



**FERNDALE**  
Oakland County, Michigan

**PROCUREMENT POLICY**

March 2023

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## **CITY OF FERNDALE PROCUREMENT POLICY**

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All procurements made by the City of Ferndale, hereinafter referred to as (“the City”) involving the expenditure of City funds will be made in accordance with the following procurement standards.

Procurement transactions, regardless of method or dollar value, will maximize open and free competition consistent with the Procurement Standards, 2 C.F.R. § 300.317 through 2 C.F.R. § 300.326, found in Appendix II of Uniform Guidance, program legislation, Federal awarding agency regulations and the terms and conditions of the award. The City shall not engage in procurement practices, which may be considered arbitrary or restrictive.

The City has implemented the following as a policy and/or procedure for all City purchases. To ensure compliance with these requirements, purchases will be reviewed by the Finance Director to prevent duplication and to ensure that costs are reasonable. Policy and procedures will be reviewed periodically (at least bi-annually) to ensure compliance with applicable regulations.

All procurement transactions will be conducted in a manner providing full and open competition consistent with the Procurement Standards in the Uniform Guidance. This requirement holds whether procurement transactions are negotiated or competitively bid, and without regard to dollar value. To avoid unfair competitive advantage, contractors that develop or draft specifications, requirements, statement of work and invitations for bids or requests for proposals must be excluded from competing for such procurements.

Written procedures for procurement transactions must ensure that all solicitations incorporate a clear and accurate description of the technical requirements of the material, product, or service to be procured. Solicitations should also identify all qualitative requirements, which responders must fulfill, and all other factors to be used in evaluating bids and proposals.

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description will be used to define the performance requirements of procurement. The specific features of the named brand which must be met by responders will be clearly stated.

The City must ensure that all prequalified lists of persons, firms, or products, which are used in acquiring goods and services, are current and include enough qualified sources to ensure maximum open and free competition.

Deviations from this policy must be approved by the City Council. This policy supersedes all previous resolutions of the Council concerning procurement of goods and services, including professional service contracts.

# CITY OF FERNDALE PROCUREMENT POLICY

## 1. Methods for Procurement

Procurements shall be made using one of the following methods:

(a) micro purchases, (b) small purchase procedures, (c) competitive sealed bids, (d) competitive negotiations, (e) non-competitive negotiations and shall be made in accordance with procedures set forth at 2 CFR § 200.319 (c)(1) through (a)(3) at a minimum.

### a) Micro Purchases

Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold identified in 2 C.F.R. § 200.67 Micro-purchase. The threshold is \$10,000 except as otherwise discussed in Subpart 2.1 of the Federal Acquisition Regulation (48 CFR). To the extent practical, the City must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the City considers the price to be reasonable.

### b) Small Purchases

Small purchases are those relatively simple and informal procurement methods for securing services, supplies, or other property that exceed the micro-purchase threshold but do not cost more than the Simplified Acquisition Threshold or the competitive bid threshold established by the State of Michigan under MCL 380.1274. The City utilizes small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold. The Federal Acquisition Regulation at 48 CFR Subpart 2.1 sets the simplified acquisition threshold. The simplified acquisition threshold is currently \$250,000, but this threshold is periodically adjusted for inflation. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

The City will solicit written responses from at least three vendors, and if no such responses are available, a statement explaining the procurement will be prepared and filed.

### c) Competitive Sealed Bids

Bidding will be employed when detailed specifications for the goods or services to be procured can be prepared and the primary basis for the award is cost. When the cost of a contract, lease or other agreement for materials, supplies, equipment, or contractual services, other than those personal or professional, exceeds \$25,000, an Invitation for Bids (IFB) notice will generally be prepared. The City may also solicit sealed bids from responsible prospective suppliers by sending them a copy of such notice.

The IFB will include a complete, accurate and realistic specification and description of the goods or services to be procured, the bid deposit, payment, bond and bond performance required (if applicable), the location where bid forms and specifications may be secured, the time and place for opening

## **CITY OF FERNDALE PROCUREMENT POLICY**

bids, and whether the bid award will be made on the basis of the lowest price or the lowest evaluated price. If the lowest evaluated price is used, the measurable criteria to be used must be stated in the Invitation For Bid. The notice must also contain language, which calls to the attention of bidders all applicable requirements, which must be complied with.

The Finance Director (or designee) shall determine that all firms are responsive and responsible. Based on the City Manager's (and/or Department's) recommendation, the City Council will make the final decision as to whom the contract shall be awarded. After the bid award is made by the City, a contract will be prepared for execution by the successful bidder. After the contract is signed, all bid deposits will be returned to all unsuccessful bidders (if applicable).

The City may cancel an Invitation for Bid or reject all bids if it is determined that such is in the best interests of the City. Bidders will be notified in writing of such cancellation or rejection. The City may allow a vendor to withdraw a bid if requested at any time prior to the bid opening. Bids received after the time set for bid opening shall be returned to the vendor unopened.

d) Competitive Proposals

The City will use competitive negotiations, regardless of contract amount, upon a written determination that:

1. Specifications cannot be made specific enough to permit the award of a bid on the basis of either the lowest bid or the lowest evaluated bid price (in other words, bidding is not feasible).
2. The services to be procured are professional in nature.

e) Noncompetitive Proposals (Sole Source)

Noncompetitive negotiations may be used for procurements in excess of \$25,000 when bidding or competitive negotiations are not feasible. The City may purchase goods and services through non-competitive negotiations when it is determined in writing by the Finance Director that competitive negotiation or bidding is not feasible and that:

1. An emergency exists which will cause public harm as a result of the delay caused by following competitive purchasing procedures, or
2. The product or service can be obtained only from one source, or
3. The contract is for the purchase of perishable items purchased on a weekly or more frequent basis, or
4. After solicitation of a number of sources, competition is determined inadequate, or

## CITY OF FERNDALE PROCUREMENT POLICY

5. The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the City.

Procurement by noncompetitive negotiation requires the strictest attention to the observation of impartiality toward all suppliers. Sole source procurement should only be used when use of competitive solicitation procedures like sealed bids, or competitive proposals are not applicable to the requirement or is impractical. The City must approve all procurements by non-competitive negotiation (sole source) when only one supplier is involved or only one bid or response to an RFP/RFQ is received.

Bids will be accepted only from those contractors who have a proven record of ability to successfully complete the scope of work being bid. References will be requested along with the contractor's bid proposal. Any contractors submitting a bid must produce (along with his/her bid documents) written proof of liability insurance and worker's compensation coverage. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance and financial and technical resources in awarding contracts.

### 2. Preference for competitive bidding:

The City shall procure goods and services by competitive bidding and preference may be granted to Ferndale businesses and/or union businesses whenever feasible, unless this policy provides otherwise.

### 3. Definitions:

- a. Agent: An official representative of a party. Also, a person or entity that may convey information to a party.
- b. Bid, or solicitation: An invitation for bid, request for proposal, or any other request for prices, including all specifications, plans, and other supporting documents. Throughout this policy the term "bids" will be considered to universally encompass the terms request for bids (RFB), request for quotation (RFQ), request for proposal (RFP) and proposal.
- c. Bid bond: A bond a potential bidder is required to submit when submitting a bid.
- d. Contractor: A private entity that has or desires a business relationship with the City. Throughout this policy, the term "contractor" will be considered to universally encompass the terms vendor and supplier.
- e. Delinquent: A debt owed to the City is delinquent when it is past the due date and without repayment arrangements that are satisfactory to the City.
- f. Entity: An individual or a business. The latter includes, but is not limited to, sole proprietorships, partnerships, corporations, and any form of organization recognized by the law of any state.
- g. Invitation for bid (IFB): The information provided to bidders to allow them to make a bid.

## **CITY OF FERNDALE PROCUREMENT POLICY**

- h. Minor informality: A minor deviation from the prescribed form that, when corrected, is not prejudicial to other bidders nor harms the City in any way.
- i. Notice of bids: The publication and/or posting that the City is requesting entities to bid. The notice informs the bidders where to obtain the invitation for bid and does not include all the information in the invitation for bid.
- j. Professional services: A type of personal service to the public that requires as a condition prior to the rendering of the service the obtaining of a license or other legal authorization. Professional services include, but are not limited to, services rendered by certified or other public accountants, architects, professional engineers, land surveyors, and attorneys at law. [MCL 450.222(c)]
- k. Quotation: A response by an entity to a direct request by the City for pricing and availability of goods or services. A quotation is not a response to an invitation for bid.
- l. Responsible Bidder: A bidder whose bid meets all the requirements specified in an invitation for bid, other than minor informalities.
- m. Responsible procurement officer: The representative of the City responsible for issuing an invitation for bid or requesting a quotation.
- n. Specifications: Descriptive information used to procure specific goods or services that may include performance, delivery requirements, physical characteristics, packaging requirements, and operating parameters of goods.
- o. Subcontractors list: A list submitted by a general or prime contractor indicating those subcontractors who will perform specified portions of the contract.

#### 4. Invitations for Competitive Bids:

- a) An invitation for bid must include the following:
  - 1) instructions and information to bidders concerning the bid submission requirements, the time, and date set for receipt of bids, the address of the office to which bids are to be delivered, the maximum time for bid acceptance by the City, and any other special information;
  - 2) a purchase or project description, evaluation factors (if applicable), delivery or performance schedule, and the inspection and acceptance requirements that are not included in the purchase or project description;
  - 3) a description of all required terms and conditions, including warranty and bonding or other security requirements;
  - 4) a requirement for certification by the bidder that, by submitting a bid, the bidder certifies that the price submitted was independently arrived at without collusion;
  - 5) a notice that an entity delinquent on debts owed to the City (including, but not limited to, personal or real property taxes and water bills) may not bid until the debt is satisfied or the bidder has made repayment arrangements that are satisfactory to the City;
  - 6) a description of the criteria used in evaluating the bid if not purely on cost. The description of the criteria must include the relative weights



## **CITY OF FERNDALE PROCUREMENT POLICY**

- to be assigned to each factor and the methodology that will be used to assign values to each factor for a bidder; and
- 7) a statement that the City reserves the right to accept or reject any or all bids, to waive informalities or errors, and to accept any bid deemed to be in the best interest of the City.
  - b) An invitation for bid must require the bidder to certify that the bidder will comply with any provisions established to eliminate and prevent discrimination in City contracting because of race, religion, color, national origin, gender, sexual orientation, age, marital status, pregnancy, height, weight, familial status, disability, or political affiliation;
  - c) An invitation for bid must require the bidder to certify that the bidders subcontractor work will be allocated to meet provisions established in the bid to eliminate and prevent discrimination in City contracting because of race, religion, color, national origin, gender, sexual orientation, age, marital status, pregnancy, height, weight, familial status, disability, or political affiliation and any other goals or financial incentives established in the bid.
  - d) An invitation for bid must require the bidder to certify that the bidder shall abide by all state and local laws and statutes and that it is in good standing under federal, state, and local laws.
  - e) An invitation for bid must advise the bidder that it is required to obtain any required permits from the appropriate authorities.
  - f) An invitation for bid shall set forth all requirements the bidder must fulfill for the bid to be evaluated by the City. Solicitations must be based on a clear and accurate description of the technical requirements:
    - 1) Complete information should be provided including, but not limited to, quantity, description, delivery requirement, special conditions, drawings, specifications, bid due date and time, etc.
    - 2) Specifications or requirements should not unduly restrict competition.
    - 3) Whenever a "brand name or equal" description is used to define performance or other salient requirement, the specific features of the named brand must be clearly specified.
  - g) An invitation for bid may require potential bidders to submit a bid bond.
  - h) An invitation for bid may require the submission of product samples, descriptive literature, technical data, or other material. An invitation for bid may provide for any of the following before award:
    - 1) inspection or testing of a product for such characteristics as quality or workmanship;
    - 2) examination of such elements as appearance, finish, taste, or feel; or
    - 3) other examinations to determine whether a product conforms with other purchase requirements.
  - i) For professional services, the City may choose not to use cost as an evaluation factor, but the rationale for excluding cost must be disclosed before the invitation to bid is issued.
  - j) An invitation for bid may incorporate documents by reference.

### 5. Notice of Bids:

## **CITY OF FERNDALE PROCUREMENT POLICY**

In the spirit of continuous improvement and transparency, the City is a member of the Michigan Inter-governmental Trade Network (MITN) Purchasing Group. The MITN Purchasing Group is made up of participating local government agencies who invite vendors to register for exclusive access to RFPs, bids, and awards on the system. Registered vendors benefit with access to bid information & documents in a central location from nearly 200 Michigan local governments. All City of Ferndale solicitations will be published on this platform. The City invites all potential vendors to register and participate in this system. You can register for the program here: <https://www.bidnetdirect.com/mitn/city-of-ferndale>

The MITN Purchasing Group complies with all the procurement activity as listed below.

- a) Notice to potential bidders shall be made according to legal requirements, including those set by resolution of Council. Notices will be published on the MITN Bidnet Direct system or, when practicable, by the following methods:
  - 1) notices mailed to prospective contractors on the compiled bidders lists;
  - 2) notices posted in City Hall;
  - 3) newspaper(s) of record; and
  - 4) publication in other appropriate media, including professional magazines and journals and postings in electronic media.
- b) The City may require payment of duplication costs or a deposit for supplying the solicitation or supporting documents.
- c) The responsible procurement officer shall provide notice of an invitation for bid to a prospective contractor upon request.
- d) Nothing in this section limits the additional forms of public notice that the City may use to reach prospective contractors located in the state.
- e) The published notice shall include a provision that any entity may submit its name to be notified of potential bids. City Departments shall compile a list of potential bidders, the type of bids for which they wish to be directly notified and the date of placement on the list. A copy of the list must be provided to the Clerk. Any entity wishing to be placed on the list shall contact the Department or the Clerk, who shall forward such requests to the appropriate Department. If there is a discrepancy between lists, the list with the Clerk shall control. An entity shall be removed from the list of potential bidders after three years unless it has requested to continue on the list. Potential bidders shall be notified upon placement on the list that they must notify the City prior to expiration that they wish to remain on the list. When soliciting proposals, entities on the list for the particular type of bid shall be notified at the time proposals are requested.
- f) For each invitation for bid, the City shall compile a list of the entities sent a copy.

### **6. Sealed Proposals:**

Where the Charter requires proposals to be sealed, the City shall not accept proposals via email, facsimile machine, or other electronic manner.



**7. Receipt, Opening and Recording of Bids**

- a) A bid must be submitted in a sealed envelope unless other means of transmittal and receipt have been otherwise authorized in the solicitation. Upon receipt, bids shall be stored in a secure place until the time and date set for bid opening.
- b) Bids shall be opened publicly at the time, date, and place designated in the invitation for bid. The name of each bidder, the bid price, and other information deemed appropriate by the City shall be tabulated.

**8. Bid Evaluation and Award**

- a) Award of a bid may not be based on discrimination due to the race, religion, color, national origin, gender, sexual orientation, age, marital status, pregnancy, height, weight, familial status, disability, or political affiliation of the bidder.
- b) A bid shall be evaluated to ensure that it meets the requirements set forth in the invitation for bid. A bid that does not meet these requirements shall be rejected as nonresponsive.
- c) In addition to price, bids may be evaluated to determine which bid offers the lowest overall cost to the City, such as life cycle cost or other considerations, in accordance with the evaluation criteria set out in the invitation for bid. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible the evaluation factors must:
  - 1) be reasonable estimates based upon information the City has available concerning future cost considerations;
  - 2) reasonably reflect the needs of the City; and
  - 3) treat all bids equitably.
- d) Other evaluation factors include, but are not limited to:
  - 1) bidder's previous record of performance and service (experience);
  - 2) ability of bidder to render satisfactory service in this instance (i.e., training, maintenance and repairs);
  - 3) bidder's references;
  - 4) availability of bidder's representative to call upon and consult with the end users;
  - 5) quality and conformance to specifications;
  - 6) delivery schedule.
  - 7) life expectancy;
  - 8) warranty; and
  - 9) disposal value.
- e) Nothing in this section permits a contract award to a bidder submitting a higher quality item than that designated in the invitation for bid if the bidder is not also the lowest bidder as determined under (c) of this section. This section does not permit negotiations with a bidder.
- f) The City is not obligated to accept the lowest bid, or any bid.
- g) When awarding a bid for professional services where cost is an evaluation factor, the City may choose in exception to the lowest overall cost criteria of

## **CITY OF FERNDALE PROCUREMENT POLICY**

subsection (c) if it determines that the City's best interests would be better served.

### 9. Post-awarding procedures:

- a) After a bid is awarded, the responsible procurement agent shall promptly notify in writing the entity awarded the bid. If the invitation for bid or agreements with other agencies or those agencies' regulations require specific notification procedures, those procedures must be followed.
- b) Following the award, a record showing the basis for determining the successful bidder shall be made a part of the procurement file.
- c) Notice of intent to award does not constitute award of a contract. The notice of intent to award must include:
  - 1) reference to the pertinent invitation for bid;
  - 2) the name of the successful bidder;
  - 3) a brief description of items awarded; and
  - 4) a statement of the proposed contract amount.
- d) All source documents supporting any given transaction (receipts, purchase orders, invoices, RFP/RFQ data and bid materials) will be retained and filed in an appropriate manner. Where feasible, source documents pertinent to each individual procurement shall be separately filed and maintained. Where it is not feasible to maintain individual procurement files, source documents will be filed and maintained in a reasonable manner (examples include chronologically, by vendor, by type of procurement, etc.). Whatever form of documentation and filing is employed, the purpose of this section is to ensure that a clear and consistent audit trail is established. At a minimum, source document data must be sufficient to establish the basis for selection, basis for cost, (including the issue of reasonableness of cost), rationale for method of procurement and selection of contract type, and basis for payment.
- e) Before the City issues any contract/award, the agency must:
  - Have a documented process to check for organizational conflict of interest with potential contractors;
  - Have a process in place to ensure that contracts are not awarded to contractors or individuals on the List of Parties Excluded from Federal Procurement and Non-procurement Programs; and
  - Perform a System for Award Management (SAM) review of potential contractors or individuals.

### 10. Code of Conduct:

#### Conflict of Interest:

- a) The Charter, Chapter XVII, Section 11, and the Contracts of Public Servants with Public Entities Act (PA 317 of 1968, MCL 15.321-328) govern conflicts of interest. Both documents will be available in the City Clerk's office.
- b) A conflict of interest occurs when the official, employee or designated agent of the City, partners of such individuals, immediate family members, or an

## **CITY OF FERNDALE PROCUREMENT POLICY**

organization which employs or intends to employ any of the above has a financial or other interest in any of the competing firms.

- c) No City of Ferndale member, employee, consultant, elected official, appointed official or designated agent of the City will take part or have an interest in the selection of an award of any procurement transaction if a conflict of interest, real or apparent, exists.
- d) The City shall not enter into a contract with a City employee or City officer, or a member of that person's immediate family. For purposes of this section, immediate family shall mean a spouse, child (including stepchild or adopted child), grandchild, brother, sister, parent, or grandparent of the City employee or City officer. City employees shall include all full and part-time employees with the City of Ferndale.
- e) Bids or proposals submitted by an individual or firm that developed the specifications or plans (including an RFP) for a project will not be considered.

### Acceptance of Gratuities

- f) A gift is defined as anything of monetary value that is given with the intent to influence the recipient's business decisions. No City of Ferndale member, employee or designated agent shall solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, subcontractors, or potential subcontractors.

### Penalties

- g) Any City of Ferndale member, employee or designated agent who knowingly and deliberately violates the provisions of this code will be open to civil suit without the legal protection of the City. Furthermore, such a violation of these procurement standards is grounds for dismissal by the City (if an employee) or such sanctions as available under the law (if an elected official). Any contractor or potential contractor who knowingly and deliberately violates the provisions of these procurement standards will be barred from future transactions with the City.

**NOTE:** These rules apply to all named parties and shall be effective for the period of service and for one year after leaving said position (or office, in the case of elected officials).

### 11. Communication with potential bidders:

Prior to the opening of sealed bids:

- a) No employee or agent of the City shall disclose or cause to be disclosed the following information to a bidder or agent:
  - 1) the terms of another bidder's quotation or proposal;
  - 2) the fact that bids or quotes have been solicited or received from other bidders (A bidder may only be advised that the City is seeking sealed proposals.); and
  - 3) the fact that bids have not been received from other bidders.
- b) Any individual explanation by the City to a prospective bidder regarding the meaning or interpretation of a bid request, drawings, specifications, or any other item relating to a bid must be requested in writing within a reasonably

## **CITY OF FERNDALE PROCUREMENT POLICY**

sufficient time to allow the City to contact other prospective bidders before submission of their bids where the explanation is a material change to the invitation for bid. The City's response will be in writing. Any such information given to a bidder will be furnished to all prospective bidders as an addendum with the request for information that precipitated the City's response.

### 12. Soliciting quotes:

- a) If the purchase is under the amount required by the Charter for competitive bidding and no other law or policy requires competitive bidding, quotations may be obtained instead of bidding.
- b) Each purchase made under these conditions requires at least three quotations where feasible. If fewer than three quotations are obtained, written justification for using fewer is required.
- c) A written record of communication by the responsible procurement officer (or city employee making contact) with each supplier that chose not to quote is required, with the name of the supplier and representative, date contacted and reason for not providing a quotation.
- d) If the lowest quotation is not used, written justification is required for selecting a different supplier.
- e) When evaluating quotes, consideration may be given, but not necessarily limited to some or all of the following:
  - 1) price;
  - 2) bidder's previous record of performance and service;
  - 3) ability of bidder to render satisfactory service in this instance (i.e., training, maintenance and repairs);
  - 4) availability of bidder's representative to call upon and consult with the end users;
  - 5) quality and conformance to specifications;
  - 6) delivery schedule;
  - 7) life expectancy;
  - 8) warranty; and
  - 9) disposal value
- f) All criteria used to evaluate quotes must be disclosed in writing.
- g) Only reputable suppliers will be considered as sources of supply for the City's needs. Vendors are evaluated on responsiveness, courtesy, technical competence, reliability, and ethics. Prospective suppliers may be identified by means such as:
  - 1) Thomas Register of American Manufacturers;
  - 2) national directories of addresses and telephone numbers;
  - 3) regional industrial purchasing guides;
  - 4) industry associations;
  - 5) trade associations;
  - 6) professional associations;
  - 7) classified telephone directories;
  - 8) trade and product shows;
  - 9) manufacturers' catalogs and sales literature;
  - 10) marketing representatives; and

## **CITY OF FERNDALE PROCUREMENT POLICY**

- 11) periodicals/magazines/professional journals.

### 13. Exceptions to Competitive Bidding Practices:

- a) Competitive bidding is not required in the following cases:
  - 1) Exact replacement/repair part(s) of a larger component ordered directly from a manufacturer or manufacturer's representative where no other sources exist.
  - 2) Copyrighted material or media items ordered directly from a producer/publisher.
  - 3) Items ordered from the only known source of supply. Such orders, when above Charter and Council requirements, require written justification.
  - 4) Service by a manufacturer or manufacturer's representative for previously purchased products.
  - 5) Items are available from the City or from other governmental agencies.
  - 6) Under a unit-price contract, the City Council may authorize additional units of work at the same unit price as long as the total contract price does not increase by more than 25%.
  - 7) Four-fifths of the City Council votes to exempt the contract from the competitive bidding process (City Charter, Chapter XVII, § 1) if the amount is above the required threshold (\$5,000.00, unless increased by resolution of Council to \$10,000.00).

### 14. Irregularities in the Bid Process:

- a) Conditions under Which Bids or Proposals May Be Accepted
  - 1) Envelope Not Sealed: An unsealed envelope may be treated as a minor informality and is not cause for rejection of the bid.
  - 2) Erasures or Corrections: Erasures or corrections to a bid may be treated as minor informalities and are not cause for rejection of the bid. If erasures or corrections are noted at the time of opening and reading of bids, however, an oral announcement will be made, and a notation included in the bid file.
  - 3) Failure to Submit Subcontractors List: Failure to include a subcontractors list with a bid is not cause for rejection of the bid unless it is specified in the solicitation that the subcontractors list must be included with the bid. The requirement for the submission of a subcontractors list is for the purpose of determining the qualifications of the subcontractors. The failure to include a subcontractors list may be corrected by the bidder by submission of a subcontractors list within a reasonable time as specified by City.
  - 4) Modification of Bids before Opening: Bidders may modify bids, or correct mistakes discovered before the time and date set for opening, provided the modifications or corrections are made in writing. If, before award, a procurement officer knows of an error in a bid, the officer shall notify the bidder of the error.

## **CITY OF FERNDALE PROCUREMENT POLICY**

- b) Conditions under Which Bids or Proposals May Be Rejected
- 1) Bids Not Submitted on the City's Forms: Bids that are not submitted on the City's forms may be rejected provided it is made clear in the invitation for bid that the City's forms are required to be used for submission of bids and that failure to do so will cause rejection of the bid. Otherwise, the failure to submit bids on City forms may be treated as a minor informality.
  - 2) Insufficient Competition: If only one bid is received in response to the invitation for bid, an award may be recommended to Council if the department head determines that the proposed price is fair and reasonable, that other prospective bidders had a reasonable opportunity to respond, and that time constraints do not allow for a new invitation for bid. Otherwise, the bid or proposal may be rejected for insufficient competition.
  - 3) Low Price Unreasonable: If the lowest price received in response to a invitation for bid does not seem reasonable after a price analysis, the bids may be rejected.
  - 4) Modification of Bids or Proposals after Opening: Upon acceptance by the City, a bidder may not withdraw a bid or correct a mistake based on an error in judgment. Minor informalities in a bid or proposal may be waived or corrected if correction is advantageous to the City. If a nonjudgmental mistake is obvious and the intended bid or proposal is evident on the face of the bid, the bid shall be corrected to reflect the intended bid. If an obvious error is evident on the face of the bid but the intended bid is not evident, the bidder may be allowed to withdraw the bid without penalty. If the bidder establishes by clear and convincing evidence that a nonjudgmental mistake was made, the bidder may be allowed to withdraw the bid without penalty. If a decision is made to permit the modification of a bid, the responsible procurement officer shall prepare a written determination supporting the decision.
  - 5) Nonresponsive Bids or Proposals: Bids may be rejected as nonresponsive if they fail to conform in all material respects to the invitation for bid.
  - 6) Signature Missing: Bids that do not have the signature of the vendor's representative shall be rejected provided it is made clear in the invitation for bid that a signature of the bidder's representative is required and that failure to provide it will cause the bid or proposal to be rejected. Otherwise, failure to sign the bid will be treated as a minor informality.
  - 7) Best Interests of the City: If the City determines that it would be in its best interests to reject one, some or all bids, it may do so.
- c) Conditions under Which Bids or Proposals Shall Be Rejected
- 1) Bid Bond Not Included: If the invitation for bid requires the submission of a bid bond, failure to submit such bond will cause rejection of the bid or proposal as nonresponsive.



## CITY OF FERNDALE PROCUREMENT POLICY

- 2) Failure to Meet Requirements: Failure to meet requirements specified in the invitation for bid shall be cause for rejection of the bid, unless the failure to meet such requirements is a minor informality.
  - 3) Late Bids: Bids not received at the date, time, and location specified in the invitation for bid shall not be considered. Late bids will be noted on the envelope and will be returned to the bidder. A notation will be recorded in the bid or proposal file. It is the responsibility of the bidder to ensure that the bid or proposal is received on time. A bid received after the time and date set for the receipt of bids in the invitation for bid or subsequent amendment is late. A correction or withdrawal of a bid received after the time and date set for opening of bids at the place designated for opening is late. A late bid, correction, or withdrawal shall not be accepted unless the delay was due to an error of the City.
  - 4) Withdrawal of Bids: Bids may be withdrawn at any time before the date set for opening. Bids may not be withdrawn after opening except as allowed by the City.
    - i. A bid shall be corrected, modified, or withdrawn only by written request received in the office designated in the invitation for bid before the time and date set for opening.
    - ii. A request under i) of this section must provide authorization for the person making the correction or withdrawal to do so.
    - iii. If a bid is withdrawn, the bid security, if any, shall be returned to the bidder.
  - 5) All documents relating to the correction, modification, or withdrawal of a bid shall be included in the appropriate procurement file. If a decision is made to permit the modification or withdrawal of a bid, or to cancel an award or contract based on a bid mistake, the responsible procurement officer shall prepare a written determination supporting the decision.
- d) Inadvertent Errors Discovered After Opening But Before Award: Inadvertent errors by a bidder discovered after opening but before award, other than minor informalities, may not be corrected. If a bidder submits proof that clearly and convincingly demonstrates that an inadvertent error other than a minor informality was made, the City may permit the bidder to withdraw the bid.
- 1) Correction of a mistake, which would displace an otherwise successful bidder, is not permitted.

### 15. Contracts

Generally, all procurement in excess of \$25,000 will be memorialized and supported by a written contract. Where it is not feasible or is impractical to prepare a contract, a written finding to this effect will be prepared and some form of documentation regarding the transaction will also be prepared. The contractual provisions required by 2 C.F.R. Part 200, Uniform Guidance, and all others as applicable will be included in all contracts. All contracts will contain language which allows the City the opportunity to cancel any contract for cause. Said cause shall include (but not be limited to) demonstrated lack of ability to perform the



## CITY OF FERNDALE PROCUREMENT POLICY

work specified, unwillingness to complete the work in a timely fashion, cancellation of liability insurance or worker's compensation, failure to pay suppliers or workers, unsafe working conditions caused by the contractor, failure to comply with Davis-Bacon wage laws (where applicable), failure to keep accurate and timely records of the job, or failure to make those records available to the City (on request) or any other documented matter which could cause a hardship for the City if a claim should arise or the work not be completed on schedule at the specified cost.

Contracts will be structured to utilize value-engineering for any construction project in excess of \$50,000. Value engineering will allow the total job to be broken down and bid on in sections, so as to produce the lowest overall cost of the project to the City. A project will request proposals for heating as one element, electrical as one element, etc. In some cases, this will make for a more cost-effective project. However, this does not preclude a bidder from making a lump-sum bid. Total cost will be calculated when value-engineering produces different bids for different scopes of work. Those segmented bids will then be added together to give a final project cost.

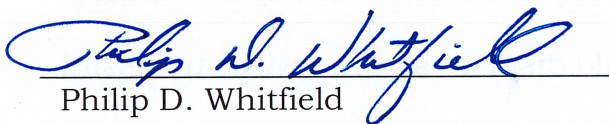
### 16. Exceptions to This Policy:

The City Council may make or authorize exceptions to this policy when it determines that it would be in the City's best interests to do so. The Council shall expressly note when it makes or authorizes an exception. Requests for exceptions to this policy should be made to the City Council before the procurement process begins.

### 17. Certification

I, Philip D. Whitfield, Finance Director for the City of Ferndale, certify that I have reviewed the foregoing policy for accuracy and compliance with USDOL Uniform Guidance, State of Michigan mandates, as well as the City Charter.

Submitted to the Ferndale City Council for consideration and approval this 24th day of April, 2023.



Philip D. Whitfield

Finance Director