to have bids 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 claim of right to withdraw the bid must be made in writing within 48 hours after the conclusion of the bid opening procedures is limited to the reasons described in this paragraph. The notice is to be sent to the City Manager. If a bid is requested to be withdrawn, the City Manager may award the contract to the next lowest bidder or reject all bids and resubmit the project for bidding. No bidder who has withdrawn from a construction project may supply any material or labor to the person to whom the contract is awarded.

IX. CERTIFICATE OF FISCAL OFFICER

A certificate of the Fiscal Officer as to the availability of funds is prerequisite shall be included on the face of the purchase order to provide to the validity of any contract. The certificate of the Fiscal Officer shall be:

"It is hereby certified that the above amount required to the above, has been lawfully appropriated, authorized or directed for such purpose and is in Treasury or in the process of collection to credit of the above Fund(s) free from obligation or certification now outstanding."

The certificate shall be signed by the Fiscal Officer. ~~No expenditure of money shall be made unless a certificate of the fiscal officer is attached that the amount of money required to meet the obligation under the contract has been lawfully appropriated and is in the treasury or in the process of collection to the credit of the appropriate funds, free from any previous encumbrances. A contract purchase order which is not so certified is invalid, and the contractor cannot recover the contract price with the Village City. This certificate eliminates the need for a "Now and Then" statement as mentioned in Ohio laws.~~

X. MISCELLANEOUS NOTES

A. The Village City will make use whenever possible of any purchasing organizations available, such as N.I.G.P., SWOP4G, State Purchasing, etc. The Village City will also seek to "piggy back" onto the bids of other entities when possible, and will enter into cooperative agreements with other entities to ensure the best possible benefits in a bidding environment. When the City chooses to "piggy back" onto other entities bids, the informal and formal bidding procedures are deemed to have been met as discussed in section VII of this manual.

B. At such time as equipment, including motor vehicles, and supplies of the City serve no useful municipal purpose, the City Manager or Finance Director is authorized and directed to provide for the sale of surplus equipment and supplies, including motor vehicles through 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 City.
2. Public auction, after advertisement for not less than one time in a newspaper of general circulation in the City.
3. Internet auction, after advertisement the City may utilizes this method in a newspaper of general circulation and where information on the internet auction is available.
4. Trade-in allowance when purchasing replacement equipment.

The Finance Director shall estimate the value of equipment or supplies to be sold under the provisions of this section. The value of such equipment or supplies shall not exceed the value of \$25,000.00. Equipment or supplies where the value is over \$25,000.00 must be approved by City Council before the sale. The proceeds from surplus equipment may be credited to the City as revenue or credited against the purchase price of other vehicles, equipment or machinery.

If an item can't be sold or the cost of bids or auction out weighs any sale proceed then the City Manager may declare the item of no value and dispose of in an appropriate manner.

C. All real estate sales or exchange shall be presented to City Council for approval in an ordinance.

D. The City may utilize a petty cash system to pay for items under \$20.00. The Finance Director is responsible for recording the petty cash expenditures and replenishing the \$100.00 petty cash fund.