



**CITY OF PONTIAC**  
**OFFICE OF THE EMERGENCY MANAGER**  
**LOUIS H. SCHIMMEL**

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**Dated:** June 17, 2013

**ORDER NO. S-282**

**RE: Adopt ordinance to adopt financial and purchasing procedures for the City of Pontiac.**

**TO: Sherikia Hawkins, City Clerk**  
**John Naglick, Finance Director**

The Local Financial Stability and Choice Act (Act 436 of 2012/MCL 141.15411, et. seq.) in Section 10 empowers an Emergency Manager to issue orders to the appropriate local elected and appointed officials and employees, agents, and contractors of the local government a Manager considers necessary to accomplish the purposes of the Act and any such orders are binding on the local elected and appointed officials and employees, agents, and contractors of the local government to whom they are issued.

Section 12(1) of the Act provides that “[a]n emergency manager may take 1 or more of the following additional actions with respect to a local government that is in receivership, notwithstanding any charter provision to the contrary: (dd) [e]xercise solely, for and on behalf of the local government, all other authority and responsibilities of the chief administrative officer and governing body concerning the adoption, amendment, and enforcement of ordinances....”

WHEREAS, Emergency Manager Schimmel introduced the attached ordinance at a public meeting on June 10, 2013; and,

WHEREAS, the proposed ordinance was distributed to each member of the Council and the Mayor by the Clerk; and,

WHEREAS, a summary of the proposed ordinance and time and place of consideration by the Emergency Manager was published in the Oakland Press on June 11, 2013; and,

WHEREAS, the Emergency Manager at a public meeting on June 17, 2013 announced that he is adopting the proposed ordinance.

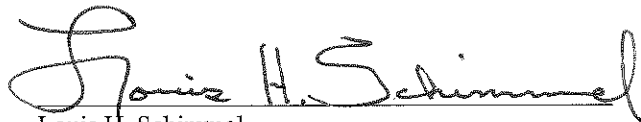
**It is hereby ordered:**

1. That the attached Ordinance No. 2289, an ordinance to adopt financial and purchasing procedures for the City of Pontiac, is adopted.
2. That the City Clerk shall take all actions required under the law to reflect the attached ordinance changes on the City books and records, including publication of the adopted ordinance.

**The Order shall have immediate effect.**

Copies of the documents referenced in this Order are to be maintained in the offices of the City Clerk and may be reviewed and/or copies may be obtained upon submission of a written request consistent with the requirements of the Michigan Freedom of Information Act and subject to any exemptions contained in that state statute and subject to any exemptions allowed under that statute (**Public Act 442 of 1976, MCL 15.231, et. seq.**).

This order is effective as indicated and is necessary to carry out the duties and responsibilities required of the Emergency Manager as set forth in the Local Financial Stability and Choice Act (Act 436 of 2012/MCL 141.15411, et. seq.) and the contract between the Local Emergency Financial Assistance Loan Board and the Emergency Manager.

A handwritten signature in black ink that reads "Louis H. Schimmel". The signature is written in a cursive style with a large, stylized initial "L".

Louis H. Schimmel  
City of Pontiac  
Emergency Manager

cc: State of Michigan Department of Treasury  
Mayor Leon B. Jukowski  
Pontiac City Council

## Ordinance No. 2289

### An ordinance to adopt financial and purchasing procedures for the City of Pontiac.

The City of Pontiac ordains:

#### **Section 1. Amendments.**

The following sections shall be amended or added to read as follows:

##### **2-485 Employment contracts and agreements.**

a. The city may not enter into any appointee-employment contract or agreement with any department director, mayoral appointee or non-union management employee, without approval of such contract or agreement by the city council, nor may the city enter into any contract or agreement for consulting services, with any former city employee, retired, separated, or terminated from a city appointive or non-union management position, without the approval of the city council. Any employment contract entered into by the city shall be for employment considered "at-will", and the employee shall sign a statement recognizing the at-will employment status. All employment contracts and agreements shall be signed by the mayor and city clerk upon authorization by the City Council. The mayor is authorized to cancel all appointee-employment contracts or agreements as permitted by law and the terms of the contract or agreement.

b. The City Council is expressly prohibited as a body and council members are expressly prohibited as individuals from attempting to influence the hiring or termination decision of the mayor of any mayoral appointee or non-union management employee. A violation of this section shall be considered a civil infraction.

##### **2-488 Forms and reports.**

The director of finance is directed to prepare all necessary forms and reports for the use of the various departments and employees of the city in carrying out the provisions of this article.

**2-489 Daily deposits.**

The city treasurer shall daily deposit intact his entire receipts from all sources, and all money, checks, drafts or other payments on hand received by him on city business, to the credit of the city, in such bank as may be designated by the council.

**2-490 Payroll.**

The finance director shall approve all payrolls before released. No person shall receive a pay check for time not worked. All paychecks shall be issued to all employees on the same day.

**2-491 Payment of invoices.**

The finance director shall approve all invoices before paid. All invoices shall have documentation that the good or service was received by the City. No invoice shall be paid in excess of any contract authorized by the City Council, unless a change order or contract amendment has been appropriately approved.

**2-516 Legislative purpose.**

- (a) This division is to provide for the purchasing of and disposition of property by the city, and for the changes in the administration and procedures of the purchasing division consistent with the Charter.
- (b) The people of the city by referendum vote have adopted a Charter effective May 3, 1982, and that Charter made significant changes in the administration of the purchasing department by assigning its functions to a division of the finance department, imposing upon it the responsibility of procuring all property and contracts for the city and disposing of all personal property which has become unsuitable for city use, unless provided otherwise by ordinance or administrative procedure, and requiring that all procurements and dispositions be made in accordance with open and fair procedures.
- (c) The procedures for procuring property and services and the disposition of property are to be established by ordinance to protect the interest of the city and to assure fairness; and the Charter provides that those procedures shall require competitive bidding for all purchases and contracts for procurement that exceed a dollar amount fixed by ordinance.

**2-518 Centralized purchasing authority; use of purchase orders; change orders.**

- a. Except as otherwise provided in this division, all rights, powers, duties and authority relating to the procurement of supplies, services and construction, in or exercised by the city or any agency of the  
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city, and the sale and disposal of materials, equipment and supplies owned by the city or any agency of the city, are hereby transferred to the finance director and purchasing agent as provided in this division and the Charter, sections 4.303 and 4.304.

b. All goods and services acquired by the City, except utility bills, principal and interest payments on bonds, refunds, remittances, and juror payments, shall be approved as evidenced by a purchase order approved by the Purchasing Agent. Purchase orders shall not span fiscal years in that expenses shall be charged against the purchase order in the year the expensed item or service was received by the City. The Purchasing Agent shall not approve any purchase order unless there is a sufficient appropriation to cover the requested purchase.

c. The Finance Director is authorized to issue change orders to the extent permitted by contract or this Code. Unless permitted by contract, no change order shall be authorized if such change order or the sum of all change orders is greater than ten percent of the original purchase order without the approval of the City Council. The Finance Director shall not approve any change order unless there is a sufficient appropriation to cover the requested purchase.

#### **2-520 Disposition of excess or obsolete property.**

(a) The purchasing agent shall sell by sealed bid or auction all personal property of the city no longer necessary or which shall have become unsuitable for public use or which may have been condemned as useless or deemed unnecessary to the city by any of the various departments, offices, boards, courts, commissions and institutions. All items, however, that are determined in writing by the purchasing agent and the director of the utilizing department to be of greater value when traded in or transferred to a supplier as payment or partial payment for new equipment of a same or similar nature shall be disposed of by the purchasing agent in this manner. All personal property with a unit value less than or equal to \$10,000.00, or fungible property to be disposed of in bulk with a value of less than or equal to \$10,000.00, shall be considered minor, and no public hearing shall be required prior to the sale thereof, pursuant to section 3.113 of the Charter. All personal valued over \$10,000.00 may be disposed of only after public hearing and approval by resolution of the council, but the city council by a unanimous vote may waive a bid or auction process for the disposal of personal property property.

(b) The same procedures shall be followed in the disposal of property under this section, as near as may be, as in the case of purchases, except that disposition of personal property which is not in the ordinary course of business shall be made in accordance with the provisions of section 2-524.

(c) The values for property to be disposed of under this section, for the purposes of this section, shall be determined by the agreement of the purchasing agent and the director of the utilizing department, who may rely on the sources commonly used by persons dealing in the type of equipment in question in establishing such values.

(d) Once the value of property for purposes of this section is determined to be under or equal to \$10,000.00, such valuation shall not be affected if more than \$10,000.00 is subsequently bid for or paid for the property.

(e) All real property shall be disposed of only after a public hearing by the City Council. The notice of public hearing shall include the parcel ID of the property in question, street address if possible, the minimal purchase price, the proposed method of disposal, and any other information that the Purchasing Agent or Director of Community Development believes is necessary to include in the notice. Real property may be sold or exchanged by open public auction, online auction, sealed bid auction, or direct sale. The City Council may waive a sealed bid or auction procedure for real property only upon unanimous vote provided that the public has an opportunity to comment on the proposed disposal procedure before the City Council formally waives the requirement.

(f) All deeds shall be signed by the mayor and city clerk upon authorization of the sale by city council, or in the event of an auction, upon receipt of payment.

(g) The City may lease real property only after a public hearing by the City Council. The notice of public hearing shall include the parcel ID of the property in question, street address if possible, a summary of the terms of the lease, and any other information that the Purchasing Agent or Director of Community Development believes is necessary to include in the notice. All leases approved by the City Council shall be executed by the Mayor and the City Clerk. If the terms of the lease are broken, the Mayor shall authorize the City Attorney to begin court proceedings to require compliance or to terminate the lease. (h) All notices of public hearings required under this section shall be posted by the City Clerk in the same location in City Hall as other public notices and shall be posted on the City's web page in the same location as other public notices. Such notices shall be posted at least 96 hours before the hearing.

## **2-521 Professional service contracts.**

a. Professional service contracts are excluded from the provisions of this division. The mayor shall with the concurrence of the council adopt administrative rules regarding the retention of professional services. However, any contract for professional services, except for legal and accounting services, during the course of a fiscal year in excess of \$10,000.00 must have the approval of the council, unless the services required are of an emergency nature attested in writing by the department head requesting the service, the Finance Director, the Purchasing Agent, and the Mayor. Such emergency contracts shall be forwarded to City Council for their information along with the attestation.

b. The Mayor, with the concurrence of the Finance Director and City Attorney, may secure the services of law firms and accounting firms up to \$500,000 per year without a formal contract approved by City Council, provided that there are funds available in the City's budget for such services. The use of attorneys and accounting firms under this provision is not intended to establish a long-term relationship with City but rather to address a specific need expressed by the City Attorney or Finance Director in writing.

c. Professional service contracts can only be cancelled in accordance with the terms of the contract in question by five votes of the City Council and concurrence of the mayor.

d. The mayor may authorize the City Attorney to file suit against any contractor which is deemed by the mayor and City Attorney to be in breach of contract with the City.

## **2-526 Specifications, contracts and bid documents for construction contracts and purchases.**

(a) Specifications, contracts and bid documents for construction contracts and purchases where written specifications are utilized shall be drawn in accordance with the directives set forth in this division and shall be prepared by the using department, subject to the approval of the purchasing agent. Whenever a commodity is to be procured or disposed of by more than one department, the purchasing division shall establish standard specifications after consulting with all involved departments.

(b) Notwithstanding the foregoing provisions regarding the preparation of contract specifications and the provisions of this division regarding the procedures for advertising, bidding and award of city

contracts, the administration of construction contracts after the award thereof shall be the responsibility of the department or division as designated by the mayor, and not the purchasing agent.

(c) Notices of projects or items sought through a competitive bid process shall be posted on the City's web page and also on the MITN web site. Notices shall be posted for a minimum period of one week. Notices shall direct respective bidders to the City's web site where the complete bid package is available.

## **Section 2. Severability.**

If any section, clause, or provision of this Ordinance shall be declared to be unconstitutional, void, illegal, or ineffective by any Court of competent jurisdiction, such section, clause, or provision declared to be unconstitutional, void, or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

## **Section 3. Saving Clause.**

A prosecution which is pending on the effective date of this ordinance and which arose from a violation of an ordinance repealed by this ordinance, or a prosecution which is started within one (1) year after the effective date of this ordinance arising from a violation of an ordinance repealed by this ordinance and which was committed prior to the effective date of this ordinance, shall be tried and determined exactly as if the ordinance had not been repealed.

## **Section 4. Repealer**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

## **Section 5. Publication**

The Clerk shall publish this Ordinance in a newspaper of general circulation.

## **Section 6. Effective Date**

This Ordinance shall be effective ten days after date of adoption.