

TOWN OF FREMONT PROCUREMENT POLICY

WHEREAS, section 104-b of the General Municipal Law (“GML”) requires every town to adopt internal policies and procedures governing all procurement of goods and services not subject to the bidding requirements of GML, section 103 or any other law; and

WHEREAS, except as set forth in paragraph 6, the Purchasers for the Town of Fremont are limited to the Town Board, Town Clerk, Highway Superintendent and

WHEREAS, comments have been solicited by the Town Board from all officers of the Town involved in the procurement process;

NOW, THEREFORE, BE IT RESOLVED: That the Town of Fremont does hereby adopt the following procurement policy and procedures:

1. Every prospective purchase of goods or services shall be evaluated to determine the applicability of and conformance with the GML, section 103. Once that evaluation is made, a good faith effort will be made to determine whether it is known or can reasonably be expected that the aggregate amount to be spent on the item of supply or service is not subject to competitive bidding, taking into account past purchases and the aggregate amount to be spent in a year.

2. The decision that a purchase is not subject to competitive bidding will be documented in writing by the individual making the purchase. This documentation may include written or verbal quotes (in the form of telephone logs, etc) from vendors, a memo from the purchaser indicating how the decision was arrived at, a copy of the contract indicating the source which makes the item or service exempt, a memo from the purchaser detailing the circumstances which led to an emergency purchase, or any other written documentation that is appropriate. These files will be maintained by the Purchaser, with a copy of all documents furnished to the Town Clerk within 5 business days from transaction.

3. Every proposed purchase over \$10,000 must be initially reviewed by the Town Board to determine whether it is a purchase contract or a public works contract. In general, purchase contracts involve the acquisition of commodities, materials, supplies, or equipment, while contracts for public work involve services, labor or construction. In emergency situations, the Town Supervisor will review the anticipated purchase and make the determination. He/She must report his or her actions to the Town Board at the next scheduled Town Board meeting. Except as set forth in Seciton 6 of this policy, all purchases will be made as outlined herein.

All purchases of (a) supplies or equipment in the amount of \$10,000 or more in the fiscal year or (b) public works contracts in the amount of \$20,000 or more in the fiscal year shall be formally bid pursuant to GML, section 103.

4. The following method of purchase will be used when required by this policy in order to achieve the highest savings:

All estimated purchases of commodities, equipment, goods or services:

\$10,000 and up Bid in conformance with General Municipal Law, section 103

Less than \$10,000 but
Greater than \$1,000 Requires a written request for a proposal or Written/fax quotes from 2 vendors

Less than \$1,000 but
Greater than \$250 Are left to the discretion of the Purchaser, with documentation setting forth justification for the purchase

All estimated public works contracts of:

\$20,000 and up Bid in conformance with GML section 103

Less than \$20,000 but
Greater than \$3,000 Require a written RFP and fax/proposals from 2/3 contractors

A good faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the proposals be a bar to the procurement.

The lowest responsible proposal or quote shall be awarded the purchase or public works contract unless the Purchaser prepares a written justification providing reasons why it is in the best interest of the town and its taxpayers to make an award to other than the low bidder. If a bidder is not deemed responsible, facts supporting that judgment shall also be documented and filed by the Purchaser with the record supporting the procurement. (Copies of all records to be forwarded to the Town Clerk within 5 business days from transaction.)

5. Documentation is required of each action taken in connection with each purchase. All purchases should have the purchase purpose on each invoice.

6. Except when directed by the Town Board, no solicitation of written proposals or quotations shall be required under the following circumstances:

- a. Acquisition of professional services or services requiring special or technical skill, training or expertise (Section 104-b (2) (f), GML);
- b. Emergencies (section 103 (4), GML (also memo from Purchaser detailing circumstances of emergency purchase);
- c. Sole source situations;
- d. Goods purchased from agencies for the blind and severely handicapped (section 175-b, State Finance Law);
- e. Goods purchased from correctional facilities (section 186, Correction Law);
- f. Goods purchased from or through another governmental agency section;

- g. Goods purchased at auction (only within limitations as set out in Paragraph 3 of this policy);
- h. Goods purchased for less than \$250 by Town Supervisor, Town Clerk and Highway Superintendent (all fuel purchases are permitted up to \$5,000);
- i. Goods valued at \$200 or less may be purchased by any other department head;
- j. The Supervisor, Town Clerk and Tax Collector are permitted to purchase stamps and stamped envelopes for town purposes;

(Department heads are responsible for initiating and proper completion of each purchase)

Goods or services under \$250. The time and documentation required to purchase through this policy may be more costly than the item itself and would therefore not be in the best interests of the taxpayer. In addition it is not likely that such de Minimis contracts would be awarded base on favoritism. However, an explanation of why this purchase was made and what the purpose was should be written on the invoice supplied by the vendor.

7. The unintentional failure to fully comply with the provisions of this policy shall not be grounds to void action taken or give rise to a cause of action against the Town or any officer or employee thereof. (GML, section 104-b)

8. All bills should include a description of the item or service purchased in sufficient detail for the Town Board to determine the item or service purchased and its intended use. Part Numbers are not sufficient.

9. This Policy shall be reviewed annually by the Town Board at its organizational meeting or as soon thereafter as is reasonably practicable.

Resolution adopted on March 12, 2019 with 3 Ayes and 1 Nay vote of the Town Board of Fremont.