Senator George Lang
Senate Bill 23
Sponsor Testimony
Senate Government Oversight Committee
February 22, 2023

Chairwoman Roegner, Vice Chair Antani, Ranking Member Hicks-Hudson, and other members of the Senate Government Oversight Committee, thank you for the opportunity to provide sponsor testimony on Senate Bill 23, which seeks to expand political subdivision joint purchasing authority to expressly include purchases for construction services.

The Ohio General Assembly authorized joint purchasing for local governments in 1997, and for all political subdivisions in 2008. Today, political subdivisions which include municipal corporations, townships, counties, school districts, hospital commissions, regional planning commissions, regional council of governments, emergency

planning districts, fire and ambulance districts, and community-based correction facilities all benefit from the use of joint purchasing.

Under current law, any political subdivision may permit another political subdivision to participate in a contract that it entered for the acquisition of equipment, material, supplies, or services. This is known as a joint purchasing agreement.

The use of this established and time-tested method of procurement directly benefits Ohio taxpayers by streamlining the procurement process, which results in administrative time and cost savings, and quicker completion schedules. Joint purchasing programs also provide access to lower prices through pooled buying power. And this procurement tool promotes local control and local government flexibility.

In 2019, the Ohio Attorney General issued an opinion in which it was determined that under ORC Section 9.48, construction services were not among the allowed items for a political subdivision to

acquire under a joint purchasing authority. This decision was contrary to how this law has been operating since 1997. Unfortunately, the Attorney General's opinion, which is ONLY a legal opinion and NOT Ohio law, has created ambiguity among local governments that use this authority.

SB 23 seeks to provide clarity to this section of Code and allow for the efficient, expedited, and professional process of contract administration for public administrations. Acquisitions by a political subdivision participating in a contract entered into by another political subdivision are exempt from any further competitive selection requirements because the political subdivision with the contract already satisfied the competitive selection requirements. It should also be noted that the use of joint purchasing agreements between political subdivisions for cooperative procurement is an option, and not a mandate. Should it so choose, a political subdivision may utilize the traditional RFP requirements and guidelines at any time.

Lastly, SB 23 does not include professional design services, defined as services within the scope of practice of an architect or landscape architect registered under Chapter 4703 of the Revised Code or a professional engineer or surveyor registered under Chapter 4733 of the Revised Code, as subject to construction services allowed under joint purchasing agreements. These professional design services are covered under ORC Section 153.65 (Qualified Based Selection or QBS) which enables the project owner to select the most qualified design professional, at a fair and reasonable cost, for the project in question.

In summation, SB 23 is a business-friendly bill that simply intends to reverse the course of the 2019 Attorney General's opinion and codify the once-allowed inclusion of construction services under joint purchasing authority between subdivisions. Joint purchasing has proven to be an open, transparent, competitive public procurement process, and that is why it's been labeled a "best practice" for

government procurement officials by The National Institute for Government Procurement and recognized by the American Bar Association in its Model Procurement Code.

I would once again like to thank the committee for allowing me the opportunity to testify on Senate Bill 23, and I would be happy to answer any questions.