

## ANN ARBOR CITY APPROVAL NOTICE

ORDINANCE NO. ORD-21-41

### CHAPTER 14 (PURCHASING, CONTRACTING AND SELLING PROCEDURE)

AN ORDINANCE TO AMEND CHAPTER 14 (PURCHASING, CONTRACTING AND SELLING PROCEDURE) OF TITLE I (ADMINISTRATION) OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor ordains:

Section 1. That Sections 1:311, 1:312, 1:313, 1:314, 1:315, 1:316, 1:317, 1:318, 1:319, 1:321, 1:322, 1:323 and 1:324 be amended as follows:

#### **1:311. Procurement/purchasing; purchasing agent; application of chapter.**

~~Procurement/purchasing, accounting services unit primary function is to assist the various services areas/units in securing the best products, repairs and services available for the purposes intended in the most efficient and economical manner possible and to ensure all acquisitions of products, repairs and services are made in conformance with City Charter and Code requirements and established operational procedures.~~

(1) The City Administrator shall adopt necessary operational policies or procedures for all Citythe p~~Procurement of goods and services and to implement the requirements of this chapter.~~ No contract for the purchase of ~~services, goods or construction~~Goods or Services shall be entered into, with the exception of emergency purchases, unless: (1) the service area administrator approves the contract as to substance and certifies that there is a sufficient unencumbered balance in the budget or appropriation against which the charge for the purchase is to be made; and (2) ~~unless~~ the City Attorney's office has approved the contract, ~~bond~~Bond and insurance, as applicable, as to form. No service area, officer, ~~or employee,~~ or agent of the ~~city~~City shall be empowered to execute any purchase order, change order, agreement or contract except as authorized by this chapter. Failure to comply with this chapter shall render a contract voidable.

(2) The City Administrator shall designate a p~~Purchasing a~~Agent for the ~~city~~City. ~~The Purchasing Agent shall serve as the principal public purchasing official for the city. He/she shall be responsible for the procurement of goods and service, and construction as well as disposing of city assets in accordance with this chapter.~~

~~(2)~~(3) This chapter does not apply to contracts for City employment, including collective bargaining agreements.

(Ord. No. 07-61, § 2, 1-22-08; Ord. No. 19-23, § 1, 7-15-19)

### 1:312. Definitions.

The following words and phrases used in this chapter, unless a different meaning is clearly required by the context, shall have the following meanings:

- (1) *Available for ~~Public~~ Inspection* means one or more of the following: posting, electronically and/or on-site at designated public information boards or other locations; depositing with agencies ~~provided~~ providing unrestricted, no-charge access to public records; or otherwise providing for immediate access to and inspection of bids and proposal documents by prospective bidders, subcontractors, suppliers, and the public.
- (2) *Bonds* means specific security required as part of P~~ro~~urement ~~of goods and services~~ and includes, but is not limited to:
  - a. *Bid ~~S~~ecurity ~~b~~Bond*: A bond provided by a guarantor, satisfactory to the city~~City~~ and authorized to do business in the state, or the equivalent in cash, or otherwise supplied in a form acceptable to city~~City~~ and approved by the City Attorney to ensure that a bidder shall not withdraw its bid.
  - b. *Payment ~~b~~Bond*: A bond provided by a guarantor, satisfactory to the city~~City~~ and authorized to do business in the state, or the equivalent in cash, or otherwise supplied in a form acceptable to the city~~City~~ and approved by the City Attorney, which assures payments, as required by law, to all persons supplying labor or material for completion of work under the contract.
  - c. *Performance ~~b~~Bond*: A bond provided by a guarantor, satisfactory to the city~~City~~ and authorized to do business in the state, purchased by the successful bidder to protect the city~~City~~ from loss if the bidder is unable to complete the contract as agreed and which secures the fulfillment of all contract requirements.

~~City may require other forms of bonds, or in addition to or in lieu of bonds any other form of security deemed in the best interest of the city.~~

- ~~(3) *City* means the City of Ann Arbor, its service areas and their component units.~~
- ~~(3) *Goods* means one or more item of personal property, supplies, materials, equipment, or other goods.~~
- ~~(4) *Contract* means the total legal obligation resulting from the parties' agreement as affected this chapter and other applicable law but not including collective bargaining agreements.~~
- ~~(5) *Contractor* means any person or entity having a contract with the city~~City~~.~~
- ~~(6) *Cooperative purchasing* means the combination of procurement requirements of 2 or more government or public agencies in order to obtain the benefits of volume purchases and/or reduction in administrative expenses.~~

~~(7) *Environmentally preferable products* means goods and materials that have a less adverse impact on human health and the environment when compared with competing goods and materials. This comparison shall consider raw materials acquisition, production, manufacturing, packaging, distribution, re-use, operation, maintenance, and waste management of the good or material.~~

~~(8) *Environmentally preferable services* means services that have a more beneficial or less adverse impact on human health and the environment when compared with competing services.~~

(9)(4) *E-Publishing* means the process of publishing ITB, RFP, and RFI document electronically on the internet directly or through a bid notification system such as the Michigan Intergovernmental Trade Network (MITN) e-procurement initiative or similar internet site.

(10)(5) *Invitation to Bid (ITB)* means a formal request to prospective ~~vendor~~Vendors soliciting price quotations or bids; and which contains, or incorporates by reference, the specifications or scope of work and all contractual terms and conditions.

(11)(6) *Local vVendor* means a vVendor that operates a business within the legal boundaries of the City of Ann Arbor. To be considered a local vVendor, the vVendor must have a verifiable business address (not a P.O. Box) at which business is being conducted and the vVendor must also agree to comply with all other policies and requirements of the ITB/RFP.

(12)(7) *Non-responsive Bid* means a bid/RFP response that does not conform to the mandatory or essential requirements of the ITB/RFP.

(13)(8) *Procurement* means buying, purchasing, renting, leasing, or otherwise acquiring any Goods or Services~~supplies, services or construction~~. It also includes all functions that pertain to the obtaining of any supply, service or construction~~Goods or Services~~, including description of requirements, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration.

(14)(9) *Professional services* means a type of sServices rendered by members of a recognized profession or specialty which involve ~~extended~~ analysis, exercise of discretion, and independent judgment in their performance, and an advanced, specialized type of knowledge, expertise, or training customarily acquired either by a prolonged course of study or equivalent experience in the field, and for these reasons are unique and not subject to price competition in the usual sense. Examples of "pProfessional sServices" typically acquired by the city~~City~~ include appraisal, architectural and engineering services, software development/design, legal services, and medical services.

~~(15) *Quality based selection* means a professional service provider selection based on demonstrated competence and qualifications followed by contract negotiation with the most qualified firm relative to fair and reasonable compensation.~~ (16)

~~(10)~~ Purchasing Agent means ~~the designated agent for the city and any employee or contractor of the city assigned by the agent any duty or empowered to perform any act or duty.~~ the principal public purchasing official for the City, or their designee, who is responsible for overseeing and coordinating City Procurement and disposal of City assets.

~~(17)~~(11) Request for ~~i~~information (RFI) means a request to potential bidders for information concerning an item or service that will assist the responsible service area of the ~~city~~City in the development of contract specifications.

~~(18)~~(12) Request for ~~Q~~quote (RFQ) means an informal solicitation or request for information, where oral or written quotes are obtained from ~~vendor~~Vendors, without formal advertising or receipt of "sealed" bids. ~~Used only where ordinance does not require formal "sealed" bids, such as small emergency purchases, but price competition is desired.~~

~~(19)~~(13) Request for ~~P~~proposal (RFP) means a more detailed, formal competitive bid solicitation method used ~~for requirements exceeding authorized limits~~ when it is expected that negotiations with 1 or more bidders may be required with respect to any aspect of the contract requirements, ~~or other factors will be considered in the selection of the contractor/consultant in addition to price.~~

~~(20)~~ Responsible bidder means:

~~(a)~~ For purchases or contracts for supplies, materials, equipment or other expenditure obligating the city in excess of \$25,000.00, a person who has the capability in all respects to perform fully the contract requirements and who fits the criteria identified in the invitation for bids.

~~(b)~~ For construction projects, a person or entity who has the capability in all respects to perform fully the contract requirements, fits the criteria identified in the invitation for bids, and who submits documentation or information meeting the following requirements for projects or contracts within the following tiers of estimated value:

~~(i)~~ Tier 1 — In excess of \$25,000.00 to \$100,000.00:

- ~~1.~~ Bidder's state and local licenses, including license number(s), along with a statement confirming that all subcontractors, employees and other individuals working on the construction project will maintain current applicable licenses required by law for all licensed occupations and professions.
- ~~2.~~ The qualifications of management and supervisory personnel to be assigned by the bidder to the project.
- ~~3.~~ A statement from bidder that construction workers will not be misclassified as independent contractors in violation of state or federal law.
- ~~4.~~ A statement from the bidder as to what percentage of its work force resides within the City of Ann Arbor, and what

~~percentage resides in Washtenaw County, Michigan, and the same information for any subcontractors.~~

- ~~5. Documentation as to employee pay rates and whether the bidder provides health insurance, pension or other retirement benefits, paid leave, or other benefits to its employees.~~
- ~~6. A list of portions of the project bidder reasonably believes will be subcontracted, if applicable, and the names of the subcontractors.~~
- ~~7. Assurance that bidder is an equal opportunity employer and does not discriminate on the basis of race, sex, pregnancy, age, religion, national origin, marital status, sexual orientation or gender identity, height, weight, or disability.~~
- ~~8. Evidence of bidder's equal employment opportunity programs for minorities, women, veterans, returning citizens, and small businesses.~~
- ~~9. Proof of insurance for the project, including certificates of insurance, confirming existence and amount of coverage for liability, property damage, workers compensation, and any other insurances required by the proposed contract documents.~~
- ~~10. References from individuals or entities the bidder has worked for within the last 5 years.~~
- ~~11. A list of projects completed within the past 5 years of comparable size/complexity, including dates, clients, approximate dollar value, and size.~~
- ~~12. Bidder's debarment by any federal, state or local governmental unit and/or findings of non-responsibility or non-compliance with respect to any public or private construction project performed by the bidder.~~
- ~~13. A list of all of bidder's litigation and arbitrations currently pending and within the past 5 years, including an explanation of each (parties, court/forum, legal claims, damages sought, and resolution).~~
- ~~14. Bidder's violations of state, federal or local laws or regulations, including OSHA or MIOSHA violations, state or federal prevailing wage laws, wage and hour laws, worker's compensation or unemployment compensation laws, rules or regulations, issued to or against the bidder within the past 5 years.~~
- ~~15. Whether a fitness for duty program (drugs and alcohol) will be used for employees working on the proposed job site, and if so, a description of the program.~~

~~(ii) Tier 2 — \$100,001.00 to \$250,000.00:~~

- ~~1. All Tier 1 requirements.~~
- ~~2. Whether bidder has a MIOSHA-approved safety training program for employees to be used on the proposed project job site, and if not, whether bidder has a safety training program.~~
- ~~3. Bidder's current workers compensation experience modification rating ("EMR").~~
- ~~4. Whether masters, journeypersons, and/or apprentices are to be used on the project, and if so, the ratio of masters and journeypersons to apprentices proposed to be used on the construction project job site, documentation of master or journeyperson certification or status and the source for same, and if not, the qualifications of employees who will be assigned to work on the project.~~
- ~~5. Whether the bidder participates in a registered apprenticeship program (RAP) registered with the United States Department of Labor Office of Apprenticeship or by a State Apprenticeship Agency recognized by the Office of Apprenticeship, and if not, bidders program for assessing the skills and qualifications of its employees.~~
- ~~6. Verification that the bidder is in compliance with all applicable state and federal laws and visa requirements regarding the hiring of non-U.S. citizens, and disclosure of any work visas sought or obtained by the bidder, any of the bidder's subcontractors, or any of the bidder's employees or independent contractors, in order to perform any portion of the project.~~

~~(iii) In excess of \$250,000.00:~~

- ~~1. All Tier 1 and 2 requirements.~~
- ~~2. Bidder's audited financial information current within the past 12 months, such as a balance sheet, statement of operations, and bonding capacity. Evidence that bidder has financial resources to start up and follow through on the project(s) and to respond to damages in case of default as shown by written verification of bonding capacity equal to or exceeding the amount of the bidder's scope of work on the project. The written verification must be submitted by a licensed surety company rated "B+" (or better) in the current A.M. Best Guide and qualified to do business within the State of Michigan, and the same audited financial information for any subcontractor estimated to be paid more than \$100,000.00 related to any portion of the project.~~

3. ~~Evidence of any quality assurance program used by the bidder and the results of any such program on the bidder's previous projects.~~

~~(21)~~(14) *Responsive Bidder* means a person or entity who has submitted a bid, which conforms in all respects to the requirements set forth in the ITB/RFP or other solicitation invitation for bids.

~~(22)~~(15) *Services* means the furnishing of labor, ~~time~~skill, advice, or effort, as opposed to furnishing Goods. ~~by a contractor not required to deliver a specific end product, other than reports which are merely incidental to required performance.~~ This term includes ~~consultant services other than architectural, engineering, land surveying, construction management, and related services.~~

~~(23)~~ *Sole source* means the only known vendor possessing the unique and singularly available capability based on technical qualifications, time constraints, or personnel expertise, to meet the requirements of the solicited bid/RFP.

~~(24)~~ *Subcontractor* means any person having a contract to perform work or render service to a prime contractor as a part of the prime contractor's agreement with the city.

~~(25)~~ *Supplies* means all personal property including but not limited to equipment, materials, printing, and insurance.

~~(26)~~ *Tie bid* means bids that are equal in all aspects (price, quality, specifications, etc.)

~~(27)~~(16) *Vendor* means any person or entity who offers gGoods for purchase or Sservices for hire.

(Ord. No. 07-61, § 2, 1-22-08; Ord. No. 09-16, § 1, 5-18-09; Ord. No. 20-21 , § 1, 7-20-20)

### **1:313. Purchases or contracts of ~~\$25,000.00~~\$75,000.00 or less.**

~~(1) — The City Administrator may make purchases and enter contracts for Services under \$75,000.00 without Council approval. Purchases of supplies, materials or equipment, the cost of which is \$25,000.00 or less, may be made in the open market but such purchases shall, where practicable, be based on at least 3 competitive bids and shall be awarded to the lowest responsible bidder. Competitive bids shall be solicited through a traditional sealed bid procedure, or alternative means, including but not limited to E-Publishing and electronic submission or reverse auction methods providing the method used preserves the integrity of the competitive bid process and is in accordance with adopted administrative policies and published operational procedures of the procurement unit. Any or all bids may be rejected. The City Administrator is authorized to purchase personal property or to contract for the purchase of personal property or services without the necessity of Council approval in cases where the total amount of the purchase will not exceed \$25,000.00. When a purchase or contract for s~~Services exceeds ~~\$25,000.00~~\$75,000.00, it must be approved by the City Council. The City Administrator shall adopt policies or procedures for the

Procurement authorized in this section, which in the City Administrator's determination provide the overall best value to the City. The City Administrator's policies and procedures shall ~~adopt rules to prevent~~not permit purchases inconsistent with this chapter. The Purchasing Agent shall ~~may~~ publish operational procedures, after approval by the City Attorney, to the extent necessary or appropriate to implement the City Administrator's policies and procedures~~administrative rules~~.

(Ord. No. 07-61, § 2, 1-22-08; Ord. No. 09-16, § 2, 5-18-09)

### **1:314. Purchases or contracts over ~~\$25,000.00~~75,000.00.**

Any expenditure for Goods or Services~~supplies, materials, equipment, construction project~~, or a contract obligating the city~~City~~, where the amount of the city~~City~~'s expenditure or obligation is in excess of ~~\$25,000.00~~75,000.00 shall be governed by the provisions of this section.

- (1) Notice ~~inviting requesting~~ competitive bids, whether- a traditional sealed bid procedure, E-Publishing and electronic submission, reverse auction, or other bidding method, through any of the means specified in section 1:313 above shall be made ~~a~~Available for ~~p~~Public ~~i~~inspection at least 5 business days before the final date for submitting bids thereon, and, in the case of contracts requiring bidders to prequalify, at least 5 business days before the final date for submission of sworn statements. Such notice shall give briefly the specifications of the Goods, Services~~supplies, materials or equipment or construction project~~, or other matter to be contracted for, and shall state the amount of ~~bond~~Bond or other security, if any is to be required, to be given with the contract. The notice shall state the time limit, the place of filing, the time of opening bids, and notice of any mandatory pre-bid meeting (if applicable), and shall also state that the right is reserved to reject any or all bids. Any other conditions of award of the contract shall also be stated in general terms. In the case of contracts over ~~\$25,000.00~~75,000.00 for the construction, maintenance, or repair of public works, the City Administrator may elect to use the prequalification procedure provided for in the notice shall state that bidders must prequalify as required by this chapter.
- (2) If requested by the S~~service~~ A~~area~~ A~~administrator~~, the Purchasing Agent shall also solicit bids from a reasonable number of qualified prospective bidders by sending each a copy of the notice requesting bids, which and notice ~~thereof~~ shall also be posted in the City Hall. Solicitation under this subparagraph may be made by any and all available means, including but not limited to electronic mail groups (e.g. ListsServs) and professional organizations' electronic bulletin boards.
- (3) Unless ~~prescribed~~set by ~~the~~the City Council, the S~~service~~ A~~area~~ A~~administrator~~ shall ~~prescribe~~set the amount of any security to be deposited with any bid, which deposit shall be in the form of cash, certified or cashier's check, or ~~b~~Bond written by a surety company authorized to do business in the State of Michigan. The amount of such security shall be expressed in terms of percentage of the bid submitted. Unless ~~fixed~~set by ~~the~~the City Council, the



~~S~~service ~~A~~area ~~A~~administrator, after consultation with the City Attorney as appropriate, shall ~~fix-set~~ the amount of the performance ~~b~~Bond and, in the case of construction contracts, the amount of the labor and material ~~b~~Bond to be required of the successful bidders. Unless otherwise allowed under the City Administrator's adopted operational policies and procedures specified in section 1:313 above~~this chapter~~, ITBs which require a ~~b~~Bid Security ~~b~~Bond or other forms of ~~b~~Bonds, may not be submitted electronically.

- (4) Vendors shall submit bids documents for all projects in the format specified in the notice requesting bids, which may, except as prohibited by subsection 1:314(3) above, be an electronic file format by email, compact disc, or traditional sealed bid, so long as the format selected preserves the integrity of the competitive bid process. The Purchasing Agent shall include a statement in ~~all bid documents~~each request for bids indicating whether electronic signature is acceptable where certification of documents is required and if not, the requirements for separate submission of executed and sealed documents required by the bid documents (including but not limited to construction drawings, ~~bond~~Bonds written by a surety company, and similar documents). The Purchasing Agent shall establish a secure submission procedure when electronic transmittal is allowed for estimates, quotes, and cost proposals (such as assigned passwords or other restricted access processes).
- (5) Bids shall be opened in public by the Purchasing Agent (unless another employee is designated by the City Administrator) and ~~a~~Available for ~~p~~Public ~~i~~inspection at the time and place and manner designated in the notice requesting bids. The bids shall thereupon be carefully examined and tabulated. After tabulation, all bids may be inspected by the competing bidders. If the bid amount is in excess of ~~\$25,000.00~~75,000.00, the tabulation of the bids shall be reported to ~~the~~City Council with the recommendation of the City Administrator for award to the bidder that provides the best value to the City.
- (6) At the time bids are submitted to ~~the~~City Council for award, the contract to be executed shall also be submitted. If ~~the~~City Council approves a bid, it shall approve the contract. The contract shall be executed following the filing of required ~~bond~~Bonds and insurance evidence approved by the City Attorney. ~~The~~City Council shall have the right to reject any or all bids and to waive irregularities in bidding and to accept bids which do not conform in every respect to the bidding requirements. If all bids are rejected, or if no bids are received, City Council may obtain new bids or authorize the City Administrator to negotiate in the open market for a contract at a reasonable price, or to purchase in the open market, or to have the work performed by City employees.
- (7) At the time any public works construction, maintenance, or repair contract is executed by a contractor, the contractor shall file a ~~bond~~Bond executed by a surety company, authorized to do business in the State of Michigan, to the ~~city~~City, conditioned upon the performance of said contract and holding the ~~city~~City harmless from all expense of inspection, engineering, and otherwise caused by the delay in the completion of any improvement and further

conditioned to pay all laborers, mechanics, subcontractors, and material suppliers as well as all just debts, dues, and demands incurred in the performance of such work. Such contractor shall also submit to the cityCity proof of insurance, naming the cityCity as an insured party and holding the cityCity harmless from all liability, losses, or damages caused by the contractor, the contractor's agents, employees, or subcontractors. Such insurance policy shall have limits as determined by the cityCity. Evidence of the insurance must comply with the requirements set forth in the contract documents. In the discretion of the City Administrator, the bondBond requirement may be waived for contracts of less than \$50,000.00.

- (8) All bids, deposits of cash, or certified or cashier's checks may be retained until the contract is awarded and signed. If any successful bidder fails or refuses to enter into the contract within 10 days after the same has been awarded or such other timeline set forth in the contract documents, or fails or refuses to file any bondBond required within the same time, the deposit accompanying the bid shall be forfeited to the cityCity, and the City Council may, in its discretion, award the contract to the next lowest responsible bidder that provides the next best value to the City or said the contract may be readvertised put out for bid again or abandoned.

- (9) The City Administrator shall adopt policies or procedures for determining which bidder provides the best value to the City for the purpose of providing a recommended bidder to City Council. The City Administrator shall direct the creation of scoring rubrics for evaluating construction bids in the following manner:

(a) Each responsive bidder shall have their bid evaluated qualitatively by the following criteria:

i. Price

ii. Qualifications, Experience and Accountability

1. Qualifications and experience of the bidder and of key persons, management, and supervisory personnel to be assigned by the bidder.
2. References from individuals or entities the bidder has worked for within the last 5 years including information regarding records of performance and job site cooperation.
3. Evidence of any quality assurance program used by the bidder and the results of any such program on the bidder's previous projects.
4. A statement from the bidder as to any major subcontractors it expects to engage including the name, work, and amount.

iii. Workplace Safety

1. Documentation of an on-going, Michigan OSHA-approved safety-training program for employees to be used on the proposed job site.

2. Evidence of the bidder's worker's compensation Experience Modification Rating ("EMR"). Preference within this criterion will be given to an EMR of 1.0 or less based on a three-year average.
3. Evidence that all craft labor that will be employed by the bidder for the project has, or will have prior to project commencement, completed at least the OSHA 10-hour training course for safety established by the U.S. Department of Labor, Occupational Safety & Health Administration.
4. The safety record of bidder and major subcontractors, including OSHA, MIOSHA, or other safety violations.

#### iv. Workforce Development

1. The ratio of masters or journeypersons to apprentices proposed to be used on the construction project job site, if apprentices are to be used on the project.
2. Documentation as to bidder's pay rates, health insurance, pension or other retirement benefits, paid leave, or other fringe benefits to its employees.
3. Documentation that the bidder participates in a Registered Apprenticeship Program that is registered with the United States Department of Labor Office of Apprenticeship or by a State Apprenticeship Agency recognized by the USDOL Office of Apprenticeship.

#### v. Social Equity and Sustainability

1. A statement from the bidder as to what percentage of its workforce resides in the City of Ann Arbor and in Washtenaw County, Michigan. The City will consider in evaluating which bids best serve its interests, the extent to which responsible and qualified bidders are able to achieve this goal.
2. Evidence of Equal Employment Opportunity Programs for minorities, women, veterans, returning citizens, and small businesses.
3. Evidence that the bidder is an equal opportunity employer and does not discriminate on the basis of race, sex, pregnancy, age, religion, national origin, marital status, sexual orientation, gender identity or expression, height, weight, or disability.
4. The bidder's proposed use of sustainable products, technologies, or practices for the project, which reduce the impact on human health and the environment, including raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, and waste management.

5. The bidder's environmental record, including findings of violations and penalties imposed by government agencies.

(b) The following criteria may also be included at the City's discretion:

i. Work Plan

1. The proposed work plan to complete the project including such information as the schedule, staging, materials and equipment to be used, methods and techniques for completing the work that will be employed, plans to maintain operations at City facilities or access to city infrastructure during construction if desired by the City, or other criteria as determined by the City in the bid documents.

(c) Each evaluation criteria (Price, Qualifications, Experience and Accountability, Workplace Safety, Workforce Development, Social Equity and Sustainability, and/or Work Plan) shall be weighted equally in terms of numerically scoring a bid.

(Ord. No. 07-61, § 2, 1-22-08; Ord. No. 09-16, § 3, 5-18-09)

**1:315. Public works, qualifications required.**

(1) Pursuant to Act 170 of the Public Acts of 1933, State of Michigan, as amended (MCL 123.501 et seq.), the City Administrator may require the prequalification of prospective bidders for public works improvements (i.e., construction, maintenance and/or repair of public works, except public buildings). This section 1:315 only applies when such prequalification is required. If prequalification is required, no bids shall be received from any person (as defined in Act 170 of 1933) who has not submitted the sworn statement herein required for such contracts, nor shall any bid be considered or accepted from any person who has not been found qualified and fitted to perform the work in accordance with the terms of this section and pursuant to the procedure herein prescribed. Prequalification, as herein prescribed, shall be required of all bidders on public works improvements exceeding a total cost of \$5,000.00 or such other amount as may be established by the City Administrator whenever Bonds are not submitted to insure contract performance and payment of laborers and materialmen.

(2)(1) Not later than 10 days prior to the time of the opening of bids for public works improvements in the City of Ann Arbor, every prospective bidder shall file with the City Clerk a sworn statement in answer to a questionnaire or inquiry of standard form available from and furnished by the procurement unit Purchasing Agent setting forth his-the bidder's qualifications to satisfactorily carry out the work to be performed within the time stipulated or certify that he the bidder is prequalified by the Michigan State Highway Department to do the work required. Said qualifications include statements of the construction equipment and facilities available for use on the work advertised, his-the bidder's past performance on work of a similar nature and his-the bidder's

financial resources. Such statements shall designate and describe the plant, equipment, and facilities of the prospective bidder, relate ~~his~~ the bidder's experience in doing the same or similar work and disclose ~~his~~ the bidder's financial resources, specifying the amount of ~~his~~ liquid and other assets and liabilities and the number and amount of ~~his~~ other existing contracts or commitments, including and indicating those with the city ~~City~~, and such other information as shall be required on the inquiry or questionnaire form. Such statements shall be and remain confidential and shall not be imparted to another person without the written consent of the prospective bidder unless disclosure is required by law, ~~provided, however, that any A~~ prospective bidder who has previously been judged qualified for work of a similar nature by the city ~~City~~ within 1 year from the date of a bid opening need not separately qualify for such public contracts unless required to do so by the procurement unit ~~Purchasing Agent~~. The Purchasing Agent or designee shall ~~thereupon, within 5 days,~~ examine said statements and shall make such investigation as, in ~~his~~ her ~~the Purchasing Agent's~~ discretion, appears necessary, and ~~thereupon~~ shall, at least 5 days before bids are opened, immediately notify, by registered mail at the address given in the statement or electronically to an electronic address given in the statement, each of the persons who have submitted statements ~~whether or not~~ if their bid on said work will not be considered if submitted.

~~(3)~~(2) Any prospective bidder who has been notified that their bid will not be considered may, within 24 hours after the receipt of such notice, request a review of ~~the matter before~~ by the City Council Administrator of the decision not to consider their bid.

~~(4)~~(3) Any prospective bidder aggrieved by the determination of the city ~~City~~ shall have the right of appeal by mandamus, certiorari, or other proper remedy to the applicable court of jurisdiction. A bidder is not required to request a review before City Council Administrator prior to seeking judicial review.

~~(5)~~(4) Should any of the matters or things set forth in the sworn statement or questionnaire submitted by a prospective bidder as provided in subparagraph (1) of this section ~~section 1:315(2)~~, or which may be submitted at any hearing provided for in section 1:315(3) subparagraph (2) of this section, be found to be false, deceptive, or fraudulent, the person who filed or caused to be filed such statements or so testified at any hearing shall be guilty of a violation of this Code.

~~(6)~~(5) Nothing in this chapter shall be construed or utilized to negate, circumvent, or obstruct the full implementation of the equal employment opportunity policies of the City of Ann Arbor, the State of Michigan, or the federal government.

(Ord. No. 07-61, § 2, 1-22-08)

### 1:316. Exception to competitive bidding.

Competitive bidding shall not be required in the following situations:

- (1) The cityCity may redeploy or ~~direct transfer~~ gGoods or equipment between service areas/units.
- (2) The cityCity may join in cooperative purchasing arrangements with the State of Michigan and/or other government units or public agencies by combining purchasing requirements in order to obtain the benefits of volume purchases or a reduction in administrative expenses. The cityCity may accept extended government pricing with appropriate documentation, if it is determined by the City Administrator or City Council to be cost-effective and in the cityCity's best interest. ~~In addition t~~The cityCity may participate in cooperative (i.e., joint) bidding in which 2 or more public agencies agree on specifications and contract terms for a given item and combine their requirements for this item in a single ITB if it is determined by the City Administrator or City Council to be cost-effective and in the City's best interest. ~~when cost-effective and in the city's best interest~~. Subsequent to the award of a cooperative bid, each public agency will issue and administer its own purchase order or contract.
- (3) Procurement of Pprofessional Sservices ~~shall follow the monetary criteria established above; however, services~~ may be ~~procured through a request for proposals or~~ quality-based selection, as deemed practical and reasonable, subject to approval of the contract by the City Attorney and the City Administrator or City Council as required by this chapter. Award shall be made ~~of to~~ the Pprofessional Sservices provider determined to be best qualified based on the evaluation factors set forth in the selection process and negotiation of ~~a~~ fair and reasonable compensation.
- (4) ~~For~~ Procurement over \$25,000.00 of supplies, services or equipment where competitive bidding is not required by law or City Charter and either clearly is not practical or no advantage would result to the cityCity by requiring competitive bidding, ~~the~~City Council, upon the written recommendation of the City Administrator, may authorize the execution of a contract without competitive bidding. Where a contract is let without competitive bidding, the proposed contract shall be approved by the City Attorney as to form and content, ~~unless prepared by him by direction of the Council, and submitted to the Council~~.
- (5) ~~Notwithstanding anything in section 1:316(4)~~Regardless of any provision of this chapter, and except to the extent limited by other law, the City Administrator shall have the authority to waive the requirement for competitive bidding for any purchase where: 1) the total obligation of the purchase is \$25,000.00 or less; and 2) the City Administrator determines that competitive bidding is not practical or of no advantage to the City. The City Administrator shall provide a written report to City Council every month of all purchases approved pursuant to the authority in this subsection.

(6) Emergency purchases as permitted by the City Charter, City Code, and other applicable law.

(Ord. No. 07-61, § 2, 1-22-08; Ord. No. 19-23, § 2, 7-15-19)

### **1:317. Emergency purchases and contracts.**

(1) (4)—In case of emergency, any service area administrator, with the approval of the City Administrator, may make an emergency purchase from any Vendor deemed appropriate by the City Administrator directly of any Goods or Services supplies, materials or equipment, the immediate procurement of which is necessary to the continuation of the work of his/her/the service area or to otherwise alleviate the emergency. Such purchases and the emergency causing them shall be reported in detail to the Purchasing Agent within a week from the time when made and such reports shall be preserved by the Purchasing Agent for a period of 2 years.

(2) If an emergency purchase under this section 1:317 exceeds the cost limits of City Code section 1:313 are exceeded for such purchase, the City Administrator shall, within 2 weeks of the purchase, report to City Council the emergency requiring the purchase and the details of the purchase.

(3) If an emergency purchase under this section 1:317 is for Professional Services or for construction, the contract must be approved as to form by the City Attorney and content by the City Administrator.

(1)—

(2)—In case of emergency, the City Administrator without first having obtained Council approval may, when necessary to alleviate the emergency, contract for professional services where the limits of City Code section 1:313 are exceeded or for construction services. In these cases, the contract must be approved as to form by the City Attorney and content by the City Administrator, who shall report in detail to Council both the contract entered into under this provision and the emergency requiring entry into the contract within 2 weeks after entry into the contract.

(Ord. No. 07-61, § 2, 1-22-08; Ord. No. 19-23, § 3, 7-15-19)

### **1:318. Inspection of materials.**

The responsibility for the inspection and acceptance of all Goods materials, supplies and equipment shall rest with the ordering service area/unit.

(Ord. No. 07-61, § 2, 1-22-08)

### **1:319. Sale of surplus property.**

(1) Whenever any city/City property, real or personal, is no longer needed for corporate or public purposes, the same may be disposed of or offered for sale as provided in this section.

(2)(4) Goods/Personal property, including salvage, surplus material, or obsolete equipment, excluding firearms and weapons, identified by the Sservice Aarea

Administrator or City Administrator as no longer needed for corporate or public purposes may be disposed of by the Purchasing Agent in accordance with the provisions of this section. The value of the surplus personal property shall be determined according to applicable industry standards. If the value is less than ~~\$500,000.00~~, the Purchasing Agent may dispose of the property in a manner which is determined to be in the best interest of the cityCity. If the value does not exceed ~~\$25,000.00~~75,000.00, the property may be sold by auction, trade-in, or for cash by the ~~Purchasing~~ Agent upon approval of the City Administrator or designee after receiving quotations or competitive bids therefor for the best ~~price obtainable~~value to the City. Personal property with a value in excess of ~~\$25,000.00~~75,000.00 may be sold by auction, trade-in, or after advertising and receiving competitive bids, ~~as provided in section 1:313~~ and after approval of the sale has been given by ~~the City~~ Council. Subject to applicable laws, City Council retains the right to dispose of City real and personal property in a manner that provides the best value to the City, with or without competitive bids, in City Council's determination.

~~(3)~~(2) Real property may be disposed of when no longer needed for corporate or public purposes in accordance with applicable state law, City Charter, and ~~ordinance~~City Code requirements.

(Ord. No. 07-61, § 2, 1-22-08; Ord. No. 19-23, § 4, 7-15-19)

### **1:321. Real estate appraisals.**

(1) The cityCity shall not purchase, sell or lease any real estate or any interest therein unless the City Council first receives an appraisal report concerning the fair market value of the real estate interest transferred. The appraisal report must be prepared by a qualified, independent real estate appraiser in accordance with instructions given by the cityCity. The qualifications of the appraiser shall include an appropriate designation from a recognized professional appraiser organization such as: "The Society of Real Estate Appraisers" ~~and or~~ "The Institute of Real Estate Appraisers."

~~(1)~~(2) An appraisal report shall not be required under section 1:321(1) for the following real estate transactions:

~~(1)~~(a) Leases requiring the cityCity to pay a total of less than \$50,000.00.

~~(2)~~(b) Donations of real estate interests to the cityCity.

~~(3)~~(c) Acquisition of any real estate interest by the cityCity where all of the cityCity's costs are less than \$10,000.00 for a single parcel of \$50,000.00 for a series of contiguous interests including easements, rights-of-way, or partial takings.

~~(4)~~(d) The acquisition or disposal of any interest in real estate for which the Administrator gives a recommendation that there be no appraisal and the Council adopt a resolution specifying the reasons why an appraisal is unnecessary.

(Ord. No. 07-61, § 2, 1-22-08)



### **1:322. Bid discounts.**

The cityCity may establish and maintain a bid discount process for the pProcurement of gGoods or sServices based on locality or environmental policy.

(Ord. No. 07-61, § 2, 1-22-08)

### **1:323. Removal from bidders list.**

A vendorVendor may be removed from the bidders list by the City Administrator if the vendorVendor has failed to provide gGoods or sServices satisfactorily in accordance with bid specifications and/or terms of the contract. It shall be the joint responsibility of the Purchasing Agent and the user service area/unit to document any acts of noncompliance or unsatisfactory performance on the part of the vendorVendor. A vendorVendor may be removed from the bidders list for a maximum of 2 years.

(Ord. No. 07-61, § 2, 1-22-08)

### **1:324. Bid protests.**

All protests must be in writing and filed with the Purchasing Agent within 5 business days of the award action. The vendorVendor must clearly state the reasons for the protest. If a vendorVendor contacts a cityCity service area/unit and indicates a desire to protest an award, the service area/unit shall refer the vendorVendor to the Purchasing Agent. The Purchasing Agent will provide the vendorVendor with the appropriate instructions for filing the protest. The protest shall be reviewed by the City Administrator or designee, whose decision shall be final.

(Ord. No. 07-61, § 2, 1-22-08; Ord. No. 19-23, § 5, 7-15-19)

Section 2. If a court of competent jurisdiction finds any provision of this ordinance to be invalid or unenforceable, that provision shall be severed from the ordinance and the remainder of the ordinance shall be enforced as closely as possible to the original intent without the severed provision.

Section 3. This ordinance shall take effect immediately upon publication.

**As Amended and Approved at First Reading on December 20, 2021 by Ann Arbor City Council.**

I hereby certify that the foregoing ordinance was adopted by Council of the City of Ann Arbor, Michigan, at its regular session of January 3, 2022.

Jacqueline Beaudry, Ann Arbor City Clerk  
Christopher Taylor, Mayor of the City of Ann Arbor

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