

Ordinance No. 298-2023

By Council Member Griffin

AN EMERGENCY ORDINANCE

Authorizing the submission to the electors of the City of Cleveland of a proposal to amend Section 167 of the Charter of the City of Cleveland relating to public improvements.

WHEREAS, this ordinance constitutes an emergency measure providing for the immediate preservation of the public peace, property, health or safety in that it must be certified to the election authorities immediately upon passage in order for the question to appear at the general election to be held on November 7, 2023, and providing for the usual daily operation of municipal departments; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That this Council authorizes the submission to the electors of the City of Cleveland at the general election to be held at the usual places of voting in the City of Cleveland on Tuesday, November 7, 2023, of a proposal to amend the Charter of the City of Cleveland by amending existing Section 167 to read as follows:

§167 Public Improvements

Public improvements of all kinds may be made by the appropriate department, either by direct employment of the necessary labor and the purchase of the necessary supplies and materials, with separate accounting as to each improvement so made, or by contract duly let to the lowest responsible bidder after competitive bidding, either for a gross price, or upon a unit basis or a combination of the two for the improvement, or by contract containing a guaranteed maximum ~~and stipulating that the City shall pay within such maximum~~ within which are included the cost of labor and materials, plus and a fixed percentage of profit to the contractor. ~~Alternatively, Public public~~ improvements may also be made by one or more contracts that utilize construction delivery methods using an open-book pricing approach and/or a guaranteed maximum price, and that may combine construction with some or all of the planning, design, administration and other similar services necessary for construction of the improvement, such as but not limited to design-build, bridging design-build, engineer-procure-construct, and construction management at risk. combining the design professional contract with the public improvement contract in a manner similar to a design-build or engineer procure, construct (EPC) contract, and Such contracts shall be awarded on the basis of the best value proposal, taking into consideration the engineering and design, the construction method(s), the proposed design and construction costs, the schedule, the total life-cycle costs, the qualifications of the proposed design professional(s) and the construction firm(s), the community benefits offered, and the other objectives of the project that are appropriate to the scope and scale of the improvement.

~~The Council shall by ordinance determine by which of the foregoing methods any improvement shall be made. Contracts may provide a bonus per day for completion of the contract improvement prior to a specified date, and liquidated damages to the City for failure to complete within a specified time, and other remedies and protections as are appropriate for the scope and scale of the improvement. to be exacted in like sum for every day of delay beyond a specified date.~~

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Section 2. That the foregoing proposed amendment to the Charter, on receiving at least a majority of the votes cast at the November 7, 2023 general election, shall become effective immediately on its adoption.

Section 3. That the Clerk of this Council is authorized to promptly forward a certified copy of this ordinance to the Board of Elections of Cuyahoga County.

Section 4. That the Board of Elections of Cuyahoga County shall cause an appropriate notice to be given of the election to be held on November 7, 2023 on the foregoing amendment to the Charter of this City and otherwise to provide for the election in the manner provided by the general laws of the State of Ohio.

Section 5. That the Clerk of Council is authorized to cause the full text of the proposed amendment to the Charter to be published once a week for two consecutive weeks in a newspaper published in the City of Cleveland, with the first publication to be made at least fifteen days prior to the general election to be held on November 7, 2023, as provided in Article XVIII, Section 9 of the Constitution of the State of Ohio, Section 731.211 of the Revised Code, and Section 200 of the Charter of the City of Cleveland.

Section 6. That the ballot submitting the question of the adoption of the amendment shall read as follows:

PROPOSED CHARTER AMENDMENT
CITY OF CLEVELAND

A majority affirmative vote is necessary for passage.

Shall Section 167 of the Charter of the City of Cleveland be amended to add that competitive bids for public improvements may also be a combination of gross price and unit basis; to clarify types of alternative delivery methods available to the City for public improvements; to state that these types of contracts shall be awarded on a best value proposal and including additional factors in that determination; to delete the requirement that Council determine the methods of making the improvement; and to update the remedy clause?

Section 7. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

/jho
3-6-2023
FOR: Council President Griffin

