



**CITY OF YPSILANTI  
NOTICE OF ADOPTED ORDINANCE  
Ordinance No. 1299**

An ordinance to amend Chapter 2 "Administration," Article VI "Contracts and Purchasing" of the Ypsilanti City Code

**1. THE CITY OF YPSILANTI HEREBY ORDAINS** that Chapter 2 "Administration," Article VI "Contracts and Purchasing" of the Ypsilanti City Code be amended and revised to read as follows:

**DIVISION 1. – GENERALLY**

Sec. 2-281. Contractors in default to the city.

The City of Ypsilanti shall not enter into any contract with a contractor who is in default to the city. "Default to the city" shall include, but not be limited to: nonpayment of any taxes past the due date; breach of any contract provision with the city; nonpayment of any parking tickets, traffic fines, costs or other obligations to the city.

Sec. 2-282. Lowest responsible bidder defined

As provided in Article X, Section 10.02 of the City Charter, the term "lowest responsible bidder" shall mean the qualified bidder with the lowest or best bid price; whose business and financial capabilities, past performance, and reputation provide that it can perform the contract as promised; whose bid is in conformity with the laws of the United States of America and the State of Michigan and the Charter for the City of Ypsilanti and the provisions of this Code of Ordinances; and whose selection would be in the best interest of the City of Ypsilanti.

Secs. -295. Reserved.

**DIVISION 2. - PURCHASING, CONTRACTING AND SELLING PROCEDURES**

Sec. 2-296. - City manager to act as purchasing officer.

The city manager shall act as purchasing officer of the city in accordance with terms of section 10.02 of the City Charter, unless he shall designate another officer employed by the city to act in this capacity or delegate part of this responsibility to other employees of the city; provided further, that it shall not relieve the purchasing officer of responsibility as set forth in section 10.02 of the City Charter. The city manager may

designate to any department head the authority to approve purchases not in excess of \$5,000.00 each purchase and which are within budget parameters. The city manager shall adopt any necessary rules respecting requisitions and purchase orders.

Sec. 2-297. - Purchases or contracts under \$25,000.00.

(a) Purchases of supplies, materials, equipment, services or construction work the cost of which is \$25,000.00 or less may be made in the open market and without prior approval of the city council. Such purchases shall where practicable be based on at least three competitive bids and shall be awarded to the lowest qualified bidder. The purchasing officer may solicit bids verbally or by telephone or may contact prospective bidders by written communications. The records shall be kept for six months of all open-market orders and the bids submitted thereon, which records shall be available for public inspection. Any or all bids may be rejected under provisions of terms of the city Charter. The city manager shall exercise such discretion as is authorized by the city council on bids under the amounts specified hereinabove.

(b) The city manager shall also have authority to contract on behalf of the city, without prior city council approval, all rehabilitation housing contracts and rehabilitation housing change of work order contracts, without limitation as to dollar amount of the contract.

Sec. 2-298. - Purchases or contracts over \$25,000.00.

Any expenditure for supplies, materials, equipment, construction project or contract obligating the city, where the amount of the city's obligations is in excess of \$25,000.00 with the exception of rehabilitation housing contracts and change work orders, shall be first approved by the city council and shall be governed by the provisions of this section.

(1) Such expenditure shall be made the subject of a written contract when directed by the city council. A purchase order shall be a sufficient written contract in cases where the expenditure is in the usual and ordinary course of the city's affairs.

(2) The purchasing officer shall solicit bids; from a reasonable number of such qualified prospective bidders as are known to him by sending each a copy of the notice requesting bids; and/or by utilization of State of Michigan bid procedures, including but not limited to the Michigan Inter-Governmental Trade Network (MITN), and notice thereof shall be posted in the city hall and by newspaper advertisement when directed by the city council.

(3) Unless prescribed by the city council, the city manager shall prescribe the amount of any security to be deposited with any bid, which deposit shall be in the form of cash, certified check or cashier's check or bond written by a surety company authorized to do business in the state, or letter of credit issued by a local bank. The amount of such security shall be expressed in terms of percentage of the bid submitted. Unless fixed by the city council, the city manager shall fix the amount of the performance bond and in the case of construction contracts, the amount of the labor and materials bond to be required by the successful bidders.

(4) Bids shall be opened in public at the time and place designated in the notice requesting bids in the presence of the purchasing officer, the city clerk and at least one other city official, preferably the head of the department most closely concerned with the subject of the contract. The bids shall thereupon be carefully examined and tabulated and reported to the city council with the recommendation of the purchasing officer (as approved by the city manager if the city manager is not acting as purchasing officer) at the next city council meeting. After tabulation, all bids may be inspected by the competing bidders.

(5) When such bids are submitted to the city council and the city council shall find any of the bids to be satisfactory, it shall accept the bids. 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.

(6) At the time the contract is executed the contractor shall file a bond executed by a surety company authorized to do business in the state, bank, to the city, conditioned to pay all laborers, mechanics, subcontractors and material men as well as all just debts, dues and demands incurred in the performance of such work and shall file a performance bond when one is required. Such contractor shall also file evidence of public liability insurance in an amount satisfactory to the city manager, and agree to save the city harmless from loss or damage caused to any person or property by reason of the contractor's negligence.

(7) All bids and deposits of 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 awarded within five days after the contract has been awarded, or filed any bond required within the same time, the deposit accompanying his bid shall be forfeited to the city, and the city council may, in its discretion, award the contract to the next lower qualified bidder or such contract may be re-advertised.

(8) Davis Bacon. No contract, agreement, understanding or other arrangement, whether oral or written, in excess of \$25,000.00 for the performance of service or work for and on behalf of the city, involving craftsmen, mechanics and laborers employed directly upon the site of the work shall be entered into, approved or executed unless such contract, agreement, understanding or arrangement shall provide and require that all craftsmen, mechanics and laborers, not including persons employed directly by the city, so employed shall receive at least the prevailing wages and fringe benefits of the building trades department for corresponding classes of craftsmen, mechanics and laborers, as determined and published by the Davis-Bacon division of the United States Department of Labor for the greater Ypsilanti area. In addition, such contract, agreement, understanding or arrangement shall provide that all subcontracts entered into by the contractor shall contain the provisions set forth above with respect to the contractor, and all such contracts, agreements, understandings or arrangements shall provide that all contractors and subcontractors engaged in the performance of services or work for the city to which this subsection applies shall, at the request of the city,

furnish proof satisfactory to the city that the foregoing provisions of such contract or subcontract are being complied with. It shall be the responsibility of the purchasing officer to post at an appropriate place in the purchasing offices prevailing wages and fringe benefits that may be, from time to time, in effect in accordance with the foregoing, and the city manager is directed to see that the requirements of this subsection are contained in and complied with in all contracts, agreements, understandings or arrangements for work or services to be performed for the city in accordance herewith. Any person found guilty of violating any provision of this subsection shall be punished by imprisonment for not more than 90 days or a fine of \$500.00 or both in the discretion of the court.

Sec. 2-299. - Exceptions in competitive bidding.

Competitive bidding shall not be required in the following cases:

(1) Where the subject of the contract is other than a public work or improvement costing in excess of \$25,000.00 and the product or material contracted for is not competitive in nature and no advantage to the city would result from requiring competitive bidding and the city council, upon written recommendation of the city manager authorizes execution of a contract without competitive bidding.

(2) In the employment of professional services.

(3) Where the city council shall determine that the public interest will be best served by purchase from, or joint purchase with, another unit of government.

(4) Where the city elects to undertake the work itself.

Sec. 2-300. - Emergency purchases.

In case of emergency, any department head, with the approval of the city manager, may purchase directly any supplies, materials or equipment, the immediate procurement of which is necessary to the continuation of the work of the department. Such purchases and the emergency causing them shall be reported in detail to the purchasing officer within a week from the time when made and such reports shall be preserved by the purchasing officer for a period of two years.

Sec. 2-301. - Inspection of materials.

The responsibility for the inspection and acceptance of all materials, supplies and equipment shall rest with the ordering department.

Sec. 2-302. - Conflict of interest.

Any purchase order or contract within the purview of this division in which the purchasing officer or any officer or employee of the city is financially interested, shall be governed by the terms of the city Charter and by state law and in particular section 9.01 of the City Charter and § I of Ordinance No. 818, Ethical Standards of Conduct, adopted May 22, 1995, as amended.

Sec. 2-303. - Waiver of competitive bidding by city council.

(1) Waiver of competitive bidding by city council. Contrary provisions of this division notwithstanding, when the city council shall determine that no advantage to the city would result from competitive bidding, the provisions of this division requiring such bidding need not be complied with; provided, that all purchases, in any event, shall be evidenced by a written purchase order or sales memorandum.

(2) Local preference. In the purchase of supplies, materials, equipment, services or construction work the purchasing officer or city council may give preference to a local bidder or if the bids are substantially the same, or not more than five (5%) percent apart. The highest preference Local Bidder or Locally-Produced Product Preference will be given to entities whose headquarters are within the City of Ypsilanti; next highest will be those in 48197 or 48198 zip codes; next highest will be Washtenaw County, and next highest will be Michigan.

(3) Local bidder means a bidder with headquarters or owner physically located in the jurisdiction or geography (City of Ypsilanti, 48197/48198 zip codes, Washtenaw County, Michigan) specified in (2) for more than 12 months prior to the bid. Consideration will also be made to those companies that employ or plan to recruit/hire City of Ypsilanti residents. RFPs shall standardly ask about ownership and local employment in order for bid reviewers to determine qualification under this preference.

(4) Locally-Produced Product means a product that is made, grown, or processed in the geography as specified in (2).

(5) Environmental Preference. To the extent practicable and economically feasible, preference shall be given to companies whose operations or products and services conserve natural resources, protect the environment, are energy efficient, or prioritize renewables. RFPs shall standardly give the opportunity for bidders to state their environmental practices.

#### Sec. 2-304. - Surplus property.

Whenever any city property, real or personal, is no longer needed for corporate or public purposes, such property may be offered for sale.

(1) The purchasing officer shall have the authority to sell all surplus property which has become surplus or unsuitable for public use, or to exchange the surplus property for, or trade in the surplus property on, new supplies. Personal property not exceeding \$25,000.00 in value may be sold for cash by the purchasing officer upon recommendation of any department head after receiving quotations or competitive bids therefor for the best price obtainable, or traded in. Personal property with a value in excess of \$25,000.00 may be sold or traded in after advertising and receiving competitive bids, and after approval of the sale has been given by city council.

(2) The purchasing officer may assign the sale or trade in function to any department head or other suitable person.

(3) The purchasing officer may, from time to time, cause surplus property to be sold at public auction. The auction shall be publicized by notice in a newspaper circulated in the county not less than one time for ten days preceding the auction.

(4) Property which has not been bid upon after a duly advertised auction may be disposed of in such other manner as may be determined by the purchasing officer.

(5) A record of all property disposed of under this section shall be filed with and maintained by the controller's office.

Sec. 2-305. - City manager monetary authority.

The city manager shall have monetary authority not exceeding \$25,000.00 without council approval in all areas, including, but not limited to, settlement of litigation. The \$25,000 authority shall be for any 12-month period in respect to any one contractor and contracts for a single contractor shall be cumulative. If the cumulative total for any 12-month period is more than \$25,000, City Council approval is required.

Secs. 2-306 Amendment and Policy

City Council may from time to time amend the Contract and Purchasing Ordinance and may provide approve procurement policies by resolution.

Secs. 2-315. - Reserved.

### DIVISION 3. – CONTRACT

Sec. 2-316. – Non-Discrimination Contractor's agreement.

During the performance of a contract, the contractor agrees to follow and not violate any provision of the City of Ypsilanti Discrimination Ordinance, Ypsilanti City Code section 58-61 et seq., and the contractor will not discriminate against any employee or applicant for employment because of actual or perceived race, color, religion, national origin, immigration status, sex, sexual orientation, gender identity, gender expression age, marital status, disability status, familial status, educational association, source of income, height or weight. The contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their actual or perceived race, color, religion, national origin, immigration status, sex, sexual orientation, gender identity, gender expression age, marital status, disability status, familial status, educational association, source of income, height or weight. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause per Presidential Executive Order Number 11246, Sub/Part B(i).

Sec. 2-317. - Local employees.

Contractors shall make good faith efforts to employ local persons so as to enhance the local economy. Bids of contractors with 25% or more local employees, employees living in the City or 48197 or 48198 postal zip code for the past 12 month period shall be given preference in the bid awarding process.

Sec. 2-318. - Additional remedies.

Nothing contained in this division shall be deemed or construed to be substitute for or to abolish or impair existing, other or future legal remedies of the city or its officers or agencies, including criminal prosecutions under this or any other ordinance of the city or the laws of the state, even though such remedies may not be specifically enumerated or mentioned herein.

Sec. 2-319. - Penalties.

Where no specific penalty is provided for violation of any provision of this division, any person who shall violate any provision of this division shall be guilty of a misdemeanor and shall upon conviction be punished as provided in section 1-15.

Secs. 2-320—2-345. - Reserved.

**2. Severability.** If any clause, sentence, section, paragraph, or part of this ordinance, or the application thereof to any person, firm, corporation, legal entity, or circumstances, shall be for any reason adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not effect, impair, or invalidate the remainder of this Ordinance and the application of such provision to other persons, firms, corporations, legal entities, or circumstances by such judgment shall be confined in its operation to the clause, sentence, section, paragraph, or part of this Ordinance thereof directly involved in the case or controversy in which such judgment shall have been rendered and to the person, firm, corporation, legal entity, or circumstances then and there involved. It is hereby declared to be the legislative intent of this body that the Ordinance would have been adopted had such invalid or unconstitutional provisions not have been included in this Ordinance.

**3. Repeal.** All other Ordinances inconsistent with the provisions of this Ordinance are, to the extent of such inconsistencies, hereby repealed.

**4. Savings Clause.** The balance of the Code of Ordinances, City of Ypsilanti, Michigan, except as herein or previously amended, shall remain in full force and effect. The repeal provided herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending fee, assessments, litigation, or prosecution of any right established, occurring prior to the effective date hereof.

**5. Copies to be available.** Copies of the Ordinance are available at the office of the city clerk for inspection by, and distribution to, the public during normal office hours.

**6. Publication and Effective Date.** The City Clerk shall cause this Ordinance, or a summary of this Ordinance, to be published according to Section 11.13 of the City

Charter. This Ordinance shall become effective after publication at the expiration of 30 days after adoption.

MADE, PASSED AND ADOPTED BY THE YPSILANTI CITY COUNCIL THIS 9th DAY OF January, 2018.

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Frances McMullan, City Clerk

Attest

I do hereby confirm that the above Ordinance No. 1299 was published according to Section 11.13 of the City Charter on the 9th day of January, 2018.

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Frances McMullan, City Clerk

CERTIFICATE OF ADOPTING

I hereby certify that the foregoing is a true copy of the Ordinance passed at the regular meeting of the City Council held on the 9th day of January, 2018.

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Frances McMullan, City Clerk

Notice Published: November 27, 2017

First Reading: December 21, 2017

Second Reading: January 9, 2018

Published: January 15, 2018

Effective Date: February 8, 2018