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GENERAL FUND BALANCE POLICY

Policy Purpose

The purpose of this policy is to establish a target level of fund balance for the general fund and to establish a process and criteria for the continued evaluation of that target level as conditions warrant. For the purpose of this policy, the general fund does not include any sub funds of the general fund, such as the budget stabilization fund and economic development fund as well as any other funds that are included as part of the general fund for GAAP related purposes.

It is the intention of this policy to provide guidelines during the preparation of the annual budget to ensure that sufficient reserves are maintained and to preserve flexibility throughout the fiscal year.

Background

Fund balance is intended to serve as a measure of financial resources in a fund. The City has taken into account the following factors in establishing an appropriate level of fund balance:

- User fees;
- Taxes;
- Budget Management;
- Future Uses;
- Demand for uses;
- Volatility of revenues;
- Volatility of expenses;
- Control of expenses;
- Management plans for capital projects; and
- GFOA Best Practices

General Fund Balance Policy

It is the policy of the City of Brooklyn to maintain a target unencumbered fund balance in the general fund equal to or greater than 25% of annual expenditures measured on a budgetary basis of accounting. For the purpose of this policy, unencumbered is after encumbrances and annual expenditures includes any transfers out of this fund.

Furthermore, in the event that the unencumbered fund balance falls below the target level above and/or the City's five year financial forecast projects the unencumbered fund balance below the target level above, the City will perform the following:

- Develop a plan through the annual budgetary process to bring the balance back to the target balance level.
 - This plan shall consist of the following:
 1. Controlling expenditures
 2. Expenditure modifications;

3. Requirement of a structurally balanced budget in which recurring revenues exceed expenditures
 4. Use of one time or nonrecurring revenues
 5. Analyzing adjustments to revenue sources;
 6. Long term forecasts and economic conditions;
 7. Budget stabilization fund;
- This plan shall take up to one year to finalize and an additional two years to execute. This plan shall contain milestones for gradual replenishment.

City Council reserves the right with a majority vote to temporarily reduce the fund balance below target level above to a minimum fund balance of 10% of annual expenditures measured on a budgetary basis.

Monitoring and Reporting

The Finance Director shall report the year end budgetary fund balance in January of the subsequent year.

The Finance Director shall review this policy annually and present any proposed modifications or changes to the Mayor and City Council by May 1st of the fiscal year in advance of the budgetary process. City Council will then review and vote on any proposed changes if necessary.



Town of Berwyn Heights

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MAYOR
Amanda M. Dewey

COUNCIL MEMBERS

Jodie A. Kulpa-Eddy (Mayor Pro Tem)
Christopher S. Brittan Powell
Jason W. Papanikolas
Ethan D. Sweep

RESOLUTION 5 - 2022

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BERWYN HEIGHTS ESTABLISHING A GENERAL FUND RESERVE POLICY

WHEREAS, the Town Council has the authority to set financial policies for the Town, and

WHEREAS, the Town Council has determined a policy regarding the establishment and maintenance of General Fund Reserves is consistent with best practices in municipal finance, and

WHEREAS, the Council must establish reserves in a manner consistent with the Government Accounting Standards Board (GASB), and

WHEREAS, the Council can immediately establish reserves required by grantors, bondholders, and higher levels of government, and

WHEREAS, the Council recognizes the benefit of establishing additional reserve categories and target balances as goals to work toward, and

WHEREAS, the Town Council has established a plan to achieve those target balances.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Berwyn Heights, Maryland that the following General Fund Reserve Policy is established:

Purpose

The Town will establish and work to maintain reserve balances to:

1. Guard its citizens against service disruptions in the event of economic uncertainties, local disasters, and other financial hardships;
2. Provide for fluctuations in revenues and expenditures while ensuring adequate cash flow;
3. Enable the Town to mitigate risks and provide contingency plan(s) to maintain community resilience;
4. Demonstrate continued creditworthiness to bond rating agencies and comply with relevant debt covenants.

General Fund Reserves

In compliance with GASB Statement No. 54, the General Fund shall contain reserves, classified as Restricted Fund Balance, Committed Fund Balance, Assigned Fund Balance, or Unassigned Fund Balance.

Category and Purpose of Each Fund Balance

<i>Category</i>	<i>Purpose</i>
Restricted	Funds in this category are restricted and must be spent for a specific purpose. Funds are bound by stipulations set out by external resource providers (such as bondholders and grantors) and higher levels of government, or through enabling legislation (i.e. Ordinance).
Committed	Funds in this category can only be used for specific purposes determined by formal action (i.e. Resolution) by the Council.
Assigned	Funds in this category can only be used for specific purposes but do not meet the criteria to be classified as restricted or committed because they are not bound by external resource providers, legislation, or formal action by the Council.
Unassigned	Funds in this category include all spendable amounts not contained in other fund balance classifications (restricted, committed, assigned) within the General Fund.

Reserve Calculation Factors

The Town shall consider a variety of factors when calculating prudent reserve amount targets, including the following:

1. Funds needed to meet current and future cash flow requirements.
2. Funds to provide contingencies for revenue volatility.
3. Funds to provide contingencies for expenditure volatility (including emergency expenditures due to unpredictable events).
4. Funds for capital asset replacement and continuity of improvements.
5. Funds to carry out debt service obligations.

Reserves Established and Target Balances

The Town shall strive to reach and maintain fund balances according to the requirements set forth in this section.

1. Restricted Fund Balance shall be maintained as required by grantors, bondholders, and higher levels of government, or by the Council legislation.
2. Committed Fund Balance shall be maintained as follows:
 - a. Debt Service: The recommended fund balance for this category is equal to one year of the General Fund debt service (principal and interest) for any outstanding debt instrument.
 - b. Capital Reserve: The recommended minimum balance for this category is \$100,000 to help to maintain capital replacements, to fund major infrastructure projects and equipment needs of all General Fund departments.
3. Assigned Fund Balance shall be maintained as follows:
 - a. Stabilization: The recommended fund balance for this category is 25% of the current fiscal year's General Fund operating budget to help mitigate impacts of revenue shortfalls and losses during

economic downfalls, and to protect against a reduction of service.

4. Unassigned Fund Balance represents the residual fund balance of the General Fund and includes amounts that have not been assigned to other funds and that have not been restricted, committed, or assigned to a specific purpose within the General Fund. This classification is also used to account for deficit fund balances in other funds.

Use, Transfer and Replenishment of Fund Balance

1. All transfers, replenishments, or expenditures from Restricted, Committed, Assigned, or Unassigned funds require the expressed approval of the Town Council during an open and public meeting.

Report on Fund Balance Levels

1. The Town Treasurer shall report and advise on the fund balance levels to the Town Council during the annual budget process and as part of the audit presentation. The Town Treasurer shall:
 - a. Provide a forecast of the ending fund balances and reserve levels; and
 - b. Make recommendations regarding the fund balances relative to their recommended levels set forth in this policy if needed.
2. If at any time, the Unassigned Fund Balance reaches a zero balance or is projected to reach a zero balance during the fiscal year, the Town Manager shall provide a report, in an open and public meeting, to the Town Council, along with a plan to increase the Unassigned Fund Balance to a positive balance and maintain a sustainable level.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Town Council of Berwyn Heights adopts this Reserve Policy with immediate effect.

Resolved by the Mayor and Town Council


Amanda M. Dewey, Mayor

ATTEST:


Melanie Friesen, Town Clerk

LONG TERM FINANCIAL PLANNING POLICY

Policy Purpose

The purpose of this Financial Planning Policy is to have a comprehensive long term financial planning process in order to stimulate discussion and to engender a long range perspective for the Administration and City Council in order to prevent or plan for any potential financial challenges.

This policy is intended for the following funds:

- General Fund;
- Street Fund;
- Bond Retirement Fund; and
- Capital Improvement Fund

For the purpose of this policy, the general fund does not include any sub funds of the general fund, such as the budget stabilization fund and economic development fund as well as any other funds that are included as part of the general fund for GAAP related purposes.

It is the intention of this policy to provide guidelines to ensure that sufficient reserves are maintained and to preserve flexibility throughout the fiscal year.

Background

Long term financial planning is the process of projecting revenues and commitments over a long period of time, using assumptions about economic conditions, future revenue and spending scenarios as well as other variables.

Long term financial planning uses forecasts to provide insight into future financial capacity so that strategies can be developed to achieve long-term sustainability

Long Term Financial Planning Policy

The long term financial planning forecast period shall be at a minimum of five years and potentially more if needed.

At a minimum, the forecast shall be updated annually and presented to the Mayor and City Council as part of the annual budget process.

In developing the forecasts, the following items shall be considered, but not limited to:

- Recent trends;
- Economic factors including assessed valuations and unemployment rate for income tax purposes;
- Tax rates;
- Current existing policies, which may include but not limited to debt management and fund balance policies;
- Union contracts;

- Healthcare costs;
- Capital needs;
- User fees;
- Inquiry of other stakeholders such as the County Fiscal Office, the Regional Income Tax Agency and local businesses;
- Goals by City Council and/or Administration;
- Debt position; and
- Future uses

Monitoring and Reporting

The Finance Director shall review this policy annually and present any proposed modifications or changes to the Mayor and City Council by May 1st of the fiscal year in advance of the budgetary process. City Council will then review and vote on any proposed changes if necessary.



CAPITAL ASSETS POLICY

OBJECTIVE

This policy establishes the standards and procedures for ensuring that the Borough's process for accounting for capital assets and depreciation are in compliance with management's objectives and generally accepted accounting principles ("GAAP").

SCOPE OF POLICY

This policy applies to all personnel involved in procuring, tracking, accounting for, or in possession of such assets.

Background

Generally Accepted Accounting Principles (GAAP) require the reporting of capital assets in the Borough's financial statements. Capital assets are land, improvements to land, easements, buildings, building improvements, vehicles, machinery, equipment, infrastructure and all other assets that are used in operations and have an initial useful life extending beyond one year.

Authoritative literature, such as Government Accounting Standards Board (GASB) statements and Government Finance Officers Association (GFOA) recommended practices exist to provide guidance in determining capitalization thresholds and estimated useful lives. Whenever practical to do so, this policy utilizes the guidance provided.

Purpose

This policy is intended to assist management in complying with capital asset financial reporting required by GAAP and to outline essential criteria to be utilized when determining replacement of equipment and vehicles owned, operated and/or leased by the Borough.

Specifically, it establishes the dollar values (capitalization threshold) at which assets that are used in operations and have an estimated useful life in excess of one year are capitalized. Capital assets that are not capitalized are expended in the year of acquisition. The policy also provides specific guidance for determining the estimated useful life of an asset that, together with the value of the capital asset and its salvage value (if any), provides the basis for the calculation and recording of depreciation expenses.

Capital Asset Summary

The following table provides classifications for capital assets and their corresponding capitalization threshold, estimated useful life and depreciation method.

Capital Asset Summary

<u>Capital Asset Classes</u>	<u>Capitalization Threshold</u>	<u>Estimated Useful Life</u>	<u>Depreciation Method</u>
Land Improvements	\$5,000	10 – 50 years	Straight-line
Furniture and Fixtures	\$5,000	5 – 20 years	Straight-line
Building and Improvements	\$5,000	20 – 50 years	Straight-line
Vehicle/Machinery/Equipment	\$5,000	5 – 20 years	Straight-line
System Infrastructure	\$5,000	40 – 50 years	Straight-line

Capital Asset Classes

Each individual capital asset shall be classified as land, land improvement, building, building improvement, vehicle, machinery, equipment, furniture/fixtures or infrastructure for the purpose of determining whether the asset is to be reported as capitalized or expensed.

Infrastructure assets are long-lived capital assets that are stationary in nature and can be preserved for a significantly greater number of years than most other capital assets. Examples of infrastructure assets include roads, drainage systems, traffic signals, alleys, street lighting, sidewalks and curbs.

Capitalization Threshold

Whenever the value of an individual asset, as determined by the application of GAAP, is equal to or greater than the capitalization threshold, the asset is capitalized.

Capital assets may be purchased, acquired through donation or self-constructed. The cost of donated assets is the fair market value at the time of donation. The cost of assets that have been purchased will be the initial acquisition price plus the trade-in value of any asset given up, plus all costs related to placing the asset into operation. The cost of self-constructed assets includes all costs of construction. The value of an individual capital asset includes the cost of any subsequent addition or improvement. An addition or improvement, unlike a repair, either enhances a capital asset's functionality (effectiveness or efficiency) or it extends a capital asset's useful life. Additions or improvements that significantly extend the useful life of an asset will be capitalized.

Depreciation Method

Capital assets will be depreciated using the straight-line method. Under this method, the depreciable cost of the capital asset is written off evenly over the useful life of the asset. The depreciable cost of a capital asset is its historical cost/acquisition value reduced by the estimated salvage value. Salvage value is the value it is expected to have when it is no longer useful for its intended purpose.

ECONOMIC DEVELOPMENT INCENTIVE AND INVESTMENT POLICY

Introduction

On October 19, 2010, the Peoria City Council approved an Economic Development Implementation Strategy ("EDIS") which provides an implementation-based plan for achieving the economic development goals of the City as established by the Council. The EDIS includes a community and business climate assessment of Peoria, an economic base analysis, an identification of business activities and industries desirable to the City, and a general discussion of strategies to enhance the City's economic development future. One such strategy identified in the EDIS is creation and implementation of an economic development incentive and investment program that sets forth in detail the types of public incentives and investments that the City is authorized and willing to make on a discretionary basis in furtherance of retaining existing businesses and attracting certain targeted businesses and industries identified in the EDIS as desirable to Peoria.

This Economic Development Incentive and Investment Policy ("EDIIP") is adopted by the Peoria City Council for the purpose of implementing the EDIS. The EDIIP and accompanying Economic Development Incentive and Investment Policy Guidelines ("EDIIP Guidelines") provide a framework for evaluating City financial incentives and investment towards the retention and expansion of existing local businesses and attraction and expansion of targeted industries within the City of Peoria in a manner that is consistent with applicable laws. The City is authorized pursuant to Arizona Revised Statutes, Sections 9-500.05 and 9-500.11, to negotiate and enter into development agreements that include expenditures for economic development. The City will negotiate and enter into Economic Development Incentive and Investment Agreements with those projects that qualify and are approved under the EDIIP. Each Agreement will be presented to the City Council for consideration and possible approval.

The City will review each request for public incentives and investment on a project-by-project basis applying this EDIIP and the EDIIP Guidelines. By adopting this EDIIP, the City is not obligated to offer any incentives or make any investments. This EDIIP shall not be applied retroactively and shall become effective on the date adopted by the City Council.

Public Purposes Promoted by this EDIIP

The City Council expressly finds that implementing the EDIS through this EDIIP will further a number of public purposes, including, but not limited to, stimulating the local economy by providing additional value-added employment opportunities, expanding the tax base required to provide essential public services, diversifying the local economy, expanding the economic base of the City, promoting redevelopment of unused or underutilized properties to positively influence infill development opportunities, and providing educational and workforce training opportunities for

Peoria residents. Indirect public purposes that may be served by adoption and implementation of this EDIIP include, but are not limited to, reducing vehicle miles travelled by Peoria residents who no longer have to commute to other communities for suitable employment, reduction of air pollution due to less vehicle miles being travelled, and an overall improvement in quality of life for Peoria residents.

This EDIIP does not commit the City to providing economic development incentive and investment assistance in every instance, nor does it restrict the City from providing additional incentives or investments in a specific instance. The EDIIP and EDIIP Guidelines contain specific criteria, guidelines, and procedures necessary to effectively and fairly administer the City's economic development incentive and investment decisions.

Purpose

Public incentives and investment extended pursuant to this EDIIP is intended to fill gaps in private business investment and development project financing that make the project improbable without public support to fill those financing gaps. This EDIIP and the EDIIP Guidelines establish criteria and procedures for the regulation and coordination of economic development financial incentives and investment by the City, as well as to create a return on investment ("ROI") analysis template that will be applied to each eligible project. These policies and procedures shall be used as a guide for the orderly review and disposition of applications requesting economic development Incentives and investment assistance in coordination with the EDIS, as well as the economic development element of the Peoria General Plan and the City's Principles of Sound Financial Management concerning economic development.¹

A variety of economic development incentives and investment tools are available, or will be pursued by the City, for use by businesses and developers for those economic development projects that meet the eligibility criteria set forth in this EDIIP and the EDIIP Guidelines and are approved by the City Council. Not all tools are available for every project, and projects may be offered more than one tool. The type and number of incentives and investment tools is the sole discretion of the Peoria City Council. Incentives and investment tools include, but are not limited to, the following:

Enterprise Zone (state program) -- The primary goal of the Arizona Enterprise Zone (EZ) program is to improve the economies of areas in the state with high poverty and/or unemployment rates. The program does this by enhancing opportunities for private investment in certain areas that are called enterprise zones. The program offers two types of benefits: income or premium tax credits and property tax reduction.

¹ The EDIS, economic development element of the Peoria General Plan, and the City's Principles of Sound Financial Management are incorporated into this EDIIP by reference. Italicized terms are defined in the EDIS document.

Foreign Trade Zone (federal program) -- Merchandise can be brought duty-free into a designated Foreign Trade Zone (FTZ) for purposes of storing, repacking, display, assembly or manufacturing. Imports may be landed and stored without full customs formalities. Arizona is the only state in the United States that provides an 80 percent reduction in real and personal property taxes for companies qualifying for Foreign Trade Zone or sub-zone designation.

City Direct Investment -- Provides direct city advance payment or reimbursement to private industry for a variety of capital or operating expenditures such as business relocation costs, worker relocation costs, tenant improvements, impact fee and permit fee waivers, etc. to attract both capital investment and high quality jobs in targeted industries.

Peoria Industrial Development Authority Bonds -- Development Authority issued bonds are conduit financing for an eligible project to assist a private developer or business in facility creation or expansion. Liability of the bonds is solely that of the developer or business. Conduit feature is used to obtain access to capital and competitive interest rates. City charges 1% fee for services provided and pays its costs from that fee. Other fees may apply. Issues for nonprofit entities may be charged a discounted fee and receive a discounted interest rate under the federal tax law, pursuant to IDA policy guidelines.

Lease Revenue Bonds -- Bonds issued by the City, the proceeds from which are used to construct facilities for private business enterprise. Lease payments made by the business enterprise to city government are used to service the bonds.

Government Purchase Lease Excise Tax (GPLET) -- The GPLET is a local excise tax that is levied on a square footage, as opposed to value, basis against improved real property leased by private parties from a municipality or county. The result is a reduction in property tax base for the subject property.

Maricopa County Economic Development Fund -- Maricopa County passed a resolution to fund economic development activities that assist in the creation or retention of jobs or otherwise improve or enhance the economic welfare of the residents of Maricopa County. The program has two goals: to increase the per capita income and to increase the share of employment in base industries in Maricopa County. Funding for such projects will be appropriated from the County General Fund's interest earnings.

Guiding Principles

In carrying out its economic development objectives, the City of Peoria will adhere to the following guiding investment principles for strategically investing its resources in *targeted industries* and *investment zone* redevelopment opportunities appropriate for consideration under this EDIIP:

- Eligible projects that retain, expand, or attract existing or targeted industries providing: (1) high-wage, knowledge-based jobs; and/or (2) significant capital investment and new wealth to the community.
- Eligible projects that create or attract a top-tier workforce desirable to targeted industries, including the creation of industry specific workforce training programs through coordination among community institutions including economic development organizations, non-profit entities and groups, colleges and universities, the business community, and workforce development entities.
- Eligible projects that provide infrastructure improvements and other public benefit necessary to retain and/or expand existing businesses, attract targeted industries, and/or revitalize key development nodes in the City's *investment zones*.
- Eligible projects that nurture and grow targeted startup businesses.
- Eligible projects that promote the development of bioscience and technology-based products and services.
- Eligible projects that redevelop vacant or under-utilized commercial and industrial properties in targeted investment zones.
- Eligible projects for business assistance (new or expansion) focused primarily on targeted industries.

The minimum project qualifications for consideration under the EDIIP are listed in the table below:

Category of consideration	Minimum Requirements
Capital investment	\$250,000
Jobs created	10
Avg. salaries of jobs created	\$50,000 FTE with benefits
Avg. education level	4-year degree
Targeted Industries	Manufacturing, corporate or divisional HQ, advanced business services, back office operations (e.g. data centers, etc.), research and development, or processes which involve the utilization of high technology or innovative new technologies, bioscience, alternative energy, telecommunications, health care, and higher education
Redevelopment Projects	Defined as projects that will economically reposition unused or underutilized properties

The City reserves the right to consider projects beyond the parameters outlined in this section. Projects outside of the scope detailed herein will only be considered if it is found that the nature of such project would have a significantly transformative and dramatically positive net economic impact on the City.

The amount and timing of the City's public investment in an eligible project will be dictated by the terms of the Economic Development Incentive and Investment

Agreement approved by the City Council pursuant to the EDIIP. In general, the City's investment will not occur until the eligible project has completed certain of its contractual obligations under the Agreement. For example, proof that a certain number of high-wage, knowledge-based jobs have been created may trigger a predetermined incentive or investment by the City. However, for certain projects deemed extraordinary, the City may make a portion of its public incentives or investments at an earlier point in time, but subject to repayment or security in the event that subsequent contractual obligations are not timely satisfied. For example, a public incentive may be offered or investment made in the form of tenant improvements to private property so as to facilitate the business' relocation or location in Peoria. In this case, the commitment to locate in the City would be memorialized in an executed lease agreement. Other documentation may be accepted at the discretion of the City Council.

Incentives or investment funds may be used for one or more of the following eligible activities to retain an existing eligible business, assist a targeted industry in locating in Peoria, or to facilitate a redevelopment project:

- Real property lease or acquisition
- Personal property lease or purchase (e.g. equipment)
- Site preparation costs
- On-site infrastructure
- Off-site infrastructure
- Improvements to a building such as tenant improvements
- Other capital investments
- Job training costs not otherwise reimbursed by grants or tax credits
- Other purposes which bring value to the community as determined by the Economic Development Services (EDS) Department on a project-by-project basis
- Payment of site development and building plan review and permit costs

This is not an exclusive list, but rather a sample of the types of public incentives and investments that may be approved by the City Council in its discretion in regard to a particular eligible project.

Return on Investment Considerations

Each eligible project under the EDIIP guidelines must provide a return on investment (ROI) for the assistance provided. The specific ROI will be determined through the negotiation process and stipulated in the Economic Development Incentive and Investment Agreement. Qualifying items for equivalent ROI would include the following:

- Jobs that meet wage and education goals according to the EDIIP guidelines
- Jobs provided to Peoria residents, specifically new employees that move to the City of Peoria
- Redevelopment of under-utilized properties or infill development

- Space absorption resulting in reduced commercial or industrial vacancy rates
- Ability to bring additional targeted investment to the City
- Ability to partner with the City, universities, and others on workforce development goals
- Tax revenue generated through increased property taxes, lease rate taxes, and sales taxes

Process for Requesting Public Incentives and/or Investment

Each entity requesting City economic development assistance under the EDIIP will be required to prepare and submit to the Economic Development Services Department (“EDS”) an application and supporting documentation as required by the EDIIP Guidelines. EDS will review each application for sufficiency on a case-by-case basis using the EDIIP Guidelines. This review process will also include reviews by other City Departments to ensure consistency with all applicable City laws and policies, such as the General Plan, Zoning Ordinance, and Principles of Sound Financial Management. As appropriate, the review process may also include submission of the application and supporting documentation to a panel of relevant industry experts for technical appraisal.

The Guidelines shall be subject to periodic review and may be modified or amended, due to changed economic conditions or competitive considerations. In the event of any modification or amendment, Economic Development Incentive and Investment Agreements previously approved by the City Council pursuant to the EDIIP will not be affected.

In determining whether to make a public incentive or investment in response to a request and, if so, the amount of assistance to be extended, the City will consider, among other relevant factors, the following:

- The total private capital investment in the project including site acquisition, site improvement, building development, tenant improvements, and equipment purchases.
- The number, type and quality of full time jobs created or retained.
- Wage levels and benefits for jobs created by the project.
- The potential for future expansions and increased employment.
- Project specific benefits that impact positively on economic development objectives related to business attraction, business retention, redevelopment, small business, and workforce development, which will further stimulate development in targeted areas of the City, thereby benefiting overall community development.
- The potential for the project to attract other companies which would be suppliers to or affiliated with that company.
- Other factors promoting the public welfare and deemed relevant by the City Council in its discretion.

The City Council desires to make public incentives and investments pursuant to this EDIIP to attract new jobs and capital investments to Peoria by adding new companies and businesses to the community and expanding existing businesses. The City, however, will also consider on a case-by-case basis the utilization of this Policy when necessary to preserve existing jobs and capital investments which are at risk of being lost. This will apply to situations in which a targeted industry is considering the consolidation of operations within a facility in Peoria or a facility outside of Peoria, in which a targeted industry must modernize its equipment or facility to remain competitive in its market, or in other situations in which it is considering reducing or eliminating its operations in Peoria. In such situations, assistance may be made, at the discretion of the City Council, if the overall amount of taxable capital investment for the subject company will increase.

CITY OF BROOKFIELD
FINANCIAL POLICY/PROCEDURE MANUAL

SUBJECT: OPERATING BUDGETS

General: The objectives of this policy are to provide guidance to the Common Council, Mayor, and City staff with respect to the annual budgets for City operations, particularly with respect to balanced operating budgets. As the City must live within its means, a balance must be struck between funding sources for operations and expenditures, so that the public can realize the benefits of a strong and stable government. Budget structural balance, where a balance is maintained between operating revenues and operating expenditures over the long-term, is a goal of this policy. Due to certain circumstances, an annual operating budget may be adopted in which revenues and expenditures do not equal; however, the trend over the longer term (e.g., 3-5 years) should achieve structural balance.

- Procedures:
1. The City shall annually adopt a balanced budget for the General Fund where operating revenues and other funding sources are equal to, or exceed, operating expenditures. Funding sources that can be considered in adhering to this provision include that portion of general fund balance in excess of the minimum per the City's fund balance policy that may be budgeted to reduce the ensuing year's tax levy. Any increase in expenditures, decrease in revenues, or combination of the two that would result in a budget imbalance during a fiscal year will be reported to the Finance Committee for consideration of budget revisions or use of fund balance to support ongoing operations. Any year end operating surpluses will revert to unassigned fund balance for use in maintaining reserve levels set by policy, after consideration of transferring appropriate amounts to committed or assigned categories within the general fund or to other funds for specified purposes (for example, to pre-fund planned capital expenditures and reduce future borrowing costs).
 2. Enterprise funds (e.g., the water and sewer utilities) shall be supported by their own rates and specified revenue sources, including property taxes as deemed appropriate by the Common Council, and not be subsidized by the General Fund. Enterprise funds will pay their share of overhead services provided by General fund departments. Enterprise fund operating surpluses will not be used to subsidize other City funds.
 3. Sufficient charges shall be levied to operating departments to support activities accounted for in the Internal Service Funds. No trend of operating deficits in the Internal Service Funds shall be allowed.

4. The operating budget shall serve as the annual financial plan for the City and as the policy document for implementing Council goals and objectives outlined in the City strategic plan. The budget shall provide the staff the resources necessary to accomplish Common Council determined service levels. The City's annual budget document will be presented by department, with a logical breakdown of programs and line-item detail. Separate summary budget information will also be presented for discussion and review by the Finance Committee, Common Council and the public. Where practical, the City's annual budget document will include performance measures of workload, efficiency, and effectiveness to assist policy makers in making resource allocation decisions.
5. Budget control is maintained at the fund, function and departmental level as defined in the City budget transfer policy. Budget accountability rests primarily with the operating departments of the City, with oversight by the Finance Committee.
6. This policy will be reviewed by the Finance Committee every three years following adoption or sooner at the direction of the Common Council.

Operating budget policy
Developed: 2/2004
Adopted: 2/2004
Revised: 6/2007
2nd revision: 8/2010
Reviewed (no revisions): 6/2013
Reviewed (no revisions): 7/2016
Reviewed (no revision): 7/2019

CITY OF BROOKLYN, OHIO
STATEMENT OF INVESTMENT POLICY
Revised June 2019

Governing Authority

This document, in conjunction with the Ohio Revised Code (ORC), as amended, will govern the investments and the investment activities of the City of Brooklyn. It will be reviewed periodically for compliance and to assure the flexibility necessary to effectively manage the investment portfolio.

Purpose

The purpose of the investment policy is to ensure that the City's Investment objectives of Preservation of Principal, Maintenance of Liquidity and Maximize Returns are adhered to while conforming to all applicable statutes governing the investment of public funds by an Ohio Municipality.

Scope

This investment Policy applies to all financial assets of the City, including State and Federal funds held by it. Any practice not clearly authorized under these policies or the ORC section 135 is prohibited. The guidance set forth herein is to be strictly followed by all those responsible for any aspect of the management or administration of these funds.

Investment Objectives

The City's investment portfolio shall be managed to accomplish the following hierarchy of objectives:

1.) Preservation of Principal: The single most important objective of the City's investment program is the preservation of principal within the portfolio.

2.) Maintenance of Liquidity: The portfolio should be managed in such a manner that assures that the funds are available as needed to meet those immediate and or future obligations of the City.

3.) Maximize Returns: The portfolio shall be managed in such a fashion as to attain a market-average rate of return throughout budgetary and economic cycles, within the context and parameters set forth by objectives 1 and 2 above.

Authorized Financial Dealers and institutions

The Director of Finance will maintain a list of financial institutions and approved security broker/dealers. All financial institutions, broker/dealers and consultants which desire to conduct investment business with the City must sign this Investment Policy, certifying they have read it, understand it and agree to abide by its contents.

Authorized Investments

The City is permitted to invest in any security authorized by the ORC, Section 135 and any other relevant sections. Those securities include, but are not limited to, the following:

1. Bonds, notes, or other obligations of or guaranteed by the United States, or those of which the faith of the United States is pledged for the payment of the principal and interest thereon;
2. Bonds, notes, debentures, or any obligations or securities issued by any federal government agency or instrumentality; all federal government agency or instrumentality securities must be direct issuances of the federal government agency or instrumentality.
3. Interim deposits in the eligible institutions applying for interim monies as provided in Section 135.08 of the ORC. The award of interim deposits shall be made in accordance with Section 135.09 of the ORC.

This includes investments in Certificates of Deposit with FDIC insurance coverage on the full amount of deposit plus accrued interest administered through the Certificate of Deposit Account Registry Service (CDARS). Eligibility of this investment is outlined in ORC.135.144 and would also apply to any other program that is deemed to meet the requirements of such statute.

4. Bonds and other obligations of the State or its political subdivisions provided that, with respect to bonds or other obligations of political subdivisions, all of the following apply:
 - (a) The bonds or other obligations are rated at the time of purchase in the three highest classifications established by at least one nationally recognized standard rating service and purchased through a registered securities broker or dealer.
 - (b) The aggregate value of the bonds or other obligations does not exceed 20% of the City's interim funds at the time of purchase.
 - (c) The City is not the sole purchaser of the bonds or other obligations at original issuance.

5. Commercial paper which is rated at the time of purchase in the single highest classification by Moody's or Standard & Poor's. Any investment in commercial paper of a single issuer shall not exceed 5% of the City's interim funds at time of purchase. The maximum maturity is 270 days. The total invested in commercial paper and bankers acceptances is limited to 40% of the City's interim funds at time of purchase.
6. Bankers acceptances of banks insured by the Federal Deposit Insurance Corporation (FDIC). The maximum maturity is 180 days. The total invested in commercial paper and bankers acceptances is limited to 40% of the City's interim funds at time of purchase.
7. No-load money market mutual funds consisting exclusively of securities described in paragraphs 1 and 2 of this Section and repurchase agreements secured by such obligations, provided that the investments in securities described in the division are made only through eligible institutions mentioned in Section 135.03 of the ORC;
8. Written repurchase agreements that set forth terms and conditions of the agreement between the parties for a period of not to exceed 30 days with any eligible institution mentioned in Section 135.03 of the ORC or a member of FINRA, under the terms of which agreement, the Finance Director purchases and such institution agrees unconditional to repurchase any securities listed in division 1 or 2 of this section that will mature or are redeemable within five years of the date of purchase. The market value of the securities subject to the repurchase agreement must exceed the principal value of the agreement by at least two percent and be marked to market daily. Such agreement shall include the face amount of the securities, type, rate, maturity date and the numerical identifier.

Maximum Maturities

The maximum maturity for any investment including CD's will be five (5) years from the date of purchase unless, as per the ORC, the investment is matched to a longer term liability of the City. Any security may be sold prior to maturity.

Safekeeping and Custody

All security transactions, including collateral for repurchase agreements entered into by the City shall be conducted on a delivery-versus-payment basis. Securities will be held by a third party custodian designated by the Director of Finance and evidenced by safekeeping receipts. Securities shall be pledged at the Federal Reserve Bank to collateralize all repurchase agreements with financial institutions. Pledge collateral will only be released by the City after verification that the principal and interest have been credited to the City's account.

Prohibited Investment Practices

The City is prohibited by state law from investment in stripped principal or interest obligations, reverse purchase agreements and derivatives. The issuance of taxable notes for the purpose of arbitrage, as well as the use of leverage and short term selling is also prohibited. All investments must be purchased with the expectation that the investment will be held to maturity.

Ethics and Conflict of Interest

Persons involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Employees and investment consultants shall disclose to the City any material financial interests in financial institutions that conduct business within the City and any large personal financial or investment positions that could be related to, or affected by, the performance of the City's portfolio. All employees, officers and investment consultants to the City shall subordinate their personal investment transactions to those of the City, particularly with regard to the timing of purchases and sales.

Management and Administrative Responsibilities

The Director of Finance shall routinely monitor the contents of the City's investment portfolio, the available markets and relative value of competing investments and will adjust the portfolio accordingly. The Director of Finance shall also develop and maintain procedures for the operation of the City's investment program in accordance with this Investment Policy. These procedures shall be designed to prevent loss of the City's funds due to fraud, error, misrepresentation, unanticipated market changes or imprudent actions. A detailed inventory of all investments which shall include a description of each security, cost, par value, rate of return, and seller along with the purchase, settlement and maturity dates, shall be available upon request.

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the

probable safety of their capital as well as the probable income derived.

The standard of prudence to be used by the Director of Finance and others involved in the management of the investment portfolio shall be the "prudent person" standard and shall be applied in the context of managing the overall portfolio. Acting in accordance with this Investment Policy and exercising due diligence shall relieve the Director of Finance and others involved in the management of the portfolio from personal responsibility for an individual security's credit risk or market price changes, provided deviations from the expectations are reported to the Council in a timely fashion and appropriate action is taken to control adverse developments.

The Director of Finance shall participate in any beginning and/or continuing education training programs sponsored by the State Treasurer or the State Auditor. Through participation in those programs, the Director of Finance will develop and maintain an enhanced background and working knowledge in investment, case management, and ethics.

Investment Policy Adoption

This Investment Policy adopted on _____ shall be filed in the office of the Auditor of State. The policy shall be reviewed on an annual basis by the Council or a committee designated by it and any modifications made thereto must be approved by the Council and, upon adoption, filed in the office of the Auditor of State.

CERTIFICATION OF UNDERSTANDING AND ACCEPTANCE.

I, the undersigned acknowledge that I am authorized to sign this policy on behalf of my employer and have received and read this investment policy established by the City of Brooklyn and will abide by the guidelines set forth.

Firm/Company: _____

By: _____

Title: _____

Date: _____

CHAPTER 138. - PROCUREMENT CODE

§ 138.01 - DEFINITIONS.

As used in this chapter, the following definitions shall apply:

- (A) *Competitive procurement process*: A contracting method in which the city solicits proposals and/or quotes, negotiates the terms, conditions, and other relevant factors, and enters into a contract advantageous and beneficial to the city.
- (B) *Construction contract*: A contract entered into for the construction, demolition, alteration, repair, or reconstruction of any building, structure, street, or other public improvement.
- (C) *Formal competitive bid*: A contracting method in which the city develops bid specifications and/or documents, provides notice to bidders, requires sealed bids by a stated deadline, accepts or rejects bids and awards the contract to the lowest and best bidder.
- (D) *Local business*: A person or business entity that has its principal place of business within the corporation limits of the city and is not delinquent in the filing of returns or the payment of income or net profits taxes to the city.
- (E) *Lowest and best bid*: The bid as determined by the city to be the most advantageous and beneficial to the city. Factors that may be considered in determining the lowest and best bid include, but are not limited to, the bid price, any local preference credit pursuant to C.O. § 138.23, the bidder's experience, financial condition, conduct and performance on previous contracts, facilities, management skills, ability to execute the contract timely and properly, and compliance with federal, state, or local laws.
- (F) *Non-local business*: A person or business entity that does not meet the definition of being a local business.
- (G) *Procurement contract*: A contract entered into for the buying, purchasing, renting, leasing or acquisition by any other manner of any materials, supplies, equipment, services, professional services, or grants in support of community agencies, but not including construction contracts.
- (H) *Professional services*: Services that usually require skill or expertise of an advanced, specialized, or peculiar nature, including but not limited to attorneys, architects, engineers, professional design firms, construction managers, surveyors, accountants, physicians, real estate appraisers, Realtors, insurance advisors, computer software consultants, telecommunications consultants, and third-party benefit administrators.
- (I) *Reverse auction*: A purchasing process in which offerors submit proposals in competing for the award of a procurement contract or a construction contract in an open environment via the internet. A reverse auction is not a formal competitive bid.

(Ord. No. 112-2009; Ord. No. 55-2011)

§ 138.02 - PURCHASING ADMINISTRATOR—POSITION ESTABLISHED.

The purchasing administrator position is hereby created and established within the department of finance. The purchasing administrator shall perform all duties required by law and shall have the powers and duties prescribed by this ordinance and shall be appointed by the finance director subject to approval of the city

manager.

§ 138.03 - DUTIES AND POWERS OF THE PURCHASING ADMINISTRATOR.

- (A) The purchasing administrator shall assist in the purchases of materials, supplies, and services and purchases, rentals, and leases of equipment in the manner set forth herein.
- (B) The purchasing administrator shall, with the approval of the city manager, adopt administrative procedures necessary to implement this chapter, to protect the public interest, and to insure fair, efficient, and reasonable contracting practices. Such procedures shall be available for public inspection.
- (C) The purchasing administrator shall prescribe and maintain such forms as are reasonably necessary to implement this chapter and any procedures promulgated under this chapter.
- (D) The purchasing administrator shall maintain the original of all contracts entered into by the city in accordance with the city's records retention.
- (E) The purchasing administrator shall perform all other duties assigned by resolutions or ordinances of the city council, by the city manager, or by the finance director.

§ 138.04 - COMPETITIVE PROCUREMENT PROCESS.

- (A) The award of a procurement contract involving more than seven thousand five hundred dollars (\$7,500.00) but not more than forty thousand dollars (\$40,000.00) shall be based upon a competitive procurement process.
- (B) The award of a procurement contract involving not more than seven thousand five hundred dollars (\$7,500.00) shall not require a competitive procurement process.

(Ord. No. 45-2013; Ord. No. 50-2015, § 1, 7-13-2015)

§ 138.05 - FORMAL COMPETITIVE BID PROCESS.

- (A) Any contract expenditure, other than the compensation of persons employed by the city, for more than forty thousand dollars (\$40,000.00) shall be awarded through the formal competitive bid process.
- (B) For construction contracts, the purchasing administrator shall advertise a bid notice for not less than two (2) weeks in a publication of general circulation within Franklin County.
- (C) For procurement contracts, the purchasing administrator shall solicit bids from persons producing or dealing in the relevant field of equipment, materials, supplies, services, or professional services.
- (D) The bid notice shall contain a brief description of the item and direct potential bidders to the City's website where additional information may be found.
- (E) The purchasing administrator may request additional information from one (1) or more bidders to determine the lowest and best bid.
- (F) A general notice shall be posted in the municipal services center and on the city's website stating that information concerning upcoming bids may be obtained from the purchasing administrator. The city's website shall contain additional details regarding all construction contracts and procurement contracts to be awarded through the formal competitive bid process.
- (G) The city manager shall only enter into contract upon passage of an ordinance by city council authorizing the city manager to enter into a written contract with the lowest and best bidder.

(Ord. No. 45-2013)

§ 138.06 - CONDITIONS OBVIATING FORMAL COMPETITIVE BID OR COMPETITIVE PROCUREMENT PROCESS.

- (A)
 - (1) In the case of a real and present emergency arising in connection with the operation and maintenance of any department, division, commission, bureau, or board of the city, city council may, authorize the city manager to enter into a procurement contract or construction contract without a formal competitive bid or competitive procurement process.
 - (2) In the case of a real and present emergency as declared by either the President of the United States, the Governor of Ohio, the President of City Council or the City Manager arising in connection with the operation and maintenance of any department, division, commission, bureau, or board of the city and in the interest of the public health, safety and welfare needing action prior to the next regularly scheduled council meeting, the city manager may enter into a procurement contract or construction contract without a formal competitive bid or competitive procurement process. The city manager shall, as soon as reasonably possible under the circumstances, notify city council of the details concerning the contract(s) and the emergency.
- (B) The following contracts may be awarded without a formal competitive bid or competitive procurement process:
 - (1) Contracts for gas and electric service, postage, water and sewer service, solid waste disposal, advertising, or, where fixed prices prevail.
 - (2) Contracts for professional services.
 - (3) Purchases made in accordance with the Ohio Cooperative Purchasing Act, ORC § 125.04.
 - (4) Purchase of machinery, materials, supplies or other articles made in accordance with ORC § 5513.01 or the purchase of any passenger vehicle, van, truck, trailer, or other heavy equipment in accordance with ORC § 5513.04.
 - (5) Procurement contracts if the city is participating as an additional purchaser in an existing valid and lawful contract between a vendor and another political subdivision, a state, the U.S. General Services Administration, a federal agency, or a governmental cooperative purchasing group, provided that the other political subdivision, state, U.S. General Services Administration, federal agency, or purchasing group has procured and entered into such contract in accordance with a formal competitive bid or competitive procurement process that is substantially similar to the provisions of this chapter.
 - (6) Subject to the provisions of C.O. § 138.09, purchases to replenish inventories of office supplies or other purchases to replenish inventories of goods or materials that are needed on a day-to-day basis for the operation of any department or division.
 - (7) Purchase contracts for proprietary computer software programs.
 - (8) When the purchasing administrator determines that only a sole source exists for the purchase of the supply of material.
 - (9) Grants in support of community agencies.
 - (10) Contracts involving city services or equipment entered into pursuant to C.O. § 131.14.
 - (11) Purchases made from a community rehabilitation program in accordance with ORC §§ 125.60 to 125.6012.
- (C) The city may enter into a contract, without advertising and bidding, for the purchase of used equipment or supplies at an auction open to the public, or at a sale where the vendor has invited the public to submit

written bids.

- (D) The city may enter into a contract, without advertising and bidding, for services or the purchase of material, equipment, or supplies, from any department, division, agency or political subdivision of the state.
- (E) The city may enter into a contract pursuant to a reverse auction authorized in accordance with ORC § 9.314 or C.O. § 138.21.

(Ord. No. 112-2009; Ord. No. 45-2013; Ord. No. 50-2015, § 2, 7-13-2015)

§ 138.07 - PROCEEDINGS ON OPENING OF FORMAL COMPETITIVE BIDS.

- (A) Formal competitive bids shall be opened in public at the time, date and place specified in the notice to bidders or specifications and shall be publicly read by the purchasing administrator or designee. The date and time of bid openings may be extended by the purchasing administrator, provided that written notice of the change shall be posted at the municipal services center and on the city's website no later than forty-eight (48) hours prior to the original time and date fixed for the opening. Any modification of the plans or specifications may extend the time for opening the bids.
- (B) The purchasing administrator may accept a late bid whenever the purchasing administrator determines that acceptance of the late bid is in the best interest of the city and that the other bidders have not been prejudiced by the late bid.
- (C) The purchasing administrator may waive any variation from the bid requirements or defect in a bid that does not materially affect the competitive nature of the bid and does not prejudice the right of the public. A variance or defect does not materially affect the bid if the terms of the bid are clear and unambiguous, the bid contains all essential elements of the contract, the amount or competitive nature of the bid is not affected, and the bidder has not received an unfair advantage from having seen the competitor's bid documents. A variance or defect may include a clerical mistake as opposed to a judgment mistake that was actually due to an unintentional and substantial arithmetic error made in the compilation of the bid. In considering any waiver, the purchasing administrator shall attempt to secure the best work or materials at the lowest price practicable and shall make such determination in a manner as to fairly and reasonably accomplish such purpose with sole reference to the public interest.
- (D) The purchasing administrator may reject any bid for any reason or all bids for no reason if acceptance of the lowest and best bid is not in the best interest of the city.
- (E) If the city uses an online system to receive formal competitive bids electronically through a website purchasing portal, then the bids submitted electronically shall not be accessed until the time and date specified in the bid notice. Bids submitted electronically will be read at the bid opening. The individual bid information shall be posted on the city's website after the contract has been awarded.

(Ord. No. 112-2009; Ord. No. 45-2013)

§ 138.08 - CONTRACT MODIFICATIONS.

- (A) Any modification of a contract shall only be made upon the order of the city but such order shall be of no effect until the modified contract, has been agreed upon in writing and signed by the contractor and by the city manager, on behalf of the city, approved as to form by the city attorney and finance director or their designees.
- (B) The city manager may execute a change order for a construction contract, provided the adjustment does

not exceed the amount including any contingency in the authorizing legislation. Change orders that cause the total contract price to exceed this authority must be approved by ordinance or resolution of the city council.

- (C) The city manager may execute a change order for a procurement contract if:
 - (1) The total contract amount including the change order does not exceed forty thousand dollars (\$40,000.00); or
 - (2) The amount of the change order and all prior change orders does not increase the contract by more than ten percent (10%) of the original contract amount, provided, however, that no change order, either individually or in combination with all prior change orders, shall exceed forty thousand dollars (\$40,000.00) without prior Council approval.
 - (3) The change order involves a contract for the items set forth in C.O. §§ 138.06(B)(3) through (5) provided that sufficient funds have already been appropriated and the amount of the change order and all prior change orders does not increase the contract by more than ten percent (10%) of the amount specifically identified for the item in the annual budget document approved by city council. Change orders that exceed this authority must be approved by ordinance or resolution of the city council.
- (D) Change orders executed on Construction Contracts shall be reported to the city council as part of a final report at the conclusion of the project.
- (E) No contractual liability for any modification shall be created against the city except as authorized by this section or by city council ordinance or resolution.

(Ord. No. 112-2009; Ord. No. 48-2014, 8-18-2014)

§ 138.09 - CONTRACTING AUTHORITY.

- (A) Except as provided in divisions (B) through (H) below, any contract involving an expenditure of city funds shall require prior city council approval.
- (B) Except as provided in division (E), the city manager may enter into any contract involving an expenditure of not more than forty thousand dollars (\$40,000.00) without prior city council approval, provided that sufficient funds have already been appropriated.
- (C) The city manager may enter into contracts for the items set forth in C.O. § 138.06(B)(1) without prior city council approval, provided that sufficient funds have already been appropriated.
- (D) The city manager may enter into contracts for the items set forth in C.O. §§ 138.06(B)(3) through (5), 138.06(C), and 138.06(D) without prior city council approval, provided that sufficient funds have already been appropriated, the item was specifically identified in the annual budget document approved by city council, and the contract price does not exceed the budget estimate by more than ten percent (10%).
- (E) The city manager may enter into contracts for grants in support of community agencies involving an expenditure of not more than thirty thousand dollars (\$30,000.00) without prior city council approval. All contracts for grants in support of community agencies shall be reported to city council on a quarterly basis.
- (F) The city manager may enter into contracts for professional services for architects, engineers, professional design firms, construction managers, or similar construction related professionals involving expenditures exceeding forty thousand dollars (\$40,000.00) without prior city council approval, provided that sufficient funds have already been appropriated and are available as certified by the Director of Finance, the construction project is specifically identified in the annual budget document approved by city council, the

construction project is listed in the most-recently approved 10-year Capital Improvement Program, and the selection of the professional was done pursuant to the quality based selection process approved by city council. All contracts entered into pursuant to this subsection shall be reported to city council on no less than a quarterly basis.

- (G) The city manager may enter into contracts involving expenditures exceeding forty thousand dollars (\$40,000.00) as provided in C.O. § 138.06(A)(2) without prior city council approval, in the amount necessary to address the real and present emergency prior to the next regularly scheduled council meeting.
- (H) The city attorney may enter into contracts for professional services as authorized in C.O. § 138.06 involving an expenditure of not more than forty thousand dollars (\$40,000.00) without prior city council approval, provided that sufficient funds have already been appropriated.
- (I) Whenever possible contracts shall be entered into for an entire project and shall not be artificially split into multiple contracts for the purpose of avoiding the dollar limitations set forth in this section.

(Ord. No. 112-2009; Ord. No. 6-2012, 6-13-2012; Ord. No. 45-2013; Ord. No. 50-2015, § 3, 7-13-2015; Ord. No. 62-2016, § 1, 11-28-2016; Ord. No. 5-2017, § 3, 2-13-2017)

§ 138.10 - DELEGATION OF AUTHORITY.

- (A) The city manager may delegate to the assistant city manager the full extent of the city manager's authority to execute contracts on behalf of the city.
- (B) The city manager may delegate to the director of finance or designee the city manager's authority to execute purchase orders involving an expenditure of not more than forty thousand dollars (\$40,000.00).
- (C) The city manager may delegate to a department director the city manager's authority to execute contracts involving an expenditure of not more than seven thousand five hundred dollars (\$7,500.00). The city manager may require the department director to follow a competitive procurement process.
- (D) The city manager may not delegate the city manager's authority to execute contracts for grants in support of community agencies.

(Ord. No. 112-2009; Ord. No. 6-2012, 2-13-2012; Ord. No. 45-2013; Ord. No. 50-2015, § 4, 7-13-2015; Ord. No. 5-2017, § 3, 2-13-2017)

§ 138.11 - EXECUTION OF CONTRACTS.

- (A) Except as authorized by C.O. §§ 138.10 and 139.06 or by city council ordinance or resolution, all contracts made by the city shall be executed by the city manager.
- (B) All contracts shall be reviewed and approved as to form by the city attorney or designee before being executed by the city manager or designee. The city attorney or designee need not review a standard form contract that was prepared and approved as to form by the city attorney or designee, provided that the standard form contract has not been modified other than filling in the designated blanks.
- (C) All contracts shall permit the finance director or designee a reasonable opportunity to inspect and copy all of the financial records in the possession or control of the contractor that pertain in any way to the contract in question.
- (D) No contractual liability shall be created against the city except as authorized by this chapter or by council ordinance or resolution.

(Ord. No. 112-2009)

§ 138.12 - AWARD AND EXECUTION OF CONSTRUCTION CONTRACTS; PRICE; PARTIAL PAYMENTS.

- (A) With respect to the award of any construction contract made by the city, the award and execution of the contract shall be made within sixty (60) days after the date on which the bids are opened. The failure to award and execute the contract within sixty (60) days invalidates the entire bid proceedings and all bids submitted, unless the time for awarding and executing the contract is extended by mutual consent of the city and the bidder whose bid the city accepts and with respect to whom the city subsequently awards and executes a contract. The contractor, upon request, is entitled to a notice to proceed with the work by the city upon execution of the contract. No contract shall be entered into if the entire cost of the construction contract exceeds in the aggregate the amount authorized by law.
- (B) The unit or lump sum price stated in the contract shall be used in determining the amount to be paid and shall constitute full and final compensation for all the work.
- (C) 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 who shall apportion the lump sum price to the major components entering into or forming a part of the work under the lump sum price.

§ 138.13 - BID GUARANTIES ON CONSTRUCTION CONTRACTS.

- (A) Each person bidding for a construction contract with the city is required to file with the bid a bid guaranty in the form of either:
 - (1) A bond in accordance with division (B) of this section for the full amount of the bid; or
 - (2) A cashier's check or letter of credit pursuant to ORC ch. 1305 equal to ten percent (10%) of the bid. Any such letter of credit shall be revocable only at the option of the city.
- (B) A bid guaranty filed pursuant to division (A)(1) of this section shall be conditioned to:
 - (1) Provide that, if the bid is accepted, the bidder will, after the awarding or the recommendation for the award of the contract, whichever the city designates, enter into a proper contract in accordance with the bid, plans, details, specifications and bills of material. If, for any reason, other than as authorized by C.O. § 138.14, the bidder fails to enter into the contract, and the city awards the contract to the next lowest and best bidder, the bidder and the surety on the bond shall be liable to the city for the difference between the bidder's bid and that of the next lowest and best bidder, or for a penal sum not to exceed ten percent (10%) of the amount of the bond, whichever is less; and
If the city does not award the contract to the next lowest and best bidder but resubmits the project for bidding, the bidder failing to enter into the contract and the surety on the bond shall be liable to the city for a penal sum not to exceed ten percent (10%) of the amount of the bid or the costs in connection with the resubmission of printing new contract documents, required advertising, and printing and mailing notices to prospective bidders, whichever is less; and
 - (2) Indemnify the city against all damage suffered by failure to perform the contract according to its provisions and in accordance with the plans, details, specifications and bills of material therefor and to pay all lawful claims of subcontractors, material suppliers and laborers for labor performed or material furnished in carrying forward, performing or completing the contract; and agree and assent that this undertaking shall be for the benefit of any subcontractor, material supplier or laborer having a just claim, as well as for the city.

- (C) A bid guaranty filed pursuant to division (A)(2) of this section shall be conditioned to provide that:
- (1) If the bid is accepted, the bidder will, after the awarding or the recommendation for the award of the contract, whichever the city designates, enter into a proper contract in accordance with the bid, plans, details, specifications and bills of material. If, for any reason, other than as authorized by C.O. § 138.14, the bidder fails to enter into the contract, and the city awards the contract to the next lowest and best bidder, the bidder shall be liable to the city for the difference between the bidder's bid and that of the next lowest bidder, or for a penal sum not to exceed ten percent (10%) of the amount of the bid, whichever is less. If the city does not award the contract to the next lowest and best bidder, but resubmits the project for bidding, the bidder failing to enter into the contract shall be liable to the city for a penal sum not to exceed ten percent (10%) of the amount of the bid or the costs in connection with the resubmission, of printing new contract documents, required advertising and printing and mailing notices to prospective bidders, whichever is less; and
 - (2) If the bidder enters into the contract, the bidder shall, at the time the contract is entered into, file a bond for the amount of the contract to indemnify the city against all damage suffered by failure to perform the contract according to its provisions and in accordance with the plans, details, specifications and bills of material therefor and to pay all lawful claims of subcontractors, material suppliers and laborers for labor performed or material furnished in carrying forward, performing or completing the contract; and agree and assent that this undertaking shall be for the benefit of any subcontractor, material supplier or laborer having a just claim, as well as for the city.
- (D) Where the city accepts a bid, but the bidder fails or refuses to enter into a proper contract in accordance with the bid, plans, details, specifications and bills of material within ten (10) days after the awarding of the contract, the bidder and the surety on any bond shall be liable for the amount of the difference between the high bid and that of the next lowest bidder, but not in excess of the liability specified in division (B) or (C) of this section. Where the city then awards the bid to such next lowest and best bidder and such next lowest bidder also fails or refuses to enter into a proper contract in accordance with the bid, plans, details, specifications and bills of material within ten (10) days after the awarding of the contract, the liability of such next lowest bidder shall be the amount of the difference between the bids of such next lowest bidder and the third lowest bidder, but not in excess of the liability specified in division (B) or (C) of this section. Liability on account of an award to any lowest bidder beyond the third lowest bidder shall be determined in like manner.
- (E) Notwithstanding division (C) of this section, where the city resubmits the project for bidding, each bidder whose bid was accepted but who failed or refused to enter into a proper contract shall be liable for an equal share of a penal sum in connection with the resubmission of printing new contract documents, required advertising and printing and mailing notices to prospective bidders, but no bidder's liability shall exceed the amount of the bid guaranty.
- (F) All bid guaranties filed pursuant to this section shall be payable to the city, shall be for the benefit of the city, or any person having a right of action thereon, and shall be deposited with, and held by the purchasing administrator. All bonds filed pursuant to this section shall be issued by a surety company authorized to do business in this state as surety approved by the purchasing administrator.

§ 138.14 - WITHDRAWING BIDS MADE IN ERROR ON CONSTRUCTION CONTRACTS.

- (A) A bidder for a construction contract with the city may withdraw the bid from consideration, if the price bid was substantially lower than the other bids, providing the bid was submitted in good faith, and the reason

for the price bid being substantially lower was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional and substantial arithmetic error or an unintentional omission of a substantial quantity of work, labor or material made directly in the compilation of the bid. Notice of a claim of right to withdraw such bid must be made in writing filed with the city within two (2) business days after the conclusion of the bid opening procedure.

- (B) No bid may be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder.
- (C) No bidder who is permitted to withdraw a bid shall for compensation supply any material or labor to, or perform any subcontract or other work agreement for, the person to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted, without the approval of the city. The person to whom the contract was awarded and the withdrawing bidder are jointly liable to the city in an amount equal to any compensation paid to or for the benefit of the withdrawing bidder without such approval.
- (D) If a bid is withdrawn under authority of this section, the city may award the contract to the next lowest and best bidder or reject all bids and resubmit the project for bidding. In the event the city resubmits the project for bidding, the withdrawing bidder shall pay the costs, in connection with the resubmission, of printing new contract documents, required advertising and printing and mailing notices to prospective bidders, if the city finds that such costs would not have been incurred but for such withdrawal.
- (E) If the city contests the right of a bidder to withdraw a bid, the city shall hold a hearing within fifteen (15) days after the opening of such bids. The city shall notify the withdrawing bidder of the time and place of the hearing. The city shall issue a decision within ten (10) days after the hearing. The bidder shall pay the costs of the hearing.
- (F) In the event the city denies the claim for withdrawal and the bidder elects to appeal or otherwise refuses to perform, the city may reject all bids or award to the next lowest and best bidder.

§ 138.15 - PERFORMANCE BOND.

- (A) For all construction contracts, the finance director shall require a performance bond in the sum of one hundred percent (100%) of the contract price for the faithful execution of the work.
- (B) For all procurement contracts, the finance director may require a performance bond in the sum of one hundred percent (100%) of the contract price for the faithful execution of the work.
- (C) Notwithstanding payment of the full contract price, the performance bond for a construction contract will not be released and acceptance of performance will not occur until at least one (1) year after completion of construction. No department or division head shall be authorized to accept performance until such time has elapsed and performance has satisfactorily met all requirements of the contract.

§ 138.16 - RETAINAGE AND ACCEPTANCE.

- (A) The finance director shall retain ten percent (10%) of the amount due any contractor on a construction contract until at least fifty percent (50%) of the work has been satisfactorily completed.
 - (1) When more than fifty percent (50%) of the work has been satisfactorily completed, the retainage amount may be reduced to five percent (5%) for the satisfactorily completed work.
 - (2) When more than ninety percent (90%) of the work has been satisfactorily completed, the retainage amount may be reduced to two and one-half percent (2.5%) for the satisfactorily completed work.

- (3) The city manager or designee may, at any time, increase the retainage by the amount necessary to protect interests with respect to any (a) incomplete, defective, or unsatisfactory work; (b) costs or damages incurred that are subject to the contractor's contractual obligations; or (c) back charges that the city may assess against a contractor.
- (4) The city manager or designee shall determine the percentage of work that has been satisfactorily completed and the retainage amount necessary to protect the city's interests.
- (B) The finance director may retain ten percent (10%) of the amount due any vendor on a procurement contract until satisfactory performance of all obligations of the vendor has been achieved.
- (C) After the completion of all final punch list items, and with the approval of the city manager, the finance director may accept a maintenance bond in lieu of the retainage. The maintenance bond shall be in addition to the performance bond provided for in C.O. § 138.15. Acceptance of the maintenance bond shall not constitute final acceptance by the city.
- (D) The finance director shall not deposit the retainage in an escrow account and shall not pay interest on such retainage.

(Ord. No. 20-2016, § 1, 4-11-2016)

§ 138.17 - FORM OF BONDS.

- (A) The bond provided for in division (B) of C.O. § 138.13 shall be in substantially the form provided in ORC § 153.571.
- (B) The bond provided for in division (C) of C.O. § 138.13 shall be in substantially the form provided in ORC § 153.57.
- (C) The performance bond provided for in C.O. § 138.15 shall be in a form approved by the city attorney.
- (D) The maintenance bond provided for in C.O. § 138.16 shall be in a form approved by the city attorney.

§ 138.18 - DEBARMENT OR SUSPENSION.

- (A) After consulting with the city attorney, the finance director or designee is authorized to suspend an individual or legal entity from consideration for the award of city contracts if there is probable cause to believe that the individual or legal entity has engaged in any activity that might lead to debarment. The suspension shall be for a period not to exceed three (3) months. The finance director or designee shall issue a written decision to suspend and shall send a copy of the decision to the individual or legal entity. The decision shall state the reasons for the action taken and inform the individual or legal entity of the right to appeal.
- (B) After reasonable notice to the individual or legal entity involved and reasonable opportunity for that individual or legal entity to be heard, the city manager, after consulting with the city attorney, is authorized to debar a person or legal entity from consideration of award of city contracts. The debarment shall be for a period of not more than three (3) years.
- (C) The causes for debarment include the following:
 - (1) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.
 - (2) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business

- integrity or business honesty that significantly affects responsibility as a contractor.
- (3) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals.
 - (4) Violating of contract provisions of a serious character including deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in a contract, and/or a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one (1) or more contracts, provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be a basis for debarment.
 - (5) Any other cause that the city manager determines to be so serious and compelling as to affect responsibility as a contractor, including but not limited to debarment by another governmental entity.
 - (6) The convictions, acts, and omissions of any officer, principal, shareholder, partner, agent, employee, or other person associated with the legal entity shall be considered the convictions, acts, or omissions of the legal entity.
- (D) The city manager shall issue a written decision to debar and shall send a copy of the decision to the individual or legal entity. The decision shall state the reasons for the action taken and inform the individual or legal entity of the right to appeal.
 - (E) An individual or legal entity may appeal a suspension to the city manager. The city manager will hold a hearing and issue a decision affirming, reversing, or modifying the decision of the finance director or designee. The decision of the city manager shall be final.
 - (F) An individual or legal entity may appeal a debarment to the city council. The city council will hold a hearing and issue a decision affirming, reversing, or modifying the decision of the city manager. The decision of the city council shall be final.

§ 138.19 - APPROPRIATIONS.

No expenditure shall be authorized unless an appropriation has been made pursuant to ORC ch. 5705.

§ 138.20 - UNLAWFUL INTEREST IN A PUBLIC CONTRACT.

- (A) As used in this section, the following definitions apply:
 - (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 City of Upper Arlington.
 - (b) A contract for the design, construction, alteration, repair or maintenance of any public property.
 - (2) *Public official* means any elected or appointed officer, or employee or agent of the City of Upper Arlington whether in a temporary or permanent capacity, and including without limitation legislators and law enforcement officers.
 - (3) *Knowingly* is the culpable mental state required, as defined in C.O. § 501.06(B).
- (B) No public official shall knowingly do any of the following:
 - (1) Authorize, or employ the authority or influence of his/her office to secure authorization of any public contract in which he/she, a member of his/her family, or any of his/her business associates has an interest.
 - (2) Authorize, or employ the authority or influence of his/her office to secure the investment of public funds in any share, bond, mortgage, or other security, with respect to which he/she, a member of

- his/her family, or any of his/her business associates either has an interest, is an underwriter, or receives any brokerage, origination, or service fees.
- (3) During his/her term of office or within one (1) year thereafter, occupy any position of profit in the prosecution of a public contract authorized by him/her or by a legislative body, commission or board of which he/she 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/she is connected.
 - (5) Have an interest in the profits or benefits of a public contract that is not let by competitive bidding if required by law and that involves more than one hundred fifty dollars (\$150.00).
- (C) In the absence of bribery or a purpose to defraud, a public official, member of his/her family, or any of his/her business associates shall not be considered as having an interest in a public contract or the investment of public funds, if all of the following apply:
- (1) The interest of that person is limited to owning or controlling shares of the corporation, or being a creditor of the corporation or other organization, that is the contractor on the public contract involved, or that is the issuer of the security in which public funds are invested.
 - (2) The shares owned or controlled by that person do not exceed five percent (5%) of the outstanding shares of the corporation, and the amount due that person as creditor does not exceed five percent (5%) of the total indebtedness of the corporation or other organization.
 - (3) That person, prior to the time the public contract is entered into, files with the city clerk, an affidavit giving his/her exact status in connection with the corporation or other organization. The public contract shall be considered entered into at the time that city council, by vote, authorizes the city manager to enter into a public contract.
- (D) This section does not apply to a public contract in which a public official, member of his/her family, or one of his/her 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 to 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 governmental agency or instrumentality involved, of the interest of the public official, member of his/her family, or business associate, 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.
- (E) Whoever violates this section is guilty of having an unlawful interest in a public contract. Violation of division (B)(1) or (2) of this section shall proceed under state law. Violation of division (B)(3), (4), or (5) of this section is a misdemeanor of the first degree.
- (F) It is not a violation of this section for the city attorney or the city prosecutor to appoint assistants and

employees in accordance with ORC §§ 733.621 and 2921.421.

§ 138.21 - REVERSE AUCTIONS.

- (A) The purchasing administrator may award a procurement contract by reverse auction whenever the city manager determines that the use of a reverse auction for such contract is advantageous to the city.
- (B) The rules for reverse auctions, including but not limited to vendor notification and pre-qualification, proposal evaluation process, city's standard contract terms, performance bond requirements, and the award of the contract, shall be adopted pursuant to C.O. § 138.03(B).
- (C) The city has the right to reject any proposal for any reason and all proposals for no reason if acceptance of the lowest and best proposal is not in the best interest of the city.

(Ord. No. 112-2009)

§ 138.22 - NOTICE REQUIRED FOR BREACH OF CONTRACT CLAIMS.

- (A) A person may not file or maintain a lawsuit or claim to recover damages based on the city's alleged breach of a contract unless, as a condition precedent and a jurisdictional prerequisite to the filing of the lawsuit against the city:
 - (1) The person files a notice of claim with the city manager not later than one hundred eighty (180) days after the date of occurrence of the event that gives rise to the alleged breach of contract; and
 - (2) The city manager neglects or refuses to pay all or part of the claim within ninety (90) days after the notice of claim is filed.
- (B) The notice of claim must:
 - (1) Be in writing;
 - (2) State the facts giving rise to the alleged breach;
 - (3) State the legal theory justifying recovery for the alleged breach;
 - (4) State the amount the person seeks in damages; and
 - (5) Include supporting documentation indicating how those damages were calculated.
- (C) The city attorney is authorized to investigate, evaluate, and recommend settlement or disposition of any breach of contract claim made against the city pursuant to this section.
- (D) The city manager and the city attorney may not waive any requirements of this section unless expressly authorized by ordinance.
- (E) This section shall not supersede, modify, or waive any other notice required by any specific contract provision or by law.
- (F) This section shall not be construed as waiving any defenses or immunities that would otherwise be available to the city.
- (G) The provisions of this section are hereby incorporated into all contracts entered into by the city.

(Ord. No. 112-2009)

§ 138.23 - LOCAL PREFERENCE.

- (A) Local businesses shall receive a local preference credit equal to two percent (2%) of the lowest and best bid or purchase price received from a non-local business in the city's evaluation of contracts for or purchases of

supplies, materials, equipment, public improvements, and services.

- (B) This section shall not apply to contracts or purchases:
 - (i) Less than three thousand dollars (\$3,000.00); or
 - (ii) Financed in whole or in part by contributions, grants, or loans from any agency of the State of Ohio or the United States of America;
 - (iii) For the items set forth in C.O. §§ 138.06(B)(3)—(5) and 138.06(E).
- (C) If the lowest and best bid or purchase price is received from a non-local business, a local business may be awarded the bid or contract if:
 - (i) It submits an affidavit verifying it meets the definition of local business under C.O. § 138.01;
 - (ii) Its bid or purchase price was within two percent (2%) of the bid or purchase price of the non-local business; and
 - (iii) It agrees to reduce its bid or purchase price to match the bid or purchase price of the non-local business.
- (D) The local preference credit is one of the factors to be considered in determining the lowest and best bid or in making purchases and does not guarantee that the local business will be awarded the contract or purchase.
- (E) The city shall indicate in all its invitations to bid, its requests for proposals, requests for qualifications, and its solicitations for contracts for or purchases of supplies, materials, equipment, public improvements, and services that it shall apply a local preference credit in accordance with this section.

(Ord. No. 55-2011)

ADMINISTRATIVE
PROCUREMENT RULES

(Pursuant to 138.03B)

Purpose.

The purpose of the procurement rules is to document the procedures and to enhance the efficiency of the procurement process. The rules are intended to maximize the purchasing value of public funds, and to ensure the awareness to all persons involved in the Procurement Process.

1. Items not requiring a Competitive Procurement Process:

- A. Each Department Director is authorized by the City Manager to purchase supplies, equipment and materials (**excluding office supplies**) in an amount not exceeding \$7,500. It is recommended that prior to purchasing any item, obtain quotes from at least 3 vendors to compare prices to ensure the best value for the City.
 - i. All technology items must have prior approval of the IT Director.
 - ii. All capital items must be listed in the capital equipment budget. Any item not listed in budget needs City Manager approval prior to purchase.
 - iii. City Attorney approval is needed on all contracts regardless of amount. Master rental agreements once approved need no further approval.
 - iv. Making separate purchases for the same item to avoid the \$7,500 limitation will constitute “contract splitting” prohibited by 138.09G.
 - v. If vendor requests PO under \$7,500; Requisition must be entered into accounting system with all required fields.
- B. Professional Services Contract pursuant to 138.01. If contract does not follow competitive bid process three forms are available to process contract.
 - i. Approved to Form Templates
 - ii. Purchase Order
 - iii. Vendor’s Contract - City Attorney approval is needed.

2. Competitive Procurement Process

- A. All supplies, equipment and materials costing more than \$7,500 but less than \$40,000 are subject to the competitive procurement process. All items in the amount of \$40,000 or more must have prior City Council approval before purchased unless exempted by 138.06.
 - i. The department shall enter the requisition into the accounting system that describes the item(s) to be purchased. The requisition should include:
 - a. Suggested vendors;
 - b. Quantity, description and account numbers.
 - ii. Any capital items not budgeted must receive City Manager approval prior to the issuing of a requisition. Requests to City Manager shall include reason for purchase and availability of funds for purchase.
- B. Purchasing Administrator will follow the competitive procurement process as defined in 138.04 and award to the successful bidder.
- C. City Attorney approval is needed on all contracts unless.
 - a. Purchase Order
 - b. Approved template
- D. All original contracts are to be kept by the Purchasing Administrator until City's records retention schedule is met.

3. Formal Competitive Bid

- A. All supplies, equipment and materials anticipated to exceed \$40,000 must follow the formal competitive bidding process.
 - b. Departments will follow requisition requirements outlined in 2-A-i of the procurement rules.
 - c. Construction projects listed individually in the budget shall not require requisition to City Manager for approval.
 - d. Items requiring written specifications shall be drawn to specify requirements for performance.
 - i. Include material/equipment necessary for adequate performance
 - ii. Specifications must be written in a fashion that would not exclude other vendors from participating in the competitive process.

- e. Use of consultants for developing bid specifications is permissible when City has no or limited experience in the project.
- f. Construction contracts must be advertised for two consecutive weeks prior to bid submittals per 138.05(B)
- g. Departments shall be cognizant of the timing of requisition submittals. Factors determining bid timing include:
 - i. Advertising requirements;
 - ii. Pre-bid meetings;
 - iii. Preparation of bid documents;
 - iv. City Council scheduling. NOTE: Items are required to be scheduled on a City Council conference agenda.
- h. After bids are received, Purchasing Administrator shall recommend to the Department, the lowest and best bid.

4. Formal Bid Opening: The Purchasing Administrator will conduct the formal bid openings under accordance with 138.07 as follows:

- A. All bidders and interested parties are provided an opportunity to attend bid openings;
- B. A bid tabulation will be prepared for each opening;
- C. Each separate vendor bid will be individually announced with total proposed;
- D. Bidders will not be permitted to inspect the documents of other bidders during or at the conclusion of a bid opening; Bid Documents may be reviewed by appointment after award by submitting a Public Records Request.
- E. Construction bid tabulations will be available within seven (7) working days of the bid opening.

5. Bid Award and Execution:

- A. Purchasing Administrator shall recommend to the Department the bid award based on both procedural compliance with general specifications and conformity with technical specifications.
 - i. If recommendation is not agreed by department, written submission to the Purchasing Administrator shall include reasons for disapproval and alternative lowest and best bid or rejection of all bidders.

- ii. City Manager approval is documented by Staff Report recommendation to City Council.

- B. Purchasing Administrator shall assemble all documents as required by the laws of the State of Ohio and the City of Upper Arlington for the execution of a valid procurement contract.
- C. No procurement contract shall be executed without the prior approval as to form by the City Attorney.
- D. The Purchasing Administrator shall maintain original contracts until the City's records retention schedule is met. Distribution of additional executed contracts will be as follows:
 - i. Contractor;
 - ii. Department originating bid.

6. Change orders:

- A. Purchasing Administrator shall obtain City Manager written approval for change orders as provided in 138.08.
- B. The department initiating procurement shall obtain change orders for items not requiring competitive bidding.

7. Waiver of rule requirements:

- A. The requirements of the rules may be waived upon recommendation of the Purchasing Administrator.

8. Unlawful Interest in a Public Contract:

- A. All employees responsible for securing goods and services shall familiarize themselves and adhere to section 138.20 of the Code. Any questions regarding this section of the Code should be directed to the Purchasing Administrator or the City Attorney before entering into an agreement that may violate these rules.

9. Disposal of City Property

- A. Reference Chapter 223, Disposition of Municipal Property.

DEBT MANAGEMENT POLICY

All debt issued by the City shall be issued pursuant to this Policy with the intended goals and objectives set forth herein.

- a. The purpose of this Debt Management Policy is to provide City Council with written guidelines for the following:
 1. For use in capital planning funding decisions to determine the amount and type of debt to be issued, in the debt issuance process, and in the management of debt;
 2. To provide limits on the amount of debt outstanding, amount of annual debt service, use and justification for variable rate debt, maximum maturities of debt, use of credit enhancements and the use of debt related derivatives;
 3. To improve the quality of decisions, provide the basis for determination of the debt structure, to identify policy goals, and to demonstrate a commitment to long-term financial planning, including a multi-year capital plan;
 4. To serve as public commitment by the Administration and City Council to manage the financial affairs of the City so as:
 1. To minimize legal risks by complying with all laws;
 2. To minimize the financial risk to current and future budgets regarding delayed principal payment and variable interest rate debt structures;
 3. Prohibit all debt-related derivatives
 4. To maximize future debt capacity;
 5. To minimize the financing costs of capital projects at the lowest level of risk;
 6. To provide all disclosures required by law; and
 7. To adopt and adhere to financial management policies including debt and derivative management policies as a signal to the rating agencies, capital markets, and citizens that the City shall be well managed and meet obligations in a timely manner.
- b. The goals for this Debt Management Policy are:
 1. To identify and comply with all laws related to the issuance and management of debt;
 2. To minimize the use of short term cash flow borrowings (i.e. tax and revenue anticipation notes) by maintaining adequate working capital and authorizing only the minimum amount required to offset mismatches between available cash and cash outflows determined by cash flow analysis.;
 3. To establish the purposes of debt;
 4. To establish criteria to determine any use of general obligation debt, tax debt, revenue debt, conduit debt, short term debt, and capital leases;
 5. To establish criteria for pay as you go financing versus debt financing;
 6. To establish the maximum life, or the criteria thereof, of a debt transaction;

7. To minimize interest costs at the lowest level of financial risk;
 8. To provide for sound financial guidance; and
 9. To pursue and/or maintain the highest possible credit rating consistent with the City's financial objectives.
- c. The Director of Finance shall only issue debt for projects identified in the capital improvement plan and emergency projects that City Council has previously determined to fund with debt financing or for economic development.
 - a. Whenever possible, the City should consider cash financing before entering into debt.
 - b. General obligation debt shall be considered as the first choice when issuing debt.
 - c. Tax increment financing debt issued for economic development projects are required to have an independent feasibility study performed. This study shall include, at a minimum, an analysis that the project can take place within an acceptable time frame and a cash flow analysis that shows the projected costs and revenues associated with the project in order to determine if the benefits outweigh the costs.
 - d. Conduit debt shall be reviewed by the Mayor, City Council and Finance Director on a case by case basis.
 - d. The aggregate amount of general obligation debt issued by the City shall be limited by (1) limits on outstanding debt as required by state statute and (2) annual debt service as a percentage of general fund expenditures shall not exceed 10%.
 - e. The last maturity of debt shall be determined in accordance with applicable state and federal tax laws and, in any case, the latest maturity of a debt issue may not exceed 30 years with the life of the asset to be equal or greater to the last maturity of the debt issue.
 - f. The Director of Finance shall submit at a minimum a ten-year projection of the debt service fund before the issuance of any new debt and shall present this schedule to the Mayor and City Council.
 - g. The City shall review all debt issuances in order to seek to maintain and improve its current long term rating.
 - h. The City may issue the following debt instruments:
 1. Bond anticipation notes and general obligation bonds;
 2. Revenue anticipation notes and revenue bonds;
 3. Special assessment anticipation notes and special assessment bonds;
 4. Tax anticipation notes; and
 5. Tax increment financing, tax exempt lease, lines of credit, conduit debt, state run loan programs and federal loan programs.
 - i. The City shall comply with all federal tax law provisions applicable to any debt issuances, including arbitrage requirements.
 - j. By July 1, and on at least an annual basis, the Director of Finance and/or Bond Counsel shall report any changes in the law and their effect on the issuance and/or management of debt to City Council.

- k. The City shall comply with legal requirements for notice and for public meetings related to debt issuances where applicable.
- l. The Director of Finance shall coordinate the sale of debt through a negotiated sale, competitive sale or a private placement.
- m. The Director of Finance shall determine the best method of sale for each issuance and communicate this to the Mayor and City Council. Interest rate risk, costs, market uncertainty and credit shall be taken into consideration when determining the method.
- n. In the event that the City wishes to obtain a municipal advisor ("Municipal Advisor") for the issuance of debt, the following conditions must be met:
 - 1. The Municipal Advisor must be retained prior to planning the transaction and have documented experience in providing municipal advisory services for local governments;
 - 2. The Municipal Advisor must be qualified under the rules of the Municipal Securities Rulemaking Board.
 - 3. The performance of the Municipal Advisor shall be reviewed annually if a multi-year contract was entered into and as part of the after-sale evaluation for all transactions;
 - 4. The Municipal Advisor's fiduciary duty in a transaction or contract period shall be only to the City;
 - 5. The Municipal Advisor shall not bid on an issue for which they are providing advisory services;
 - 6. The Municipal Advisor must disclose all relationships to any other transaction participant outside of the transaction;
 - 7. The Municipal Advisor must fully disclose all existing client and business relationships between and among the professionals to a transaction (i.e. bond counsel, underwriter, etc.). The disclosure should extend to any existing or known future relationships or representations that could give rise to, or the appearance of, a conflict of interest; and
 - 8. The Municipal Advisor shall refrain from entering into any relationship that would give rise to a conflict of interest or an appearance of a conflict of interest during the contract/transaction period. Any failure to comply with this provision shall result in the termination of the contract, if applicable.
- o. The following conditions must be met for bond counsel ("Bond Counsel") of the transaction:
 - 1. Bond Counsel must be retained prior to any formal action on the transaction and have documented legal experience and expertise in the area of municipal finance;
 - 2. Bond Counsel's sole client relationship, governed by ethical rules in a transaction, must be strictly only to the City;
 - 3. Bond Counsel must disclose all relationships to any other transaction participant outside the transaction;

4. Bond Counsel must disclose all existing client and business relationships between and among the professionals to a transaction (i.e. Municipal Advisor, underwriter, etc.). The disclosure should extend to any existing or known future relationships or representations that could give the rise to, or the appearance of, a conflict of interest; and
 5. Bond Counsel shall refrain from entering into any relationship that would give rise to a conflict of interest or an appearance of a conflict of interest during the contract/transaction period. Any failure to comply with this provision shall result in the termination of the contract, if applicable.
- p. The following conditions must be met for the underwriter ("Underwriter") of the transaction:
1. Underwriter shall not serve as the Municipal Advisor to the City in the same transaction as set forth in the Municipal Securities Rulemaking Board (MSRB) Rule G-17 and shall have documented experience in underwriting debt for local governments;
 2. Underwriter must disclose all relationships to any other transaction participant outside the transaction;
 3. Underwriter must fully disclose all existing client and business relationships between and among the professionals to a transaction (i.e. Municipal Advisor, Bond Counsel, etc.). The disclosure should extend to any existing or known future relationships or representations that could give rise to, or appearance of, a conflict of interest.
 4. Underwriter shall refrain from entering into any relationships that would give rise to a conflict of interest or an appearance of a conflict of interest during the contract/transaction period. Any failure to comply with this provision will result in termination of the contract, if applicable.
- q. Debt transactions shall be structured as tax exempt with a maximum maturity of 30 years unless the constraints imposed justify the increased costs of a taxable transaction. In this case, the City shall consult Bond Counsel and the Municipal Advisor and/or the Underwriter.
- r. Call options should be considered when beneficial to the City. The Director of Finance should consult with the Municipal Advisor or Underwriter in this instance.
- s. The City shall comply with all continuing disclosure agreements that it has entered into or will enter into in connection with a debt issuance where the City covenants to file annual and material event information, in accordance with the provisions of SEC Rule 15c2-12, with the Municipal Securities Rulemaking Board (MSRB) under its Electronic Municipal Market Access (EMMA) system.
- t. The Director of Finance shall consult with bond counsel regarding all federal and state disclosure requirements and shall comply with these requirements.
- u. Debt proceeds shall be invested in accordance with the applicable laws and the City's Investment Policy.
- v. Adequate records shall be maintained to comply with arbitrage rebate requirements.

- w. The Director of Finance shall monitor refunding opportunities on a yearly basis and shall report refunding opportunities to the Mayor and City Council if net present value savings of 3% or greater can be achieved. Refunding opportunities shall be reported for revenue debt if restrictive covenants prevent the issuance of other debt or create other restrictions on the financial management of revenue producing activities.
- x. This policy shall be reviewed on an annual basis by July 1st of the fiscal year. Any recommended changes shall be presented to City Council for approval.

Timesheets are prepared and signed by department heads. They are then submitted to Director Of Administration and Finance Director for certification. Once signed by both parties, timesheets are submitted for processing.

Processing steps are as follows:

- Check timesheets for accuracy (amounts for various pay codes are correct)
- Begin payroll setup (begin check number; pay end date; pay date; pay period)
- Setup voluntary deductions (hospitalization; AFLAC; Capitol ins.; medicare)
- Set pension month and cycle
- Begin timesheet entry
- Compute payroll
- Print payroll register (verify pay and deductions)
- Run check exception report (employees not receiving checks)
- Once payroll is in balance (timesheet totals match payroll register) current period reports are run
 - Union deductions
 - Child support and garnishments
 - Voluntary deduction reports (run for each active deduction)
- Run payroll distribution report (verify distribution to finance)
- Backup payroll
- Update master files (run appropriate updates)
 - * Must be run every pay period
 - * Update employee master file for payroll checks
 - Accumulate sick time
 - * Accumulate pay period to account accumulation file
 - * Accumulate pay period to weekly summary and deduction check file
 - * Update timecard history
- Deduction check file maintenance (number and date checks)
- Print deduction check report (2 copies, 1 Finance Director, 1 payroll)
- Print employees paychecks
- Print deduction checks
- Print check register (2 copies, 1 Finance Director, 1 Payroll)
- Update employee history
- Transfer account distribution to finance (FMS)
- Run payroll I.Q. reports
 - Medicare by department
 - Sick time by employee (accumulated, used, year to date balance. 2 copies, 1 Finance Director, 1 payroll)
 - Vacation time by employee (allowed, used, year to date balance. 2 copies, 1 Finance Director, 1 payroll)
 - Pension pick-up report by pension code
 - Overtime report (copy to Mayor)
- Run account accumulation report for Park Department (to 2nd Ward Councilperson)
- Sort payroll checks by department
- Submit to Finance Director for signature and distribution
- Collect deduction checks which need mailed with required reports
 - Union deductions (police & AFSME)
 - Garnishments and child support
 - Deferred compensation
 - Credit union

- Payroll totals entered Excel spreadsheet (used for monthly, quarterly, and year end balance/reset)
- Void PERS checks (funds transferred electronically with reports)

PERS and Police and Fire Pension Reports are run after last pay end date for month and submitted on a timely basis. Reports are first printed to paper for verification, then transferred to pension fund. Check stubs for Police and Fire Pension and PERS voids are attached to the reports and filed.

Procedures for pension reporting

- Build pension reports based on information entered (pay periods, month, pension code...)
- Modify pension reports (PERS and police/fire codes, police/fire hours)
- Print reports and verify
- Export pension funds to Mag file
- Submit to pension funds

**Accounting Ledgers
Month End & Fiscal Year Closing Procedures**

Methods Used by the City

The City uses Software Solutions, Incorporated, a fund accounting software package to maintain its accounting records. The software incorporates estimated revenues and appropriations by fund and account. The software program allows for the accumulation and aggregation of budget and actual information. Detailed receipts, expenditures, and encumbrances are accumulated at the individual account level. The software provides month and year-to-date information and detailed and summary information for receipts and expenditures.

Month End Report

Checklist

- (1) Revenue Audit Trail
- (2) Expense Audit Trail
- (3) Check Register
- (4) Fund Balance Report
- (5) Revenue Summary Report
By Account
- (6) Expense Account Report
By Department
- (7) Daily Batch Postings From Central
Cash Are Posted Daily & Accumulated
For the Month
- (8) Appropriation Expense Account Report
By Department Are Distributed To
Department Supervisors

Year End Report

Checklist

- (1) YTD Revenue Audit Trail
- (2) YTD Expense Audit Trail
- (3) YTD Check Register
- (4) Fund Balance Report
- (5) YTD Revenue Summary Report
By Account
- (6) YTD Expense Account Report
By Department
- (7) Daily Receipt Batch Posting Report From
Central Cash Sorted in Daily Order of Receipt
YTD
- (8) Appropriation YTD Expense Account Report
By Department Are Distributed To Department
Supervisors