



Department of Management Services

Purchasing Division

241 West South Street

Kalamazoo, MI 49007-4796

Phone: 269.337.8020

Fax: 269.337.8500

www.kalamazoo-city.org
purchasing@kalamazoo-city.org

INVITATION FOR BID (IFB)

The City of Kalamazoo, Michigan is soliciting sealed bids for:

Project Name: Ferric Chloride

Bid Reference #: 19000-005.0

IFB ISSUE DATE: September 9, 2022

BID DUE/OPENING DATE: September 29, 2022 @ 3:00 p.m. Local Time

Facsimile Bids Will Not Be Accepted.

MAILING ADDRESS & INSTRUCTIONS

Mail to:

Purchasing Division
241 W. South Street
Kalamazoo, MI 49007

Questions about this IFB should be directed to:

Department Contact: **James Cornell,**
Wastewater Division Manager
at (269) 337-8644 or cornellj@kalamazoo-city.org

Include on the Envelope the Project Name and Bid Reference Number. All Envelopes Must Be Sealed.

You are invited to submit a bid for this project. Specifications, terms, conditions and instructions for submitting bids are contained herein. This Invitation for Bid with all pages, documents and attachments contained herein, or subsequently added to and made a part hereof, submitted as a fully and properly executed bid shall constitute the contract between the City and the successful bidder when approved and accepted on behalf of the City by an authorized official or agent of the City. Please review the bid document as soon as possible and note the **DEADLINE FOR QUESTIONS** in the Instructions to Bidders.

All bidders shall complete and return the Bid and Award page(s) and submit all information requested herein in order for a bid to be responsive. The bid document shall be returned in its entirety, in a properly identified and sealed envelope to the Purchasing Division at the above address. **BIDS MUST BE RECEIVED BEFORE THE DUE DATE - LATE BIDS WILL NOT BE CONSIDERED.** The City reserves the right to postpone the bid opening for its own convenience.

TABLE OF CONTENTS

<u>SECTION</u>		<u>PAGE #</u>	<u>APPENDICES</u>
	Statement of No Bid		
I	Instructions to Bidders	1	
II	Bid & Award Pages	2 - 7	
III	Indemnity & Insurance Requirements	8 - 9	
IV	Specifications	10 - 12	
V	Terms & Conditions	13 - 16	
			Appendix A

STATEMENT OF NO BID

NOTE: If you DO NOT intend to bid on this commodity or service, please complete and return this form immediately. Your response will assist us in evaluating all responses for this important project and to improve our bid solicitation process.

The Purchasing Division of the City of Kalamazoo wishes to keep its bidders list file up-to-date. If, for any reason you cannot supply the commodity/service noted in this bid solicitation, this form must be completed and returned to remain on the particular bid list for future projects of this type.

If you do not respond to this inquiry within the time set for the bid opening date and time noted, we will assume that you can no longer supply this commodity/service, and your name will be removed from this bid list.

- _____ Specifications too "tight", i.e. geared toward one brand or manufacturer only (explain below).
- _____ Specifications are unclear (explain below).
- _____ We are unable to meet specifications.
- _____ Insufficient time to respond to the Invitation for Bid.
- _____ Our schedule would not permit us to perform.
- _____ We are unable to meet bond requirements.
- _____ We are unable to meet insurance requirements.
- _____ We do not offer this product or service.
- _____ Remove us from your bidders list for this commodity or service.
- _____ Other (specify below).

REMARKS: _____

SIGNED: _____ NAME: _____
(Type or Print)

TITLE: _____ DATE: _____

FIRM NAME: _____
(if any)

ADDRESS: _____
(Street address) (City) (State) (Zip)

PHONE: _____ FAX: _____

EMAIL: _____

**SECTION I
INSTRUCTIONS TO BIDDERS**

1. **EXAMINATION OF BID DOCUMENT**-Before submitting a bid, bidders shall carefully examine the specifications and shall fully inform themselves as to all existing conditions and limitations. The bidder shall indicate in the bid the sum to cover the cost of all items included on the bid form.
2. **PREPARATION OF BID**-The bid shall be legibly prepared in ink or typed. If a unit price or extension already entered by the bidder on the Bid and Award form is to be altered, it shall be crossed out and the new unit price or extension entered above or below and initialed by the bidder with ink. The bid shall be legally signed and the complete address of the bidder given thereon.

All bids shall be tightly sealed in an envelope plainly marked SEALED BID and identified by project name, bid opening date and time. Bids opened by mistake, due to improper identification, will be so documented and resealed. The Purchasing Division will maintain and guarantee confidentiality of the contents until the specified opening date and time. Bids submitted by Fax machine will not be accepted.
3. **EXPLANATION TO BIDDERS**-Any binding explanation desired by a bidder regarding the meaning or interpretation of the Invitation for Bid (IFB) and attachments must be requested in writing, **at least 5 business days before the bid opening** so a reply may reach all prospective bidders the submission of bids. Any information given to a prospective bidder concerning the IFB will be furnished to all prospective bidders as an amendment or addendum to the IFB if such information would be prejudicial to uninformed bidders. Receipt of amendments or addenda by a bidder must be acknowledged in the bid by attachment, or by letter or fax received before the time set for opening of bids. Oral explanation or instructions given prior to the opening will not be binding.
4. **CASH DISCOUNTS**-Discount offered for payment of less than thirty (30) days will not be considered in evaluating bids for award. Offered discounts of less than thirty (30) days will be taken if payment is made within the discount period, even though not considered in evaluation of the bid.
5. **WITHDRAWAL OF BIDS**-Bids may be withdrawn in person by a bidder or authorized representative, provided their identity is made known and a receipt is signed for the bid, but only if the withdrawal is made prior to the exact time set for receipt of bid. No bid may be withdrawn for at least ninety (90) days after bid opening.
6. **ALTERNATE BIDS**-bidders are cautioned that any alternate bid, unless specifically requested or any changes, insertions or omissions to the terms and conditions, specifications or any other requirement of this IFB may be considered non-responsive, and at the option of the City, result in rejection of the alternate bid.
7. **LATE BIDS**-Any bid received at the office designated herein after the exact time specified for receipt will not be considered. (Note: The City reserves the right to consider bids that have been determined by the City to be received late due to mishandling by the City after receipt of the bid and no award has been made.)
8. **UNIT PRICES**-If there is a discrepancy between unit prices and their extension, unit prices shall prevail.

SECTION II
BID AND AWARD

The undersigned having become thoroughly familiar with and understanding all of the bid/contract documents incorporated herein, agrees to furnish ferric chloride in accordance with the specifications herein at the indicated prices:

<u>ITEM #</u>	<u>DESCRIPTION</u>	<u>UNIT</u>	<u>EST QTY</u>	<u>UNIT PRICE</u>	<u>EXTENDED PRICE</u>
A. Provide pricing for a 12-month period:					
	Ferric Chloride	Dry ton	100	\$ _____	\$ _____
	Freight Charge	Dry ton	100	\$ _____	\$ _____
TOTAL AMOUNT					\$ _____

Price shall include all superfund taxes, state, and federal environmental fees as required, labor, storage, transfer of materials and any additional charges applicable.

The base bid price for material will remain firm through _____, 20____

Delivery time from order release: _____ hours.

Bidder/Contractor has examined and carefully studied the bidding documents and attachments, and acknowledges receipt of the following addenda:

Addendum No: _____

Dated: _____

Bidder shall provide all of the information as requested herein with their bid. **Failure to do so and/or failure to provide post-bid requested information may be cause for rejecting the bid as non-responsive.**

By my signature below, I certify that the firm bidding on this contract, when making hiring decisions, does not use a past criminal conviction as a bar to or preclude a person with a criminal conviction from being considered for employment with the bidding firm unless otherwise precluded by federal or state law. I further certify that I have read and agree to be bound by the provisions of the City’s Non-Discrimination Clause found in Appendix A and as updated by City Ordinance 1856.

Signed: _____ Name: _____

Title: _____ Firm Name: _____

BIDDERS QUESTIONNAIRE

Bidders shall provide the following information. **FAILURE TO DO SO MAY CAUSE FOR DETERMINING THE BID AS NON-RESPONSIVE.**

1. Material to be shipped from: _____
2. Order release lead-time required is _____ hrs. prior to requested delivery date.
3. Is a toll-free telephone number available to make order releases? YES _____ NO _____
If yes, state the number: _____
4. Include independent lab certified chemical analysis with this bid response.
5. Minimum shipment: _____

CITY OF KALAMAZOO
LOCAL PREFERENCE POLICY AND CERTIFICATION

The lowest responsive Kalamazoo County bidder whose bid is not low but falls within 2% of the lowest responsive bid is afforded the opportunity to become the successful bidder if it agrees to reduce its bid to match the lowest responsive bid. The City of Kalamazoo is the sole determiner whether a bidder is responsible, qualifies as a Kalamazoo County bidder, and if its bid is responsive to the City’s specifications, terms and conditions.

If the lowest Kalamazoo County bidder chooses not to match the lowest bid, the next lowest responsive Kalamazoo County bidder whose bid falls within 2% of the lowest bid, is given the opportunity to match the lowest responsive bid.

To qualify as a Kalamazoo County bidder, the bidder must meet both the following criteria:

1. Have a physical presence in Kalamazoo County by maintaining a permanent office, factory or other facility in Kalamazoo County with employees working in Kalamazoo County.
2. Have paid real or personal property taxes related to said business to the City of Kalamazoo, County of Kalamazoo or other municipal corporation within Kalamazoo County in the previous tax year, except that a non-profit entity need not meet this requirement.

This local preference policy applies only to purchases for materials, supplies, capital outlay, and services for maintenance, repair or operation of City facilities that are over \$25,000. If more than 50% of the contract is sub-contracted to firms located outside of Kalamazoo County that bid does not qualify for the local preference policy outlined above. The local preference policy will not apply if prohibited by law. The Purchasing Agent has the authority to finally determine if the bidder qualifies as a Kalamazoo County bidder as set forth herein. The Purchasing Agent may take into account the permanency of the business in Kalamazoo, and whether the business appears to be claiming to be a Kalamazoo County business solely or primarily to qualify as a Kalamazoo County business under this Resolution, and any other material factors.

CERTIFICATION

If you qualify as a Kalamazoo County bidder and wish to be considered for the local preference provisions as provided above please certify that fact by providing the information requested below and attesting to its accuracy.

Firm Name: _____

Street Address of Business: _____

City, State, and Zip Code: _____

Number of employees working in Kalamazoo County: _____

Name the city or township to which business real and/or personal property taxes are paid or provide non-profit status:

The above information is accurate:

Signature: _____

Date: _____

Title: _____

CITY OF KALAMAZOO EX-OFFENDER POLICY CHECKLIST

As part of the City’s commitment to reducing unacceptable poverty, encouraging rehabilitation, reducing recidivism and strengthening families in Kalamazoo, the City has updated its Purchasing Policy to ensure that firms with whom the City does business share in this commitment by utilizing hiring practices that do not unfairly deny people with arrest and conviction records gainful employment. *(Important: This requirement also extends to any subcontractors the bidder intends to use to fulfill the contract for goods or services being sought from the City.)*

Part I: Proof that the bidder does inquire about an individual’s past arrest or criminal history on the bidders employment application form

- Attach a copy of the current application for employment being used by the bidder

Part II: Certification that the bidder does not use an individual’s past arrest or criminal history to unlawfully discriminate against them by checking *one or more* of the following:

- That pursuant to federal or state law bidder is precluded from hiring persons with certain criminal records from holding particular positions or engaging in certain occupations by providing a cite to the applicable statute or regulation; if checking this box, provide a citation to the applicable statute or rule upon which the bidder is relying: _____
- That bidder conducts criminal history background checks only as necessary, and only after making a conditional offer of employment; that any withdrawal of an offer of employment to an individual because of a past criminal history is job-related and consistent with business necessity after the individual has been provided an individualized assessment opportunity to review and challenge or supplement the history of past criminal conduct being relied upon by the bidder;
- That the use by bidder of criminal history background checks complies with the U.S. Equal Employment Opportunity Commission’s Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions and that the bidder has not had a determination rendered against it in past 7 years that it discriminated against a person through the use of an individual’s arrest or criminal history

I CERTIFY THAT THE ABOVE STATEMENTS ARE TRUE.

Date

Signature

Printed Name

Position

NOTE: This blanket addendum is for informational purposes only and does not need to be acknowledged by bidders in their submission.

COVID-19 ADDENDUM #2

January 1, 2022

TO: ALL Prospective Bidders
PROJECT: ALL Upcoming Projects

The purpose of this addendum is to clarify and/or modify the sealed bid delivery and bid opening process for all upcoming projects. All work affected is subject to all applicable terms and conditions of the Bidding and Contract Documents.

1. UPDATE TO SEALED BID DELIVERY AND BID OPENING POLICY:

Effective immediately and continuing until further notice, the City of Kalamazoo will return to IN-PERSON bid openings following City Hall guidelines, including Mask Mandate.

BIDS MUST BE RECEIVED BEFORE THE DUE DATE AND TIME – LATE BIDS WILL NOT BE CONSIDERED.

Bidders can submit sealed bids in one of the following ways:

- **Mail your bid**, to be received before the bid due date and time indicated in the bid document, to the City of Kalamazoo at the following address:

City of Kalamazoo
Purchasing Division
241 West South Street
Kalamazoo, MI 49007

- **Deliver your bid to the Treasurer’s Office Payment Drop Box** located in the northwest corner of City Hall before the bid due date and time indicated in the bid document.
- **Deliver your bid to City Hall In Person** before the bid due date and time indicated in the bid document.

All bids shall be tightly sealed in an envelope plainly marked SEALED BID and identified by project name, bid opening date and time. Bids opened by mistake, due to improper identification, will be so documented and resealed. The Purchasing Division will maintain and guarantee confidentiality of the contents until the specified opening date and time. Bids submitted by fax machine or email will not be accepted.

The Purchasing Division will post bid tabulations to the City of Kalamazoo website within 24 hours after the bid opening date and time at: <https://www.kalamazoocity.org/bidopportunities>.

Questions regarding this sealed bid delivery and bid opening policy change related to the COVID-19 virus should be directed to the City of Kalamazoo at (269) 337-8020.

Sincerely,



Michelle Emig
Purchasing Division Manager

I hereby state that all of the information I have provided is true, accurate and complete. I hereby state that I have the authority to submit this bid which will become a binding contract if accepted by the City of Kalamazoo. I hereby state that I have not communicated with nor otherwise colluded with any other bidder, nor have I made any agreement with nor offered/accepted anything of value to/from an official or employee of the City of Kalamazoo that would tend to destroy or hinder free competition.

The firm's identification information provided will be used by the City for purchase orders, payment and other contractual purposes. If the contractual relationship is with, or the payment made to, another firm please provide a complete explanation on your letterhead and attach to your bid. Please provide for accounts payable purposes:

Tax Identification Number (Federal ID): _____

Remittance Address: _____

Financial Contact Name: _____ Financial Contact Phone Number: _____

Financial Contact Email Address: _____

I hereby state that I have read, understand and agree to be bound by all terms and conditions of this bid document.

SIGNED: _____ NAME: _____
(Type or Print)

TITLE: _____ DATE: _____

FIRM NAME: _____
(if any)

ADDRESS: _____
(Street address) (City) (State) (Zip)

PHONE: _____ FAX: _____

EMAIL ADDRESS: _____

FOR CITY USE ONLY - DO NOT WRITE BELOW

**SECTION III
CITY OF KALAMAZOO
INDEMNITY AND INSURANCE**

Contractor, or any of their subcontractors, shall not commence work under this contract until they have obtained the insurance required under this paragraph, and shall keep such insurance in force during the entire life of this contract. All coverage shall be with insurance companies licensed and admitted to do business in the State of Michigan and acceptable to the City of Kalamazoo within ten (10) days of the Notice of Award. The requirements below should not be interpreted to limit the liability of the Contractor. All deductibles and SIR's are the responsibility of the Contractor.

The Contractor shall procure and maintain the following insurance coverage:

Workers' Compensation Insurance including Employers' Liability Coverage, in accordance with all applicable statutes of the State of Michigan.

Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than \$1,000,000 per occurrence and aggregate. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent, if not already included and (E) XCU coverage if the nature of the contract requires XC or U work.

Automobile Liability in accordance with all applicable statutes of the State of Michigan, with limits of liability not less than \$1,000,000 per occurrence, combined single limit for Bodily Injury, and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

Additional Insured: Commercial General Liability and Automobile Liability, as described above, shall include an endorsement stating that the following shall be *Additional Insureds*: The City of Kalamazoo, all elected and appointed officials, all employees and volunteers, all boards, commissions, and/or authorities and board members, including employees and volunteers thereof. It is understood and agreed that by naming the City of Kalamazoo as additional insured, coverage afforded is considered to be primary and any other insurance the City of Kalamazoo may have in effect shall be considered secondary and/or excess.

To the fullest extent permitted by law the Contractor agrees to pay on behalf of, indemnify, and hold harmless the City of Kalamazoo, its elected and appointed officials, and employees against any claims, demands, suits, or loss, including all costs connected therewith, and for any damages which may be asserted, claimed, or recovered against or from the City of Kalamazoo, by reason of personal injury, including bodily injury or death and/or property damage, including loss of use thereof, caused in whole or part by any negligent act or omission by the Contractor, its employees, agents, or officers which arises out of, or is in any way connected or associated with, this contract.

Cancellation Notice: All policies, as described above, shall include an endorsement stating that it is understood and agreed that thirty (30) days, or ten (10) days for non-payment of premium, Advance Written Notice of Cancellation, Non-Renewal, Reduction, and/or Material Change shall be sent to: City of Kalamazoo, Purchasing Division, 241 W. South Street, Kalamazoo, MI 49007.

Proof of Insurance Coverage: The Contractor shall provide the City of Kalamazoo at the time that the contracts are returned by him/her for execution, or within 10 days of Notice of Award, whichever is earlier, a Certificate of Insurance as well as the required endorsements. In lieu of required endorsements, if applicable, a copy of the policy sections where coverage is provided for additional insured and cancellation notice would be acceptable. Copies or certified copies of all policies mentioned above shall be furnished, if so requested.

INDEMNITY AND INSURANCE
Continued

If any of the above coverages expire during the term of this contract, the Contractor shall deliver renewal certificates and/or policies to City of Kalamazoo at least ten (10) days prior to the expiration date.

Scope of Coverage: The above requirements and conditions shall not be interpreted to limit the liability of the Contractor under this Contract but shall be interpreted to provide the greatest benefit to the City and its officers and employees. The above listed coverages shall protect the Contractor, its employees, agents, representatives and subcontractors against claims arising out of the work performed. It shall be the Contractor's responsibility to provide similar insurance for each subcontractor or to provide evidence that each subcontractor carries such insurance in like amount prior to the time such subcontractor proceeds to perform under the contract.

**SECTION IV
SPECIFICATIONS**

1. SCOPE OF SERVICE

It is the City's intent to enter into a one (1) year term contract for ferric chloride. Deliveries will be made by order releases from the requesting departments on an as needed basis.

2. TECHNICAL SPECIFICATIONS

The successful bidder shall provide and deliver ferric chloride in accordance with the following specifications. The bidders shall furnish a certified independent laboratory chemical analysis of product with their bid. This independent lab analysis, containing all of the technical specifications, must be dated within six (6) months prior from date of this Invitation for Bids. **FAILURE TO DO SO MAY RESULT IN THE BID BEING REJECTED AS NON-RESPONSIVE.**

Basis: Water solution of Iron III Chloride (FeCl₃)

Specific Gravity: 1.38 to 1.49

Approximate Concentration: Minimum 37%

Dry Ferric Chloride: 4.25 to 5.00 lb/gal wt.

Insoluble Purity: < 0.1%

Free Acid as HCl: <1.0%

Ferrous Chloride: <0.1%

Mercury Impurities: <0.2 ppb

Lead: Report, method detection limit 100 ug/kg

Manganese: Report, method detection limit 100 ug/kg

Chromium: Report, 1 ug/kg

Titanium: Report, method detection limit 100 ug/kg

Radionuclides: No measurable amount

Phosphorous: max 36 mg/kg dry wt.

Sulfur: max 550 mg/kg dry wt.

Silver: Report, method detection limit 1 ug/kg

Arsenic: Report, method detection limit 100 ug/kg

Barium: Report, method detection limit 100 ug/kg

Beryllium: Report, method detection limit 1 ug/kg

Cadmium: Report, method detection limit 1 ug/kg

Copper: Report, method detection limit 100 ug/kg

Magnesium: Report, method detection limit 100 ug/kg

Molybdenum: Report, method detection limit 100 ug/kg

Nickel: Report, method detection limit 100 ug/kg

**Selenium: Report, method detection limit ug/kg

Zinc: Report, method detection limit 100 ug/kg

Thallium: Report, method detection limit 1 ug/kg

Antimony: Report, method detection limit 100 ug/kg

Lithium: Report, method detection limit 100 ug/kg

TECHNICAL SPECIFICATIONS (cont.)

- 2.1 The ferric chloride shall be double filtered.
- 2.2 Ferric chloride supplied shall be of drinking water quality.
- 2.3 In addition, there shall be no detectable amounts of any insecticide, pesticide, polychlorinated biphenyl (PCB), hexachlorobenzene, in the delivered ferric chloride solution.
- 2.4 The material shall be free of any foreign element or compounds that may negatively affect treatment plant operations or contaminate residuals for use in landfill or land application.
- 2.5 A quarterly analysis of the list of technical specifications must be provided to the Senior Operations Supervisor, 1415 N. Harrison Street, Kalamazoo, MI 49007.

3. QUANTITIES

Bid prices to include bulk delivery of liquid ferric chloride, F.O.B. destination to the following Michigan location:

<u>Location</u>	<u>Delivery Volume Approximate</u>	<u>Annual Usage</u>
City of Kalamazoo Wastewater Treatment Plant 1415 N. Harrison Kalamazoo, MI 49007	4,000 - 8,000 gal (8,000 gal preferred) 18,646 - 37,291 dry lbs	43,480 gal 100 dry tons

4. DELIVERIES

Delivery must be made within forty-eight (48) hours after order is placed by telephone. At the time of delivery the contractor shall provide:

- 4.1 Analyticals including percent ferric chloride, percent ferrous chloride, free hydrochloric acid, and specific gravity.
- 4.2 Upon request of the City, a sample of liquid ferric chloride will be collected during unloading of each delivery.
- 4.3 Tank truck equipped with air compressor to facilitate unloading of product.
- 4.4 Delivery connection shall be with a four-bolt connection

5. CONTRACT PERIOD AND EXTENSIONS

- 5.1 The term of the contract will be for (1) one year. Renewal options of 1 year after the first contract period will be at the discretion of the City and shall not exceed four (4) one-year periods upon mutual agreement of both parties and under the same terms and conditions.
- 5.2 The renewal option shall be exercised solely at the City's discretion. Price increase shall be solely for the purpose of accommodating an increase in the BIDDER'S cost, not profit.

CONTRACT PERIOD AND EXTENSIONS (*cont.*)

- 5.3 Request for price increase shall only be considered at the end of the contract period and must be made in writing and supported by evidence of cost increase from the manufacturer.
- 5.4 If executed, terms and conditions of the initial bid shall remain in full force and effective with the only change to the renewal bid being in bid terms.

6. AWARD

After the bids are received, the City will evaluate the independent lab analysis of the specifications and review historical data and local metal limits. Only vendors that meet the criteria will be considered for award of the contract. Award will be based both on price, technical specifications, and ability to hold bid price for a period this is most advantageous to the City of Kalamazoo.

7. QUESTIONS

Questions about the specifications may be addressed to James Cornell, Wastewater Division Manager at (269) 337-8644 or cornellj@kalamazoocity.org. (This does not relieve the requirements of Page 1, Item 3.) Questions regarding the general bid document may be addressed to Gracia Mason, Buyer at (269) 337-8720 or masong@kalamazoocity.org.

SECTION V
TERMS AND CONDITIONS

1. AWARD OF CONTRACT

- A. This contract will be awarded to that responsible bidder whose bid, conforming to this solicitation, will be most advantageous to the City, price and other factors considered. The City reserves the right to accept or reject any or all bids and waive informalities and minor irregularities in bids received. Other factors include, as an example but not limited to, delivery time, conformance to specifications, incidental costs such as demurrage and deposits, etc.

Notification of award will be in writing by the Purchasing Agent. Upon notification, the Contractor shall submit to the Purchasing Division all required insurance certificates (if required) and such other documentation as may be requested or required hereunder. Upon their receipt and subsequent approval by the City, the Purchasing Agent will forward to the Contractor a written **NOTICE TO PROCEED**. Work shall **NOT** be started until such **NOTICE TO PROCEED** is received by the Contractor.

- B. Unilateral changes in bid prices by the bidder shall not be allowed. However, the City, at its sole option, reserves the right to negotiate with bidders in the event of, but not limited to:
- 1) No bids received;
 - 2) A single bid being received; or
 - 3) Prices quoted are over budget and/or unreasonable.

2. COMPLETE CONTRACT

This bid document together with its addenda, amendments, attachments and modifications, when executed, becomes the complete contract between the parties hereto, and no verbal or oral promises or representations made in conjunction with the negotiation of this contract shall be binding on either party.

3. SUBCONTRACTORS - NON ASSIGNMENT

Bidders shall state in writing any and all sub-contractors to be associated with this bid, including the type of work to be performed. The Contractor shall cooperate with the City of Kalamazoo in meeting its commitments and goals with regard to maximum utilization of minority and women-owned business enterprises.

The Contractor hereby agrees and understands that the contract resulting from this solicitation shall not be transferred, assigned or sublet without prior written consent of the City of Kalamazoo.

4. TAXES

The City of Kalamazoo is exempt from all federal excise tax and state sales and use taxes. However, depending upon the situation, the vendor or contractor may not be exempt from said taxes and the City of Kalamazoo is making no representation as to any such exemption.

5. **INVOICING**

All original invoice(s) will be sent to the Financial Services Division, 241 W. South Street, Kalamazoo, MI 49007 or via email at apinvoice@kalamazoo-city.org. The Finance Division processes payments after receipt of an original invoice from the Contractor and approval by the department. The City of Kalamazoo’s policy is to pay invoice(s) within 30 days from the receipt of the original invoice, if the services or supplies are satisfactory and the proper paperwork and procedures have been followed. **In order to guarantee payment to the vendor on a timely basis, the vendor needs to receive a purchase order number before supplying the City of Kalamazoo with goods or services.** All original, and copies of original invoice(s), will clearly state which purchase order they are being billed against.

The City of Kalamazoo is a government municipality and therefore is tax exempt from all sales tax.

The vendor is responsible for supplying the Finance Division with a copy of their W9 if they are providing a service to the City of Kalamazoo.

6. **PAYMENTS**

Unless otherwise specified by the City in this contract, the Contractor will be paid in not more than thirty (30) days after receipt of a properly executed invoice, the sum stipulated herein for supplies delivered and accepted, or service rendered and accepted. Payments are processed by the Finance Division after receipt of an original invoice from the Contractor and approval by the department.

7. **CHANGES AND/OR CONTRACT MODIFICATIONS**

The City reserves the right to increase or decrease quantities, service or requirements, or make any changes necessary at any time during the term of this contract, or any negotiated extension thereof. Price adjustments due to any of the foregoing changes shall be negotiated and mutually agreed upon by the Contractor and the City.

Changes of any nature after contract award which reflect an increase or decrease in requirements or costs shall not be permitted without prior approval by the Purchasing Agent. City Commission approval may also be required. **SUCH CHANGES, IF PERFORMED IN ADVANCE OF PURCHASING AGENT APPROVAL, MAY BE SUBJECT TO DENIAL AND NON-PAYMENT.**

8. **LAWS, ORDINANCES AND REGULATIONS**

The Contractor shall keep himself/herself fully informed of all local, state and federal laws, ordinances and regulations in any manner affecting those engaged or employed in the work and the equipment used. Contractor and/or employees shall, at all times, serve and comply with such laws, ordinances and regulations.

Any permits, licenses, certificates or fees required for the performance of the work shall be obtained and paid for by the Contractor.

This contract shall be governed by the laws of the State of Michigan.

9. RIGHT TO AUDIT

The City or its designee shall be entitled to audit all of the Contractor's records, and shall be allowed to interview any of the Contractor's employees, throughout the term of this contract and for a period of three years after final payment or longer if required by law to the extent necessary to adequately permit evaluation and verification of:

- A. Contractor compliance with contract requirements,
- B. Compliance with provisions for pricing change orders, invoices or claims submitted by the Contractor or any of his payees.

10. HOLD HARMLESS

If the acts or omissions of the Contractor/Vendor or its employees, agents or officers, cause injury to person or property, the Contractor/Vendor shall defend, indemnify and save harmless the City of Kalamazoo, its agents, officials, and employees against all claims, judgments, losses, damages, demands, and payments of any kind to persons or property to the extent occasioned from any claim or demand arising therefrom.

11. DEFAULT

The City may at any time, by written notice to the Contractor, terminate this contract and the Contractor's right to proceed with the work, for just cause, which shall include, but is not limited to the following:

- A. Failure to provide insurance and bonds (when called for), in the exact amounts and within the time specified or any extension thereof.
- B. Failure to make delivery of the supplies, or to perform the services within the time specified herein, or any extension thereof.
- C. The unauthorized substitution of articles for those bid and specified.
- D. Failure to make progress if such failure endangers performance of the contract in accordance with its terms.
- E. Failure to perform in compliance with any provision of the contract.
- F. **Standard of Performance** - Contractor guarantees the performance of the commodities, goods or services rendered herein in accordance with the accepted standards of the industry or industries concerned herein, except that if this specification calls for higher standards, then such higher standards shall be provided.

Upon notice by the City of Contractor's failure to comply with such standards or to otherwise be in default of this contract in any manner following the Notice to Proceed, Contractor shall immediately remedy said defective performance in a manner acceptable to the City. Should Contractor fail to immediately correct said defective performance, said failure shall be considered a breach of this contract and grounds for termination of the same by the City.

In the event of any breach of this contract by Contractor, Contractor shall pay any cost to the City caused by said breach including but not limited to the replacement cost of such goods or services with another Contractor.

Standard of Performance (*cont.*)

The City reserves the right to withhold any or all payments until any defects in performance have been satisfactorily corrected.

In the event the Contractor is in breach of this contract in any manner, and such breach has not been satisfactorily corrected, the City may bar the Contractor from being awarded any future City contracts.

- G. All remedies available to the City herein are cumulative and the election of one remedy by the City shall not be a waiver of any other remedy available to the City either listed in this contract or available by operation of law.

12. CONTRACT PERIOD, EXTENSIONS, CANCELLATION

- A. The contract shall be in effect for the term stated in the specifications.
- B. The City may opt to extend this contract upon mutual agreement of both parties. The number of extensions shall be limited to that stated in the specifications.
- C. The City may, from time to time, find it necessary to continue this contract on a month-to-month basis only, not to exceed a six (6) month period. Such month-to-month extended periods shall be by mutual agreement of both parties, with all provisions of the original contract or any extension thereof remaining in full force and effect.
- D. All contracts, extensions and cost increases are subject to availability of funds and the approval of the City Commission (if required).
- E. Notwithstanding other provisions of this contract, the City reserves the right to cancel the contract due to non-appropriation of funds by the City with thirty (30) days written notice.
- F. Either party may terminate the contract (or any extension thereof) without cause at the end of any twelve (12) month term by giving written notice of such intent at least 60 days prior to the end of said twelve (12) month term.
- G. All notices are in effect commencing with the date of mailing. Written notices may be delivered in person or sent by First Class mail; faxed or emailed to the last known address.
- H. If cancellation is for default of contract due to non-performance, the contract may be canceled at any time (see Item 10, DEFAULT).

APPENDIX A
NON-DISCRIMINATION CLAUSE FOR ALL CITY OF KALAMAZOO CONTRACTS

The Contractor agrees to comply with the Federal Civil Rights Act of 1964 as amended; the Federal Civil Rights Act of 1991 as amended; the Americans With Disabilities Act of 1990 as amended; the Elliott-Larson Civil Rights Act, Act. No. 453, Public Act of 1976 as amended; the Michigan Handicappers Civil Rights Act, Act No. 220, Public Act of 1976 as amended, City Ordinance 1856 and all other applicable Federal and State laws. The Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation or gender identity that is unrelated to the individual's ability to perform the duties of the particular job or position. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment advertising, layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship.
2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability family status, sexual orientation or gender identity that is unrelated to the individuals ability to perform the duties of the particular job or position.
3. If requested by the City, the Contractor shall furnish information regarding practices, policies and programs and employment statistics for the Contractor and subcontractors. The Contractor and subcontractors shall permit access to all books, records and accounts regarding employment practices by agents and representatives of the City duly charged with investigative duties to assure compliance with this clause.
4. Breach of the covenants herein may be regarded as a material breach of the contract or purchasing agreement as provided in the Elliott-Larsen Civil Rights Act and City Ordinance 1856.
5. The Contractor will include or incorporate by reference the provisions of the foregoing paragraphs 1 through 4 in every subcontract or purchase order unless exempted by the rules, regulations or orders of the Michigan Civil Rights Commission* and will provide in every subcontract or purchase order that said provision will be binding upon each subcontractor or seller.
6. The Contractor will not preclude a person with a criminal conviction from being considered for employment unless otherwise precluded by federal or state law. (for contracts over \$25,000)

The Elliott-Larson Civil Rights Act, Sec. 202 of Act. No. 453 of 1976 reads in part as follows:

Sec. 202. (1) An employer shall not:

- (a) Fail or refuse to hire, or recruit, or discharge or otherwise discriminate against an individual with respect to employment, compensation, or a term condition or privilege of employment because of religion, race, color, national origin, age, sex, height, weight or marital status.
- (b) Limit, segregate or classify an employee or applicant for employment in a way which deprives or tends to deprive the employee or applicant of an employment opportunity or otherwise adversely affects the status of an employee or applicant because of religion, race, color, national origin, age, sex, height, weight or marital status.
- (c) Segregate, classify or otherwise discriminate against a person on the basis of sex with respect to a term, condition or privilege of employment, including a benefit plan or system.

* Except for contracts entered into with parties employing less than three employees.