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CHAPTER 14 (PURCHASING, CONTRACTING AND SELLING PROCEDURE)

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

The City of Ann Arbor ordains:

Section 1: That Sections 1:311 –1:324 of Chapter 14 of Title I be amended to read as follows:

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

- (1) The City Administrator shall adopt necessary policies or procedures for all City Procurement and to implement the requirements of this chapter. No contract for the purchase of 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) the City Attorney's office has approved the contract, Bond and insurance, as applicable, as to form. No service area, officer, employee, or agent of the 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 Purchasing Agent for the City.
- (3) This chapter does not apply to contracts for City employment, including collective bargaining agreements.

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 1 or more of the following: posting, electronically and/or on-site at designated public information boards or other locations; depositing with agencies 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) *Best Value Procurement (BVP)* means a method of Procurement required by the City Charter section 14.3(d) for contracts for public improvements, which awards a contract to a competitive Bidder based on a set of criteria the City has determined is essential for its contractors to have and is not based solely on the lowest bid price.
- (3) *Bidder* means a Vendor who has responded to a Solicitation.
- (4) *Craft Labor* means individuals in positions that include higher skilled occupations in construction (building trades craft workers and their formal apprentices). Examples of these types of positions include: boilermakers; brick and stone masons; carpenters; electricians; painters; glaziers; pipe layers, plumbers, pipefitters and steamfitters; plasterers; roofers; and elevator installers. This category also includes some production occupations that are distinguished by the high degree of skill and precision required to perform them, based on clearly defined task specifications, such as: millwrights; etchers and engravers; tool and die makers; and pattern makers.
- (5) *Bond* means specific security required as part of Procurement and includes, but is not limited to:
 - (a) *Bid Security Bond*: a Bond provided by a guarantor, satisfactory to the City and authorized to do business in the state, or the equivalent in cash, or otherwise supplied in a form acceptable to City and approved by the City Attorney to ensure that a Bidder shall not withdraw its bid.
 - (b) *Payment Bond*: a Bond provided by a guarantor, satisfactory to the City and authorized to do business in the state, or the equivalent in cash, or otherwise supplied in a form acceptable to the 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 Bond*: a Bond provided by a guarantor, satisfactory to the City and authorized to do business in the state, purchased by the successful Bidder to protect the City from loss if the Bidder is unable to complete the contract as agreed and which secures the fulfillment of all contract requirements.
- (6) *Competitive Bidding* means a Solicitation process where multiple suppliers or service providers have the opportunity to submit pricing, cost or fees in the form of bids or quotes for a specific project, product, or service, as a way to ensure fairness, transparency, and cost-effectiveness in Procurement.
- (7) *Council Approval Threshold* means the dollar limit within which purchases may be made and contracts entered into without Council approval. The Council Approval Threshold is \$90,000.00.

- (86) *Goods* means 1 or more item of personal property, supplies, materials, equipment, or other Goods.
- (97) *E-Publishing* means the process of publishing ITB, RFP, or 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.
- (108) *Invitation to Bid (ITB)* means a formal request to prospective Bidders soliciting price quotations or bids, and which contains, or incorporates by reference, the specifications or scope of work and all contractual terms and conditions.
- (119) *Local Vendor* means a Vendor that operates a business within the legal boundaries of the City of Ann Arbor. To be considered a Local Vendor, the Vendor must have a verifiable business address (not a P.O. Box) at which business is being conducted and the Vendor must also agree to comply with all other policies and requirements of the ITB/RFP.
- ~~(120) *Non-responsive Bid* means a bid/RFP response that does not conform to the mandatory or essential requirements of the ITB/RFP.~~
- (134) *Procurement* means buying, purchasing, renting, leasing, or otherwise acquiring any Goods or Services. It also includes all functions that pertain to the obtaining of any Goods or Services, including description of requirements, selection and Solicitation of sources, preparation and award of contracts, and all phases of contract administration.
- (142) *Professional Services* means a type of Services rendered by members of a recognized profession or specialty which involve 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 Professional Services typically acquired by the City include appraisal, architectural and engineering Services, software development/design, legal Services, and medical Services.
- (153) *Purchasing Agent* means 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.
- (164) *Request for 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 in the development of contract specifications.
- (175) *Request for Quote (RFQ)* means an informal competitive bid Solicitation or Request for Information, where oral or written quotes are obtained from Vendors, without formal advertising or receipt of "sealed" bids.
- (186) *Request for Proposal (RFP)* means a more detailed, formal competitive bid Solicitation method used when it is expected that negotiations with 1 or

more Bidders may be required with respect to any aspect of the contract requirements.

- (197) *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 for bids.
- (2048) *Services* means the furnishing of labor, skill, advice, or effort, as opposed to furnishing Goods.
- (2149) *Solicitation* means a Request for Quotes, a Request for Proposals, or an Invitation to Bid.
- (229) *Vendor* means any person or entity who offers Goods for purchase or Services for hire.

1:313. ~~Purchases or contracts of \$75,000.00 or less~~Council Approval of Purchases or Contracts.

Pursuant to the City Charter, as amended November 2, 2021, the dollar limit within which purchases may be made and contracts entered into, without the necessity of Council approval shall not exceed \$75,000.00 ("Council Approval Threshold"). City Council may increase the Council Approval Threshold to account for inflation. The current Council Approval Threshold is \$90,000.00. The City Administrator may make purchases and enter contracts ~~for services that do not exceed~~under the Council Approval Threshold \$75,000.00 without Council approval. When a purchase or contract ~~for services exceeds the Council Approval Threshold~~\$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. The City Administrator's policies and procedures shall not permit purchases inconsistent with this chapter. The Purchasing Agent 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.

1:314. Purchases or contracts over ~~\$75,000.00~~the Council Approval Threshold.

Any expenditure for Goods or Services, or a contract obligating the City where the amount of the City's expenditure or obligation is in excess of ~~\$75,000.00~~the Council Approval Threshold shall be governed by the provisions of this section.

- (1) Notice requesting competitive bids, whether a traditional sealed bid procedure, E-Publishing and electronic submission, reverse auction, or other bidding method, shall be made Available for Public 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, or other matter to be contracted for, and shall state the amount of 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 the Council Approval Threshold \$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 this chapter.

- (2) If requested by the service area 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 notice 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., Listservs) and professional organizations' electronic bulletin boards.
- (3) Unless set by City Council, the service area administrator shall 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 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 set by City Council, the service area administrator, after consultation with the City Attorney as appropriate, shall set the amount of the Performance Bond and, in the case of construction contracts, the amount of the labor and material Bond to be required of the successful Bidders.
- (4) Vendors shall submit bid documents for all projects in the format specified in the notice requesting bids, which may, except as prohibited by subsection 1:314(3), 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 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, 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 Available for Public 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 the Council Approval Threshold \$75,000.00, the tabulation of the bids shall be reported to 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 City Council for award, the contract to be executed shall also be submitted. If City Council approves a bid, it shall

approve the contract. The contract shall be executed following the filing of required Bonds and insurance evidence approved by the City Attorney. 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 executed by a surety company authorized to do business in the State of Michigan to the City, conditioned upon the performance of said contract and holding the 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 City proof of insurance naming the City as an insured party and holding the City 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 City. Evidence of the insurance must comply with the requirements set forth in the contract documents. In the discretion of the City Administrator, the Bond 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 Bond required within the same time, the deposit accompanying the bid shall be forfeited to the City, and City Council may, in its discretion, award the contract to Bidder that provides the next best value to the City or the contract may be put out for bid again or abandoned.

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) 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 Purchasing Agent setting forth the Bidder's qualifications to satisfactorily carry out the work to be performed within the time stipulated or certify that 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, the Bidder's past performance on work of a similar nature and the Bidder's financial resources. Such statements shall designate and describe the plant, equipment, and facilities of the prospective Bidder, relate the Bidder's experience in doing the same or similar work and disclose the Bidder's financial resources, specifying the amount of liquid and other assets and liabilities and the number and amount of other existing contracts or commitments, including and indicating those with the 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. A prospective Bidder who has previously been judged qualified for work of a similar nature by the 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 Purchasing Agent. The Purchasing Agent or designee shall examine said statements and shall make such investigation as, in the Purchasing Agent's discretion, appears necessary, and shall, at least 5 days before bids are opened, 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 if their bid on said work will not be considered if submitted.
- (3) 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 by the City Administrator of the decision not to consider their bid.
- (4) Any prospective Bidder aggrieved by the determination of the 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 Administrator prior to seeking judicial review.
- (5) Should any of the matters or things set forth in the sworn statement or questionnaire submitted by a prospective Bidder as provided in section 1:315(2), or which may be submitted at any hearing provided for in section 1:315(3), be found to be false, deceptive, or fraudulent, the person who filed or caused to be filed such statement or so testified at any hearing shall be guilty of a violation of this Code.

- (6) 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.

1:316. Exception to competitive bidding.

Competitive Bidding shall not be required in the following situations:

- (1) The City may redeploy or transfer Goods between service areas/units.
- (2) The City 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 City 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 City's best interest. The City 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. Subsequent to the award of a cooperative bid, each public agency will issue and administer its own purchase order or contract.
- (3) Procurement of Professional Services may be through 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 to the Professional Services provider determined to be best qualified based on the evaluation factors set forth in the selection process and negotiation of fair and reasonable compensation.
- (4) For Procurement of Services over the Council Approval Threshold and Procurement of Goods over \$25,000.00, where Competitive Bidding is not required by law or City Charter and either clearly is not practical or no advantage would result to the City by requiring Competitive Bidding, City Council, upon the written recommendation of the City Administrator, may authorize the execution of a contract for the purchase of said Services or Goods 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.
- (5) For Procurement of Services at or below the Council Approval Threshold and Procurement of Goods at or below \$25,000, where it is clearly not practical or no advantage would result to the City by requiring Competitive Bidding. ~~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 and may authorize the execution of a contract for the purchase of said Services or Goods without 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.

1:317. Emergency purchases and contracts.

- (1) 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 of any Goods or Services, the immediate Procurement of which is necessary to the continuation of the work of 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, 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.

1:318. Inspection of materials.

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

1:319. Sale of surplus property.

- (1) Whenever any 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) Goods, including salvage, surplus material, or obsolete equipment, excluding firearms and weapons, identified by the service area 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 ~~\$35,000.00~~, the Purchasing Agent may dispose of the property in a manner which is determined to be in the best interest of the City. If the value does not exceed the Council Approval Threshold ~~\$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 value to the City. Personal property with a value in excess of the Council Approval Threshold ~~\$75,000.00~~ may be sold by auction, trade-in, or after advertising and receiving competitive bids and after approval of the sale has been given by 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) Real property may be disposed of when no longer needed for corporate or public purposes in accordance with applicable state law, City Charter, and City Code requirements.

1:320. Wage and employment requirements.

Notwithstanding any other provision in this Code, the City shall not enter any contract, understanding or other arrangement for a public improvement for or on behalf of the City unless the contract provides that all craftsmen, mechanics and laborers employed directly on the site in connection with said improvements, including said employees of subcontractors, shall receive the prevailing wage for the corresponding classes of craftsmen, mechanics and laborers, as determined by statistics for the Ann Arbor area compiled by the United States Department of Labor. At the request of the City, any contractor or subcontractor shall provide satisfactory proof of compliance with this provision. Where the contract and the Ann Arbor City Ordinance are silent as to definitions of terms required in determining contract compliance with regard to prevailing wages, the definitions provided in the Davis-Bacon Act as amended (40 U.S.C. 278-a to 276-a-7) for the terms shall be used. Further, to the extent that any employees of the contractor providing Services under this contract are not part of the class of craftsmen, mechanics and laborers who receive a prevailing wage in conformance with section 1:319 of Chapter 14 of Title I of the Code of the City of Ann Arbor, the contractor agrees to conform to Chapter 23 of Title I of the Code of the City of Ann Arbor.

It is the policy of the City of Ann Arbor that all Vendors of Goods and Services to the City of Ann Arbor by contract shall as a condition of providing Goods and Services, adhere to all applicable federal, state and local laws, ordinances and regulations, prohibiting discrimination in regards to Vendors employees and applicants for employment.

1:321. Real estate appraisals.

- (1) The City 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 City. The qualifications of the appraiser shall include an appropriate designation from a recognized professional appraiser organization such as "The Society of Real Estate Appraisers" or "The Institute of Real Estate Appraisers."
- (2) An appraisal report shall not be required under section 1:321(1) for the following real estate transactions:

- (a) Leases requiring the City to pay a total of less than \$50,000.00.
- (b) Donations of real estate interests to the City.
- (c) Acquisition of any real estate interest by the City where all of the City'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.
- (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.

1:322. Bid discounts.

The City may establish and maintain a bid discount process for the Procurement of Goods or Services based on locality or environmental policy.

1:323. Removal from bidders list.

A Vendor may be removed from the Bidders list by the City Administrator if the Vendor has failed to provide Goods or Services 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 Vendor. A Vendor may be removed from the Bidders list for a maximum of 2 years.

1:324. Bid protests.

All protests must be in writing and filed with the Purchasing Agent within 5 business days of any notices of intent, including, but not exclusively, divisions on pre-qualification of Bidders, shortlisting of Bidders, or a notice of intent to award a contract. Only Bidders who responded to the Solicitation may file a bid protest. Instructions as to the form and content of a bid protest shall be included in the Solicitation. The Bidder must clearly state the reasons for the protest. If a Bidder contacts a City service area/unit and indicates a desire to protest an award, the service area/unit shall refer the Vendor to the Purchasing Agent. The Purchasing Agent will provide the Bidder with the appropriate instructions for filing the protest. The protest shall be reviewed by the City Administrator or designee, whose decision shall be final.

Section 2: That Section 1:325 of Chapter 14 of Title I be amended to read as follows:

1:325. Best value procurement.

- (1) For all contracts for public improvements greater than \$50,000.00 in value, the City Administrator shall adopt policies or procedures for determining which Bidder provides the best value to the City. The City Administrator shall direct the creation of scoring rubrics for evaluating bids for public improvements 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. A statement from the Bidder as to any major subcontractors it expects to engage including the name, work, and amount.
 - iii. Workplace safety.
 1. Provide evidence of a Bidder's safety program (link to information on Bidder's publicly available website preferred) and evidence of a safety-training program for employees addressing potential hazards of the proposed job site. Bidder must identify a designated qualified safety representative responsible for Bidder's safety program who serves as a contact for safety related matters.
 2. Provide the Bidder's experience modification rating ("EMR") for the last 3 consecutive years. Preference within this criterion will be given to an EMR of 1.0 or less based on a 3-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 an authorized 10-hour OSHA Construction Safety Course.
 4. For the last 3 years provide a copy of any documented violations and the Bidder's corrective actions as a result of inspections conducted by the Michigan Occupational Safety and Health Administration (MIOSHA), U.S. Department of Labor - Occupational Safety and Health Administration (OSHA), or any other applicable safety agency.
 - iv. Workforce development.
 1. Documentation as to Bidder's pay rates, health insurance, pension or other retirement benefits, or other fringe benefits to its employees.
 2. 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. USDOL apprenticeship agreements shall be disclosed to the City in the Solicitation response.

3. Bidders shall disclose the number of non-craft employees who will work on the project on a 1099 basis, and the Bidders shall be awarded points based on their relative reliance on 1099 work arrangements with more points assigned to companies with fewer 1099 arrangements. Bidders will acknowledge that the City may ask them to produce payroll records at points during the project to verify compliance with this section.
- 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 employ individuals in either the City or the county. Which jurisdiction is prioritized for scoring purposes will be indicated in the Solicitation.
 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 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.
- (2) The City Administrator may exempt a contract for public improvements from best value scoring and instead award the contract to the lowest responsible Bidder in instances when the contract will be partially or wholly funded by third parties such as another government entity, a non-profit, an individual, a philanthropy or other similar entity, when that entity requires their funding to be awarded on a lowest responsible Bidder basis, and when proceeding on a best value basis may at the sole determination of the City Administrator jeopardize the receipt of third-party

funding, cause costs to the City to increase by more than 10% of the total project cost, or jeopardize the participation of a funding partner in the project.

(3) The City Council may exempt a contract for public improvements from best value scoring in instances when the contract will be part of a public-private agreement for the development of real property. The City Council must determine that the contract provides the best value to the City in a manner that is consistent with the values expressed in the criteria set forth above in Section 1:325(1) of City Code and the proposed public improvements were or will be subject to a reasonable opportunity for competitive bidding either directly with the City or indirectly through a third party.

Section 3: In the event that any court of competent jurisdiction shall hold any provision of this ordinance invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision thereof.

Section 4: Section 1 of this ordinance shall take effect and be in force January 1, 2026 and Section 2 of this ordinance shall take effect and be in force immediately upon publication.

As Amended by Ann Arbor City Council at First Reading on September 15, 2025

CERTIFICATION

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan, at its regular session of October 6, 2025.

(Date)

Jacqueline Beaudry, Ann Arbor City Clerk

Christopher Taylor, Mayor of the City of Ann Arbor

I hereby certify that the foregoing ordinance received legal publication on the City Clerk's webpage on October 16, 2025.

Jacqueline Beaudry, Ann Arbor City Clerk