

"Under statutes requiring contracts to be let to the lowest bidder, the city council cannot substantially vary the terms and conditions of a contract entered into under competitive bid; since it would destroy the advantage intended to be secured by such method of entering into the contract."

In the case of *Chicago vs. Duffy*, 117 Ill. App. 261, the following was held:

"The mayor and other officers of the city of Chicago have no authority to enter into a supplemental contract substantially modifying a previous one let (as it was required by statute to be) to the lowest responsible bidder."

In this case the court said that to hold otherwise would nullify the statute and "would open wide the door to fraud, destroy competition, and enable city officials to do indirectly what in express terms they are forbidden from doing by the statute."

In the case of *Gano vs. Eshelby*, *supra*, Taft, J., said:

"In the case at bar, the board in fact, \* \* \* abolished the one requirement of the law more important than all others, in securing economy and honesty in public works, i. e., competitive bidding."

I am of the opinion, therefore, that where a municipality has entered into a contract whereby it leased real estate owned by it and not needed for any municipal purpose, to the highest bidder after authorization and advertisement as required by section 3699, General Code, neither the council nor any other officer of such municipality has the power substantially to modify any of the terms of said lease, or to reduce the amount of the rent therein provided for.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

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4220.

APPROVAL, CONTRACT BETWEEN THE STATE OF OHIO AND THE GENERAL ELECTRIC COMPANY OF SCHENECTADY, NEW YORK, FOR SWITCHBOARD AND BUS-TIE TRANSFORMER FOR OHIO PENITENTIARY, COLUMBUS, OHIO, AT AN EXPENDITURE OF \$29,027.00—SURETY BOND EXECUTED BY THE NEW YORK CASUALTY COMPANY OF NEW YORK, N. Y.

COLUMBUS, OHIO, April 1, 1932.

HON. JOHN MCSWEENEY, *Director of Public Welfare, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by the Department of Public Welfare, and the General Electric Company of Schenectady, New York. This contract covers the construction and completion of Switchboard and Bus-Tie Transformer Equipment for the Ohio

Penitentiary, Columbus, Ohio, in accordance with the Form of Proposal dated March 4, 1932. Said contract calls for an expenditure of twenty-nine thousand and twenty-seven dollars (\$29,027.00).

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. You have also furnished evidence to the effect that the consent and approval of the Controlling Board to the expenditure have been obtained as required by section 8 of House Bill No. 624 of the 89th General Assembly. In addition, you have submitted a contract bond, upon which the New York Casualty Company of New York, N. Y., appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law and the contract duly awarded. Also, it appears that the laws relating to the status of surety companies and the workmen's compensation have been complied with.

Finding said contract and bond in proper legal form I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

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4221.

APPROVAL, NOTES OF CUYAHOGA FALLS CITY SCHOOL DISTRICT,  
SUMMIT COUNTY, OHIO—\$50,000.00.

COLUMBUS, OHIO, April 1, 1932.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*

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4222.

VILLAGE MĀYOR—MAY VOTE ON CONFIRMATION OF HIS OWN  
APPOINTMENT AS STREET COMMISSIONER.

*SYLLABUS:*

*A mayor of a village may cast the deciding vote, in case of a tie, on the question of confirming his appointment of a street commissioner.*

COLUMBUS, OHIO, April 1, 1932.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—I am in receipt of your recent communication which reads in part as follows: