

INTRODUCED BY: Mark Mintz

ORDINANCE NO. 2011-98

AN ORDINANCE AUTHORIZING RELEASE OF THE RETAINER TO PANZICA CONSTRUCTION, INC. AND AUTHORIZING THE MAYOR TO WITHHOLD FIFTY THOUSAND DOLLARS FROM SUCH PAYMENT.

WHEREAS, the City entered into a Contract with Panzica Construction, Inc. (“Panzica”) for the renovation of the Municipal Service Center in Beachwood, Ohio; and

WHEREAS, the Contract provides for a retainage of ten percent (10%) of the Contract amount; and

WHEREAS, this Council, on February 22, 2011, adopted Ordinance No. 2011-39, authorizing a release of the contract retainage for the Municipal Service Center to Panzica in the amount of five percent (5%) of the contract amount, or Two Hundred Five Thousand Five Hundred Sixty Dollars and No/Cents (\$205,560.00), contingent upon a satisfactory resolution of the outstanding punch list items and further contingent upon completion of certain punch list items; and

WHEREAS, the Contract defines substantial completion as “the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or use the Work or a portion thereof for its intended use;” and

WHEREAS, the Service Department now occupies the Municipal Service Center; and

WHEREAS, the Contract provides for final payment and release of any remaining retainage upon final completion; and

WHEREAS, upon occupancy of the Municipal Service Center, the City discovered additional punch list items that require the assistance of Panzica and/or correction by Panzica; and

WHEREAS, final completion cannot occur until completion of the additional punch list items; and

WHEREAS, Panzica has requested release of the remaining retainage minus the sum necessary to ensure resolution of the additional punch list items; and

WHEREAS, the administration has advised this Council that Fifty Thousand Dollars and No/Cents (\$50,000.00) is sufficient to ensure the resolution of the additional punch list items; and

WHEREAS, this Council desires to release the remaining retainage minus Fifty Thousand Dollars and No/Cents (\$50,000.00) contingent upon Panzica’s compliance with the retainage release provisions set forth in the Contract; and

WHEREAS, such retainage release provisions include a payroll affidavit, insurance certificate, a written statement regarding insurance coverage, consent of surety, maintenance bond, and any other information required by the City; and

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WHEREAS, the current retainage amount is Three Hundred Thirteen Thousand Seven Hundred Seventy-Eight Dollars and No/Cents (\$313,778.00); and

WHEREAS, Two Hundred Sixty Three Thousand Seven Hundred Seventy- Eight Dollars and No/Cents (\$263,778.00) is the retainage amount recommended to be released to Panzica upon submission of the necessary information required by the Contract; and

WHEREAS, the Fifty Thousand Dollars and No/Cents (\$50,000.00) remaining in retainage shall not be released until satisfactory resolution of any and all additional punch list items and compliance with the Contract terms.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga, and State of Ohio; that

Section 1: Based upon the recommendation of the administration, Council authorizes the release of the remaining retainage for the Municipal Service Center to Panzica minus Fifty Thousand Dollars and No/Cents (\$50,000.00), or release of an amount of Two Hundred Sixty Three Thousand Seven Hundred Seventy- Eight Dollars and No/Cents (\$263,778.00), upon Panzica’s submittal of all information required by the Contract for release of said retainage.

Section 2: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105, Codified Ordinances of the City.

Section 3: This Ordinance is hereby declared an urgent measure which is immediately necessary for the public peace, health or safety or the efficient operation of the City; and for the further reason that it is necessary to immediately establish a formal policy on member participation through teleconferencing, videoconferencing, and other technology as such policy will enable members of Council to more efficiently perform their duties.

WHEREFORE, this Ordinance shall take effect and be in force from and after the earliest date permitted by law.

Attest: I hereby certify that this legislation was duly adopted on the 18th day of July, 2011, and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 19th day of July, 2011.

Clerk

Approval: I have approved this legislation this 19th day of July, 2011, and filed it with the Clerk.

Mayor