

ORDINANCE NO. 07-04

AN ORDINANCE OF THE CITY OF FERNDALE
ESTABLISHING A PURCHASING PROCEDURE
AND REPEALING ORDINANCE 00-02

THE CITY COUNCIL OF THE CITY OF FERNDALE DOES ORDAIN AS
FOLLOWS:

ARTICLE 1: SHORT TITLE, PURPOSE, SCOPE AND REPEAL

- §1.01 This ordinance shall be known and cited as the “Purchasing Ordinance.”
- §1.02 The purpose of this ordinance is to establish efficient procedures for the purchase of supplies, equipment and services; to secure supplies, equipment and services at the lowest possible cost commensurate with the quality needed; to exercise positive financial control over all purchases; and to clearly define authority for the purchasing function.
- §1.03 This ordinance shall cover procurement for all departments throughout the City of Ferndale.
- §1.04 The adoption of this ordinance will repeal Ordinance 00-02.

ARTICLE 2: STATUTORY AUTHORITY

- §2.01 Authority is pursuant to Government Code §§54201 through 54205

ARTICLE 3: ADMINISTRATION AND ENFORCEMENT

- §3.01 Purchasing Officer. The responsibility and authority for the purchase of supplies, services and equipment is vested in the City Manager, or in his absence the Mayor, who shall be the Purchasing Officer of the City. The City Manager, or in his absence the Mayor, may designate a Purchasing Officer. The duties of the Purchasing Officer may be combined with those of any other office or position. As Purchasing Officer, the City Manager, or in his absence the Mayor, shall have the authority to:
- 3.01.1 Purchase or contract for supplies, services and equipment required by any using City department or agency in accordance with purchasing procedures prescribed by this ordinance, such administrative regulations as the Purchasing Officer shall adopt for the internal management and operation of the purchasing system, and such other rules and regulations as shall be prescribed by the City Council or City Manager or in his absence the Mayor, at all times endeavoring to obtain as full and open competition as possible on all purchases;
- 3.01.2 Negotiate and recommend execution of contracts for the purchase of supplies, services, and equipment;
- 3.01.3 Act to procure for the City the needed quality in supplies, services and equipment the least expense to the City;

- 3.01.4 Endeavor to obtain the most full and open competition as possible on all purchases;
- 3.01.5 Prepare and recommend to the City Council rules governing the purchase of supplies, service and equipment for the City;
- 3.01.6 Prepare and recommend to the City Council revisions and amendments to the purchasing rules;
- 3.01.7 Keep informed of current developments in the field of purchasing, prices, market conditions, and new products;
- 3.01.8 Prescribe and maintain such forms as are reasonably necessary to conform to the requirements of this ordinance and other rules and regulations;
- 3.01.9 Supervise and inspect all supplies, services, and equipment purchased to insure conformance with specifications;
- 3.01.10 Administer the transfer of surplus or unused supplies and equipment between departments as needed, and the sale of all supplies and equipment which cannot be used by any City department or agency, or which have been unsuitable for City use, or to exchange the same for, or trade in the same on, new supplies and equipment;
- 3.01.11 Oversee the operation of all storerooms for the storage of common use items, to insure the safekeeping and proper storage and handling of all supplies and equipment therein;
- 3.01.12 Require annual departmental inventory of non-consumable items.
- 3.01.13 Maintain a bidder's list, vendor's catalog file, and other records needed for the efficient operation of the purchasing system.

ARTICLE 4: PURCHASING PROCEDURE

- §4.01 Except as otherwise provided in this ordinance, all purchases and contract for supplies, equipment and commodities of any value shall be accomplished either by or through the Purchasing Officer. Purchases shall be processed by one of the following:
- 4.01.1 Purchases: Purchases over twenty-five dollars for supplies, equipment or services shall be made by purchase order or contract except where payment has been pre-approved by the Purchasing Officer. Purchases over five thousand dollars must be approved by the City Council.
 - 4.01.2 Purchase Orders: A purchase order will not be issued until the Purchasing Officer first approves it. The Purchasing Officer shall have the authority to issue open purchase orders for certain competitive and expendable items where it is not economical to maintain an inventory and need is such that the following of normal purchasing procedures would be detrimental to the effective operation of the City.
 - 4.01.3 Encumbrance of funds: Except in cases of emergency, as determined pursuant to §6.01, or where specific authority has first been obtained from the City Manager, or in his absence the Mayor, no purchase order or contract shall be issued unless there exists an unencumbered

appropriation in the fund account against which the purchase is to be charged.

ARTICLE 5: PURCHASES – USE OF PETTY CASH

- §5.01 All individuals requiring petty cash reimbursement or advance petty cash disbursements shall be required to fill out the appropriate claim form. Receipts shall be required to substantiate all purchases. No petty cash shall be dispensed without the approval of the department head and Purchasing Officer or designee. All receipts for advance petty cash must be returned within two days. Disbursements from petty cash shall not exceed twenty-five dollars or any other amount as may be adopted by resolution of the City Council.
- §5.02 Purchases for \$25.00 or less from suppliers who bill the City on a monthly basis require prior approval of the department head and Purchasing Officer or designee. No purchase made under petty cash or monthly billing criteria will be made unless an unencumbered appropriation in the fund account exists and is identified prior to the purchase.

ARTICLE 6: BIDDING PROCEDURE

- §6.01 General
- 6.01.1 Purchases for supplies, equipment or services shall be by bid procedures pursuant to this ordinance except:
- a. During an emergency as determined by the City Manager or in his absence the Mayor, which requires an order be placed with the nearest or most readily available source necessary to provide an essential city-supplied service affecting the public health, safety or welfare that would be delayed through the normal purchasing procedure in the procurement of the items or service; or
 - b. When the Purchasing Officer determines that the supplies, service or equipment can be obtained from only one vendor; or
 - c. When the City has a contract with another governmental unit to purchase a particular item on a cooperative basis; or
 - d. *(This section amended by Ordinance 2012-03 on 9/6/12)* When the City Council determines that it is in the best interest of the City to do so. *(End of section amended by Ordinance 2012-03 on 9/6/12)*
- §6.02 Public Contract Code items
- 6.02.1 Purchases of supplies, equipment or services covered under Public Contract Code Section 20161 et seq. shall be made by the City Council to the lowest responsible bidder through the formal bidding procedures pursuant to Public Contract Code 20161 et seq.
- §6.03 Formal
- 6.03.1 Except as otherwise provided in this ordinance, purchases or contract for supplies, services or equipment of an estimated value greater than

ten thousand dollars or any other amount as may be adopted by resolution of the City Council shall be by written contract with the lowest responsible bidder pursuant to the procedures prescribed as follows:

- a. The Purchasing Officer shall prepare a notice inviting bids which shall include a general description of the articles or services to be purchased, shall state where bid blanks and specifications may be secured, and the time and place for opening bids.
- b. The notice inviting bids shall be published at least ten days before the date of opening of the bids. Notice shall be published at least once in a newspaper of general circulation, printed and published in the City, or if there is none, it shall be posted in at least three public places in the City that have been designated by ordinance as the places for posting public notices.
- c. The Purchasing Officer shall solicit sealed bids from all responsible prospective suppliers whose names are on the bidders' list or who have requested their names to be added thereto, and any other source known to the Purchasing Officer.
- d. When deemed necessary by the Purchasing Officer, bidder's security may be prescribed in the public notices inviting bids. Bidders shall be entitled to return to bid security provided that a successful bidder shall forfeit his bid security upon refusal or failure to execute the contract within ten days after the notice or award of contract has been mailed, unless the City is responsible for the delay. The City Council may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder. If the City Council awards the contract to the next lowest bidder, the amount of the lowest bidder's security shall be applied by the City to the difference between the low and the second lowest bid, and the surplus, if any, shall be returned to the lowest bidder.
- e. The City Council shall have authority to require a performance bond before entering a contract in such amount as it shall find responsibly necessary to protect the best interest of the City. If the City Council requires a performance bond, the form and amount of the bond shall be described in the notice inviting bid.
- f. Sealed bids shall be submitted to the Purchasing Officer and shall be identified as bids on the envelope. Bids shall be opened in public at the time and place stated in the public notice. A tabulation of all bids received shall be opened for public inspection during regular business hours for a period of not less than thirty calendar days after the bid opening. No bids shall be accepted after the stated time specified in the notice inviting bids.
- g. The bids shall be submitted to the City Council. Contracts or purchase orders shall be awarded by the City Council to the

lowest responsible bidder except as otherwise provided in this ordinance.

- h. In its discretion, the City Council may reject any and all bids presented, and may re-advertise for bids.
- i. If two or more bids received are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay of re-advertising for bids, the City Council may accept the lowest bid made by negotiations with the tie bidders at the time of the bid opening or at the time of considering the award of the bid by the City Council.
- j. Any procedure herein may be waived in emergency situations by the City Council or the City Manager, or in his absence the Mayor. No bid shall be paid without a valid purchase order being in effect. All departments requesting purchase of goods or services shall be responsible for the preparation of necessary specifications and arranging for formal bidding. The City retains all rights to reject all bids.

§6.04 Informal.

- 6.04.1 If the estimated value of supplies, services or equipment is less than five hundred dollars, the Purchasing Officer may dispense with formal bidding procedures, but shall secure by telephone or letter price quotations from two or more vendors.
- 6.04.2 If the estimated value of the purchase is greater than five hundred dollars but less than five thousand dollars, the Purchasing Officer shall authorize the purchase in the open market of informal bidding, negotiations, or annual purchase agreement. Informal bidding means solicitation by the purchasing officer of at least three price quotations, either written or verbal, of which the bid yielding the lowest ultimate cost shall be accepted. The lowest ultimate cost shall mean the lowest informal bid price commensurate with the quality needed and shall include consideration of anticipated operating costs, transportation or packing charges, availability, storage costs, and supplier responsibility when such factors are relevant.

ARTICLE 7: PURCHASING OF SERVICES

§7.01 When the City Council or City Manager, or in his absence the Mayor, authorizes the hiring of services for which standard specific actions cannot be drawn due to the nature of the service or because of national association by-laws or professional policies prohibiting competitive bidding, such as, but not limited to, architectural services, consultant services, legal services, and engineering services, the Purchasing Officer shall negotiate for the authorized service.

- 7.01.1 Proposals shall be submitted whenever practicable from at least three firms. When the service lends itself to written standard specifications,

then bidding for this service shall be conducted pursuant to Section 3 of this ordinance.

7.01.2 When the value of any service is greater than one thousand dollars, the contract or purchase order shall not be executed unless approved by the City Council.

§7.02 Lowest responsible bidder. The lowest responsible bidder shall be the bidder who offers to perform the work involved according to the plans and specification therefore for the least amount of money, provided the bidder has the ability, capacity and, where necessary, the required state or other license.

7.02.1 Purchase of supplies or services may be made from other than the lowest bidder when delivery or performance of services are time critical to the needs of the City. It is the responsibility of the Purchasing Officer to document the file and notify the City Council of the reason for the award to other than the lowest bidder.

ARTICLE 8: GENERAL

§8.01 Purchasing Recycled

8.01.1 There is no minimum content requirement for reused or refurbished products and should be considered 100 percent recycled

8.01.2 The Purchasing Officer shall endeavor to purchase recycled products instead of nonrecycled products if fitness and quality are equal, whenever recycled products are available at the same or a lesser total cost than nonrecycled products.

§8.02 Inspection and Testing

8.02.1 Each department shall inspect supplies and equipment delivered, and contractual services performed, to determine their conformance with the specifications set forth in the order or contract.

8.02.2 The department head or designee shall have the authority to require chemical or physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with the specifications.

§8.03 Surplus supplies and equipment.

8.03.1 All using officers or city departments or agencies shall submit to the City Manager or in his absence the Mayor, at such times and in such form as prescribed, reports showing all supplies and equipment which are no longer used or which have become obsolete or worn out.

§8.04 Unlawful purchases.

8.04.1 No purchase or contract for any supplies, equipment or services shall be made contrary to the provisions of this ordinance.

8.04.2 No contract or purchase shall be subdivided or split to avoid any of the provisions of this ordinance.

ARTICLE 9: SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent

jurisdiction, such a decision shall not affect the validity of the remaining portions of this ordinance.

ARTICLE 10: EFFECTIVE DATE: This ordinance becomes effective thirty (30) days after the date of its enactment.

ARTICLE 11: POSTING REQUIREMENT: The City Clerk shall cause publication of this ordinance within 15 days after passage in a newspaper of general circulation published and circulated in the city, and posted in at least three public places in the city.

ARTICLE 12: ENACTING DATE AND SIGNATURES: Passed, approved and adopted by the City Council of the City of Ferndale at a regular meeting on November 13, 2007 by the following vote:

AYES:
NOES:
ABSENT:

ATTEST:

Nancy Kaytis-Slocum, City Clerk

Mayor Jeff Farley

First Reading: October 8, 2007
Second Reading: November 13, 2007
Enacting Date: December 13, 2007

Enacting Date: December 13, 2007