

**MUNICIPALITY OF NORRISTOWN**  
A HOME RULE MUNICIPALITY  
MONTGOMERY COUNTY, PENNSYLVANIA

**ORDINANCE NO. 16-12 of 2016**

**AN ORDINANCE OF THE MUNICIPALITY OF NORRISTOWN, MONTGOMERY COUNTY, PENNSYLVANIA AMENDING ARTICLE VI, TITLED FISCAL AFFAIRS, SECTION 4-35 OF THE ADMINISTRATIVE CODE TO AUTHORIZE THE CREATION OF A BID REVIEW COMMITTEE TO REVIEW AND ADVISE COUNCIL ON BID RESPONSES IN EXCESS OF BUDGETED COSTS; CLARIFY CERTAIN TERMS AND REFERENCES; REPEALING ALL INCONSISTENT ORDINANCES; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the Municipality of Norristown has previously enacted and amended its Administrative Code that contains, in part, provisions governing the requirements for public bidding and the review/award of bids;

**WHEREAS**, Norristown has in the recent past put out for public bid various public works projects that have received only bids that were in excess of the estimated budgeted costs;

**WHEREAS**, municipal staff and municipal professionals have recommended to the Norristown Municipal Council that a bid review committee should be created to allow certain municipal staff and professionals to review and evaluate the bid submitted by the lowest responsible bidder when all that bid is in excess of the estimated budgeted costs in order to better advise Council as to whether the project should be awarded, rebid or abandoned;

**WHEREAS**, after public discussion of the recommendation including public input through a public hearing, the Norristown Municipal Council desires to amend certain portions of Article VI, "Fiscal Affairs," Section 4-35 of the Administrative Code to authorize the creation of a bid review committee to review and evaluate bid submission as part of the competitive bidding process when the lowest responsible bidder's bid is in excess of the estimated budgeted costs and to make other minor corrections to Section 4-35 addressing the review and opening of bids.

**NOW THEREFORE**, be it ordained and enacted by the Municipal Council of the Municipality of Norristown this ordinance amending, deleting and adding language contained in Article VI, "Fiscal Affairs," Section 4-35 as follows:

**SECTION 1.** Article VI, "Fiscal Affairs," Section 4-35, "Contracts," of the Administrative Code shall be amended to read as follows:

§ 4-35. Contracts.

The Municipal Administrator, where funds are available, shall have the power to make contracts for purchases and employment of personnel and make expenditures pursuant to the authorization for such expenditures in the current

fiscal budget and this Administrative Code. No obligation shall be made or incurred until such time as the Director of Finance shall certify to the Municipal Administrator that sufficient unencumbered funds are available for expenditures as authorized by the budget.

A. Contracts in excess of \$18,500.

(1) Except as hereinafter mentioned, all contracts for purchases and/or expenditures in excess of \$18,500 shall be made to the lowest responsible bidder after due advertising. All such bids shall be advertised in one newspaper of general circulation in the Municipality at least two times, at intervals of not less than three days. The first advertisement shall be published no more than 45 days and the second advertisement not less than 10 days prior to the date fixed for the opening of bids. Advertisements for contracts or purchases shall also be posted in a conspicuous place within the Municipality. Advertisements for contracts or purchases shall contain the date, time and location for opening of bids and shall state the amount of the performance bond required to be posted with the Municipality.

(2) All bids shall be opened at a time and place as the Municipal Administrator may designate. Such bid openings shall be open to the public and shall be attended by at least two of the following named officials: the Municipal Administrator, the Municipal Secretary, any Council person, a Municipal department head, the Municipal Engineer, and/or the Municipal Solicitor. If, for some reason, the bids are not opened at the scheduled meeting, the time, date and place for the subsequent opening of bids shall be announced at the time of the originally scheduled bid opening.

(3) If the bid prices received are within the budget authorization, the Municipal Administrator, with the advice of staff, shall, as provided in the Home Rule Charter and this Administrative Code, award the contract to the lowest responsible bidder or in his/her sole discretion, shall reject all bids. In awarding contracts, the Municipal Administrator shall have the right to take into consideration such factors as availability, cost and quality of the product/service. If the bid prices received are in excess of the amounts authorized by the Council in the budget, the contract shall not be immediately awarded, and the excessive bids shall be reviewed by a bid review committee to be selected by the Municipal Administrator in order to present a recommendation to the Council on how to proceed on the bid, which recommendation may include rejection of all bids, acceptance of the lowest responsible bidder of the bids submitted, request to rebid, or abandonment of project.

(4) Acceptance of the bids shall be made at the time and place where the bids are received or at the time and place to be announced at the time where the bids are received and opened. If, for some reason, the contract is not awarded

at the announced meeting, then a new date for awarding the contract shall be set at the time that the bids were originally to be awarded.

(5) A bid performance bond or a certified check guaranteeing performance, in the amount of 10% of the bid, must be submitted with all bids for contract. The successful bidder shall be required to furnish a bid performance bond with suitable security in the amount of 50% of the contract to guarantee the work to be done on the contract. The successful bidder shall be required to post such other bonds, security, proof of financial responsibility or other guaranties as the Municipal Administrator deems appropriate to the performance of the contract. In exceptional circumstances, the Municipal Administrator, for good cause shown, may waive the bid bond or performance bon requirements set forth in this subsection.

(6) Contracts not requiring advertising or bidding.

- (a) Contracts involving expenditures of over \$18,500 which shall not require advertising or bidding are as follows:
- [1] Contracts for labor or services rendered by any person in his/her capacity as an officer or employee of the Municipality.
  - [2] Contracts relating to the acquisition or use of real property.
  - [3] Contracts for professional or unique services or supplies.
  - [4] Contracts for particular types, models or pieces of new equipment which are patented or copyrighted products which the Municipal Administrator, with the consent of Council, deems necessary.
  - [5] Contracts for emergency repair of public works of the Municipality.
  - [6] Contracts with other governmental entities, authorities, agencies or political subdivisions.
  - [7] Contracts for purchases/materials and other expenditures where prices and/or bids are obtained through state-approved agencies and procedures.

- (b) In making contracts of the above nature, the Municipal Administrator shall use due diligence and proper management effort to obtain the necessary product/service for a reasonable price.

(7) All contracts in excess of \$18,500 shall be in writing and shall be awarded by Municipal Council, and the contract document shall be executed by the Municipal Administrator.

B. Contracts equal to or less than \$18,500. The Municipal Administrator or his/her designee shall request written or telephonic price quotations from at least three qualified and responsible contractors for all contracts that exceed \$10,000 but are not more than \$18,500. In lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least: the date of the quotations; the name of the contractor and the contractor's representative; the construction, reconstruction, repair, maintenance or work which was the subject of the quotation; and the price. Written price quotations, written records of telephonic price quotations and memoranda shall be retained by the Municipality for a period of three years. The Municipal Administrator shall establish a purchasing policy and procedure which provides for rules and regulations for the acquisition of goods, services and other contracts required by all departments of the Municipality.

C. Interest in contracts. Except as provided in the Home Rule Charter and herein, no municipal official or employee shall be interested, directly or indirectly, in any purchase or contract made by the Municipality relating to the business of the Municipality.

D. No person, consultant, firm or corporation contracting with the Municipality for purposes of rendering personal or professional services, entering into contracts with the Municipality or involved in any financial transaction with the Municipality shall share with any municipal official or employee any portion of the compensation or fees paid by the Municipality pursuant to any municipal contract with the person, consultant, firm or corporation contracting with the Municipality.

E. Public capital improvement contracts. All contracts for the construction of public capital improvements shall first be authorized by the Municipal Council by ordinance.

**SECTION 2.** Severability. In the event that any section, sentence, clause, phrase or work of this Ordinance shall be declared illegal or unconstitutional by any court of competent jurisdiction, such declaration shall not prevent, preclude, or otherwise foreclose enforcement of any of the remaining portions of this Ordinance.

**SECTION 3.** Repealer. All ordinances or parts of ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed.

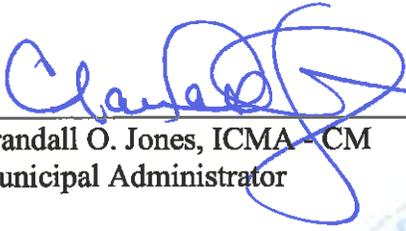
**SECTION 4.** Effective Date. This Ordinance shall take effect five (5) days following its legal enactment.

ENACTED and ORDAINED this 6<sup>th</sup> day of September, 2016.

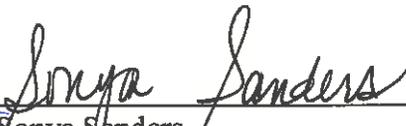
Seal:

Municipality of Norristown  
Municipal Council

Attest

  
Crandall O. Jones, ICMA - CM  
Municipal Administrator

By:

  
Sonya Sanders  
Council President

