

## ***CHAPTER 135 Department of Public Service and Engineering<sup>1</sup>***

Sections:

### **135.01 DIRECTOR OF PUBLIC SERVICE AND ENGINEERING.**

- (a) The Director of Public Service and Engineering shall have the responsibility for construction, improvement, and maintenance of all public works, buildings, cemeteries, roads, streets, and all other public places of the City, except as provided elsewhere by Code, and the collection and disposal of wastes and the enforcement of sanitary regulations. The Director shall have charge of, and shall supervise the maintenance of, all municipal property, and the collection and disposal of wastes and the enforcement of sanitary regulations. The Director shall have charge of and shall supervise the maintenance of all municipal property, and equipment and the storage of all materials and supplies. The Director shall also have charge of and supervise the Division of Water and the division of sewers which shall operate, maintain and control all of the water mains, water distribution system, pumps, meters, etc. in the City, and the entire sanitary and storm sewer systems of said City respectively. The Director shall be responsible for the purchasing function for the City and all purchases shall be made only in the manner provided for within the Codified Ordinances. The Director of Public Service and Engineering shall be responsible for the issuance of all zoning and building permits and shall supervise the administration and enforcement of the Zoning and Building ordinances.
- (b) The hours worked, vacation and other employment benefits set out in the unclassified salary ordinance shall apply to the Director of Public Service and Engineering.

(Ord. 0115-2013. Passed 8-19-13; Ord. No. 0033-2016 , § 1(Exh. A), 4-18-16; Ord. No. 0096-2018, § 1(Exh. A), 12-3-18 )

### **135.011 DEPUTY DIRECTOR OF PUBLIC SERVICE AND ENGINEERING.**

The Mayor is authorized and directed when such position is deemed necessary to employ a Deputy Director of Public Service and Engineering for the City.

The Deputy Director of Public Service and Engineering shall:

- (a) Work under the general direction of the Director of Public Service and Engineering and shall serve as the Director in the Director's absence.
- (b) Act as the Utilities/Right-of-Way Manager.
- (c) Perform such other duties as may be assigned by the Director of Public Service and Engineering.

(Ord. 0115-2013. Passed 8-19-13; Ord. No. 0096-2018, § 1(Exh. A), 12-3-18 )

### **135.02 SALE OF OBSOLETE ITEMS.**

At such time as equipment with marketable value, including motor vehicles and supplies of the City, serve no municipal purpose as determined in writing by the Director of Public Service and Engineering, said Director is

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<sup>1</sup>Cross reference(s)—Department of Public Service and Engineering - see CHTR. 5.05

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authorized and directed to provide for the sale, trade-in or disposal of such equipment and supplies, in the following manner:

- (a) Surplus property shall be sold, traded-in or disposed of by one of the following methods:
  - (1) By acceptance of sealed bids, after appropriate advertising;
  - (2) By public auction, after appropriate advertising;
  - (3) By internet auction;
  - (4) By trade-in, when advantageous to the City, if the City is purchasing equipment in which the trade-in value can be used to reduce the cost of the new piece of equipment.
  - (5) By disposal to a recycling company.
- (b) Equipment that is determined by the Director of Public Service and Engineering to have no marketable value or deemed unsafe or in dangerous condition, may be disposed of as determined by the Director of Public Service and Engineering.

Proceeds from the sale of surplus property shall be deposited in the City treasury to the credit of the fund having paid for the equipment. Proceeds from the sale of surplus property that was not purchased by the City shall be credited to the general fund. The Director of Finance shall keep full and accurate records of the sale or trade-in of such property.

(Ord. 0115-2013. Passed 8-19-13; Ord. No. 0033-2016 , § 1(Exh. A), 4-18-16; Ord. No. 0096-2018, § 1(Exh. A), 12-3-18 )

### **135.03 PURCHASING AGENT AND PROCEDURES.**

- (a) Except as otherwise provided in this Chapter, the Director of Public Service and Engineering shall have the exclusive authority to purchase and lease all goods and services not requiring bidding except under the following circumstances:
  - (1) Peace officer services pursuant to Chapter 139, Police Department, which shall be authorized by the Director of Public Service and Engineering and the Mayor;
  - (2) In an emergency, as declared by the Mayor pursuant to Section 131.01, the Mayor or the Mayor's designee can purchase directly without regard to bidding procedures those items necessary to overcome the emergency. In such cases, the Mayor shall personally authorize such purchases;
  - (3) The purchase of any goods or services on behalf of the City without the written approval of the Director of Public Service and Engineering or the Director's designee, shall be without authority of the City.
- (b) For audit purposes and as a matter of public record, the following information will be documented and included with the purchase order when sent to the Director of Finance concerning purchases made in excess of \$3,000.00, but not purchased through competitive bidding procedures:
  - (1) Procedures that were used to select the seller of the goods and services, including the names of the competitors contacted;
  - (2) The reasons for selecting the seller;
  - (3) Other information as required depending on the nature of the purchase.
- (c) The Director of Public Service and Engineering shall adopt rules and regulations for the internal management and operation of the purchasing function. The Director shall prescribe and maintain such forms as reasonably necessary to the operation of the purchase function and the Director may require any department or board

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seeking the purchase of any goods or services to justify their request and may require that prior to making any purchases, the department or agency requesting the purchase shall first seek Director of Finance approval that there are sufficient funds in that department or agency budget to enable the encumbrance of the appropriate amount of money.

- (d) The Director of Public Service and Engineering may develop a prohibited bidder list pursuant to Section 135.08.
- (e) The Director of Public Service and Engineering may negotiate with other units of government, including the Board of Education, in the joint purchasing of goods and services when the best interest of the City would thereby be served.
- (f) The Director of Public Service and Engineering may monitor contracts to assure that the terms of the agreement are fulfilled and in the event of any violation thereof shall report to the City Attorney the results of the Director of Public Service and Engineering's investigation for further action.
- (g) When City of Gahanna funds are expended, the Director of Public Service and Engineering requires that:
  - Competitive bids be obtained where appropriate.
  - Avoid sole-source purchases unless fully justified.
  - Purchase only authorized goods and services.
  - Ensure that all expenditures are made in accordance with City of Gahanna guidelines.

(Ord. 0115-2013. Passed 8-19-13; Ord. No. 0033-2016 , § 1(Exh. A), 4-18-16; Ord. No. 0096-2018, § 1(Exh. A), 12-3-18 )

#### **135.04 PURCHASING REQUIREMENTS.**

- (a) All purchases and leases, of equipment, supplies, parts, and services approved by the Director of Public Service and Engineering, including options for longer than six months, shall be accomplished through competitive bidding except as listed in paragraph 135.05(e), Exceptions to the Competitive Bidding Requirement. All purchases and leases, of equipment, supplies, parts, and services approved by the Director of Public Service and Engineering, in the amount greater than TEN THOUSAND DOLLARS (\$10,000.00), must first be approved by legislative action of Council.
- (b) There are four basic means of making purchases for the City of Gahanna as follows:
  - (1) Invitation for bids (IFB).
  - (2) Request for proposals (RFP).
  - (3) Petty cash.
  - (4) Reverse auction.
- (c) *Invitation for bid procedures.*
  - (1) Upon receipt of any request by a department or agency of the City for goods or services which are required to be bid, the Director of Public Service and Engineering shall seek Council approval by motion and vote for the Director to advertise for such bids. Upon receipt of approval, the Director shall thereafter prepare appropriate notice for bid request which shall be advertised in full in a newspaper of general circulation within the City for one week. Thereafter, the Director shall advertise a second time either in the full version or in an abbreviated version that directs the public to the full notice on the State of Ohio's public notice website.
  - (2) The notice for bid request shall contain the following information:

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- A. The quantity of items specified and, in general, the use for which they are intended;
  - B. The time and place where the bids will be opened;
  - C. Conditions under which the bid will be received;
  - D. Terms of the proposed purchase or lease including a notice that the bid selected by the Director of Public Service and Engineering may be conditioned upon subsequent Council approval;
  - E. Bond requirements for both bidding and the performance of the contract;
  - F. Such other information as the Director of Public Service and Engineering deems necessary.
- (3) The Director of Public Service and Engineering may, to secure the lowest responsive and responsible bid, divide the goods and services requested or needed within the 90 days of the bid request in such manner as the Director deems appropriate, but may not divide the purchase or lease in such a way to avoid the competitive bidding.
- (d) *Request for proposals.* As listed under Section 135.05(e), purchases under \$50,000.00 generally fall into the category of the informal method of purchasing. Specifications or descriptions are necessary and request for proposals will normally be submitted in writing. However, under unusual circumstances, proposals may be obtained verbally or over the phone. Also, quotes may be accepted, which are submitted on the quoter's letterhead. Under this informal method of purchasing, the City employee conducting the negotiation will be required to be fully familiar with item(s) or services being procured, the need for the materials or services, and will be further qualified to inspect and accept the finished product. The department or agency involved in purchases under \$50,000.00 must also ascertain from the Director of Finance that sufficient funds are available in the proper category to cover the purchase.
- (e) *Petty cash.* Expenditures up to \$20.00 may be reimbursed through the petty cash system as outlined in the City of Gahanna Policy and Procedure Manual.
- (f) *Reverse auction.* Purchasing process in which offerors submit proposals in competing to sell services or supplies in an open environment via the Internet:
- (1) Whenever the City determines that the use of the reverse auction is advantageous to the City, the Director of Public Service and Engineering or designee may purchase goods or services by reverse auction.
    - A. The City, in establishing a reverse auction process will:
      - 1. Determine the specifications and requirements of the goods or services to be acquired.
      - 2. Provide notice to potential sellers concerning the proposed acquisition as noted in Section 135.04.
    - B. Prior to conducting a reverse auction, the City may establish a threshold amount which shall be the maximum amount that the City is willing to pay for the goods or service to be acquired.
    - C. The City may enter into a contract with a seller which meets the specifications or description of the goods or services to be procured and whose proposal the City determines to be the lowest, responsive, and responsible as described in Section 135.05(d).
- (g) *Retainage.* Notwithstanding any provision of general law, contractors and vendors shall not be entitled to receive interest on funds temporarily retained on a contract pending final acceptance of work performed or goods supplied, nor shall the City of Gahanna be required to maintain a separate escrow account from which to pay any contractor or vendor.

(Ord. 0115-2013. Passed 8-19-13; Ord. No. 0077-2017, § 1(Exh. A), 11-20-17 ; Ord. No. 0096-2018, § 1(Exh. A), 12-3-18 )

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### 135.05 BID OPENING AND ACCEPTANCE.

- (a) All bids shall be received only at a location and time specified in the notice and shall be kept sealed until the bids are opened. Bids shall be opened publicly and read aloud.
- (b) The Director of Public Service and Engineering may reject any bid which fails to comply materially with the terms of the bid notice. Bids which are not accompanied with bonds, as required in the notice, shall be deemed to have failed to comply with the terms of the bid notice.
- (c) A bidder for a contract shall be considered responsive when the bidder's proposal responds to bid specifications in all material aspects and contains no irregularities or deviations from the specifications which would affect the amount of the bid or otherwise give the bidder a competitive advantage. Irregularities which do not materially affect the bid may be deemed technical defects and may be corrected after the bid opening.

In determining whether a bidder is responsible, the following factors shall be considered:

- (1) The bidder's experience;
  - (2) The bidder's financial condition;
  - (3) The bidder's conduct and performance on previous contracts;
  - (4) The bidder's facilities;
  - (5) The bidder's management skills;
  - (6) The bidder's ability to execute the contract properly;
  - (7) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
  - (8) The quality, availability, and adaptability of the supplies or contractual services to the particular use required;
  - (9) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
  - (10) The number and scope of conditions attached to the bid.
- (d) Upon consideration, the Director of Public Service and Engineering shall select the three lowest, responsive, and responsible bidders, if there are more than three bids, and shall recommend to Council in writing a choice from the bidders as the lowest, responsive and responsible. In the event that a recommendation is in favor of one other than the lowest, the Director shall also state the reasons in writing therefor. Further, the Director shall include with the recommendation, if available, a proposed contract approved in the form by the City Attorney and other accompanying documents needed for the final execution of the award of the contract.
  - (e) Exceptions to the competitive bidding requirement:
    - (1) Formal competitive bidding is not required for purchases less than \$50,000.00.
    - (2) Products and services of the severely disabled. Competitive bidding is exempt for those purchases from a qualified nonprofit agency pursuant to Ohio R.C. 4115.31 to 4115.35.
    - (3) *Emergency purchases.* Council may, by majority vote of Council, authorize the Director of Public Service and Engineering to enter into a contract for work to be done or for the purchase of goods and services without formal bidding and advertising. If this Section is enacted, the Director of Public Service and Engineering must provide adequate documentation to Council to justify the exception to the bidding requirement.

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- (4) *Purchases from governmental entities.* The Director of Public Service and Engineering may purchase equipment, services, materials or supplies from the State of Ohio, any department, division, agency, political subdivision of the State, or other cooperative purchasing organization of public entities without advertising and bidding, provided Council authorizes the purchase by ordinance. Section 9.48 Joint Purchasing Programs of the Ohio Revised Code is hereby incorporated by reference.
  - (5) *Purchases of used equipment.* Council may authorize by ordinance the Director of Public Service and Engineering to purchase, without competitive bidding, used equipment or supplies at an auction open to the public or at a public sale requesting the submission of written bids.
  - (6) *Professional and/or personal services.* The statutory provisions regarding competitive bidding for City contracts, generally, do not apply to contracts for professional and/or personal services. Regardless of competitive bidding requirements for professional and/or personal services, if the amount is greater than TEN THOUSAND DOLLARS (\$10,000.00), Council approval is required through standard legislative process, in accordance with purchasing requirements under 135.04(a). If professional and/or personal services are obtained from the same provider as part of one project, but less than TEN THOUSAND DOLLARS (\$10,000.00), Council approval is required through standard legislative process.
  - (7) Reverse auction.

(Ord. 0115-2013. Passed 8-19-13; Ord. No. 0096-2018, § 1(Exh. A), 12-3-18 )

### **135.06 COUNCIL ACTION.**

- (a) Council shall consider within 30 days of the receipt of the recommendation of the Director of Public Service and Engineering, pursuant to Section 135.05, and shall place the matter on the Council agenda. The Director of Finance shall certify to Council prior to the meeting at which the recommendation is scheduled to be considered that there are funds available or in the process of being collected for the payment of the agreement, pursuant to its terms.
- (b) If Council approves the recommendation as the lowest responsive and responsible bidder, it shall pass an ordinance authorizing the Mayor to enter into such an agreement with the selected bidder. Council may authorize either the Mayor or the Director of Public Service and Engineering to further negotiate certain items of the agreement.
- (c) Upon enactment of the ordinance, the Director of Finance shall approve the encumbrance of sufficient funds to fulfill the obligation of the City. The Director of Finance shall remove any encumbrances when, in the Finance Director's judgment, the City no longer has any obligations with respect to the contract.

(Ord. 0115-2013. Passed 8-19-13; Ord. No. 0096-2018, § 1(Exh. A), 12-3-18 )

### **135.07 CONTRACT EXECUTION AND DELEGATION BY MAYOR.**

When an ordinance is enacted, the Mayor shall proceed to execute the contract as authorized and shall report to Council any unforeseen delays in negotiation and execution of the contract.

(Ord. 0115-2013. Passed 8-19-13.)

### **135.08 PROHIBITED BIDDER.**

- (a) The Director of Public Service and Engineering shall have the authority to declare a vendor or lessor a prohibited bidder who shall thereafter not be permitted to participate in the bidding procedure nor receive

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any business from the City for a stated period of time, as deemed appropriate by the Director of Public Service and Engineering, not to exceed one year, if the vendor:

- (1) Has previously defaulted in its quotations to the City;
- (2) Has failed to fulfill its obligations under a previous contract with or purchase by the City;
- (3) Is presently disqualified from bidding or receiving any business from any other unit of local government within Franklin County or with the State of Ohio.

(Ord. 0115-2013. Passed 8-19-13; Ord. No. 0033-2016 , § 1(Exh. A), 4-18-16; Ord. No. 0096-2018, § 1(Exh. A), 12-3-18 )

### **135.09 USAGE CHARGES FOR CITY VEHICLES OR OFF-ROAD, UNLICENSED EQUIPMENT.**

- (a) The Department of Public Service and Engineering shall be solely responsible for the use of all such vehicles or off-road unlicensed equipment, as well as for the billing, collection and depositing of fees as established.
- (b) The hourly rates shall be based upon the Federal Emergency Management Agency's Schedule of Equipment rates prevailing at the time of the use.

(Ord. 0115-2013. Passed 8-19-13; Ord. No. 0033-2016 , § 1(Exh. A), 4-18-16)

### **135.10 FEES.**

- (a) Council shall by ordinance establish and annually adjust fees for all types of applications, permits and other specialized services provided by the Department of Public Service and Engineering, which includes the Division of Building and Zoning, and such document shall be referred to as the "Building and Zoning Fee Schedule". The fee in effect on the date of receipt of any application shall be the fee charged.
- (b) Any person desiring to do or cause to be done anything for which a fee is required by the Building and Zoning Fee Schedule, shall upon application or prior to issuance pay to the Department through the cashier the fee prescribed by the then current Building and Zoning Fee Schedule. The Building and Zoning Fee Schedule shall be posted in the offices of the Department and shall be made available upon request.
- (c) Park Fee.
  - (1) In addition to the fees and deposits required by other sections of the Codified Ordinances of Gahanna a park fee shall be paid by the developer in accordance with the following:
    - A. Residential
      1. A single-family dwelling shall be equal to a one dwelling unit.
      2. Each unit in a two-family dwelling shall be equal to one dwelling unit.
      3. Each unit in a multi-family dwelling shall be equal to one dwelling unit.
    - B. Non-Residential
      1. Each unit or room in an Extended Stay or Residential Hotel shall be equal to one dwelling unit.
      2. Each unit or room in a family care facility or independent senior living facility shall be equal to one dwelling unit.
  - (2) Such park fee shall be as established in the Building and Zoning Fee Schedule set forth in Section 135.10 of these Codified Ordinances.

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- (3) Such fee shall be collected prior to issuance of a certificate of occupancy.
  - (4) The fees so collected shall be deposited in a Park Fund for the improvement of recreational facilities within existing publicly owned and operated park facilities and the purchase of recreational equipment. Such funds shall not be used for the maintenance and operation expenses incurred by the Parks Department in the daily operation of park facilities.

(Ord. 0175-2014. Passed 12-15-14; Ord. No. 0033-2016 , § 1(Exh. A), 4-18-16)

### **135.11 FEES; EXEMPTIONS.**

- (a) The City of Gahanna, shall be exempt from fees in the Building and Zoning Fee Schedule, but must nevertheless secure the appropriate permits, file appropriate applications, and submit to inspections. This exemption shall not apply to fees that are paid to or shared with non-City employees under contract, by Code, or by Ordinance. This exemption shall also not apply to the fees required for portions of private structures utilized by the City of Gahanna. Fees shall be charged for the areas of buildings owned by the City of Gahanna that are not used exclusively by the City in accordance with the fees established in the Building and Zoning Fee Schedule.
- (b) Bona fide corporations not-for-profit, upon written request to Council, and upon approval by Council, shall be exempt from fees in the Building and Zoning Fee Schedule, but must nevertheless secure the appropriate permits, file appropriate applications, and submit to inspections. This exemption shall not apply to fees that are paid to or shared with non-City employees under contract, by Code, or by Ordinance.
- (c) Individuals or corporations claiming a hardship, upon written request to Council for a waiver or reduction of fees, and upon approval by Council, shall be exempt from or shall receive the approved reduction in the applicable fees in the Building and Zoning Fee Schedule, but must nevertheless secure the appropriate permits, file appropriate applications, and submit to inspections. This exemption shall not apply to fees that are paid to or shared with non-City employees under contract, by Code, or by Ordinance.

(Ord. 0014-2011. Passed 2-7-11; Ord. No. 0033-2016 , § 1(Exh. A), 4-18-16)

### **135.12 FEES; REFUNDS.**

- (a) All fees as enumerated in the Building and Zoning Fee Schedule are non-refundable except as otherwise denoted in this Section.
- (b) A refund shall require a refund fee to cover the cost of making the refund and/or costs incurred. This refund fee shall be deducted from any amount to be refunded.
- (c) An overpayment equal to or less than the refund fee shall be considered the refund fee and shall be added to the permit fee.
- (d) Any refund of a permit application fee submitted for land, which is later determined to be located outside the City is subject to a refund fee.
- (e) The Director of Public Service and Engineering may waive the refund fee upon determination that the refund is necessary due to an error on the part of a city employee.
- (f) The Director of Public Service and Engineering shall not refund a fee upon determination that the refund is necessary due to an error on the part of an applicant.

(Ord. No. 0033-2016 , § 1(Exh. A), 4-18-16; Ord. No. 0096-2018, § 1(Exh. A), 12-3-18 )