



CITY OF
SANFORD
FINANCE DEPARTMENT

PURCHASING POLICY

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City Manager

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CITY OF SANFORD
PURCHASING DIVISION
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SANFORD, FLORIDA 32771
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City of Sanford Purchasing Policy
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MISSION STATEMENT

The mission of the City's Purchasing Division is to support City Activities, goals and programs and to ensure that the Citizens of Sanford receive high quality commodities and services at the most cost-effective price in a fair, impartial and timely manner.

The Purchasing Division is the primary and centralized point of contact to establish contracts involving construction services, and acquisition of commodities in compliance with statutory requirements of the State of Florida, Policy and Regulations of the City of Sanford, and standard practices and ethics of the Purchasing Community.

SECTION 1. GENERAL PROVISIONS

1.0 ADOPTION OF PURCHASING POLICY; AUTHORITY AND PURPOSE

This Purchasing Policy is hereby adopted to provide for and regulate procedures and conduct as set forth herein. Incorporated into this Policy are the purchasing processes and procedures applicable to City procurement activities under the provisions of controlling State law relating to purchasing and procurement activities and provisions of the *City Code*, ordinances enacted, and resolutions adopted by the City Commission.

Chapter 166, *Florida Statutes*, and the *Charter of the City of Sanford*, as well as other controlling laws, grant authority to the City Manager to adopt this Policy. The City Manager recognizes that the pursuit of the above mission statement will encourage fair and open competition, which is a basic tenet of public purchasing and ensures that such competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically. The use of the phrase "goods, services and construction activities" in this Policy shall include any and all types of goods, services and construction activities to include, but not limited to, the widest array of construction activities, commodities and professional services.

It is a basic public management principle that documentation of the acts taken and effective monitoring mechanisms is an important means of curbing improprieties and establishing public confidence in the process by which goods, services and construction activities are procured. The purchase of all goods, services and construction activities by City personnel will be accomplished in accordance with City policy, codes, ordinances, regulations and all applicable Federal and State laws. Federal and State laws shall prevail in the event there is any conflict between this Policy and those laws. Thus, meticulous record keeping and management of contract document files is an essential component of efficient management and public accountability and to evidence compliance with controlling law.

The general purposes of this Policy are to:

- A. Simplify, clarify and modernize the policies governing purchasing by the City;

B. Encourage the continued development of high-quality purchasing policies and procedures;

C. Provide for increased public confidence in the procedures followed in public purchasing;

D. Ensure the fair and equitable treatment of all persons and entities doing business with the City;

E. Provide increased economy in City purchasing activities and maximize, to the fullest extent practicable, the purchasing value of public monies of the City;

F. Promote effective broad-based competition within the free enterprise system;

G. Provide safeguards for the maintenance of a purchasing system of quality and integrity;

H. Obtain, in a cost-effective and timely manner the quality goods, services and construction activities required by the City to better serve its citizens;

I. Ensure that all City purchasing operations are conducted in full compliance with all established and applicable laws including, but not limited to, all ethical standards to be maintained within the purchasing functions and sound record keeping practices; and

J. Provide for the education and training of City personnel in order to correctly implement the purchasing activities of the City.

Notwithstanding the foregoing, the purpose of this Policy is to set forth and establish the City's policies and procedures to be used in the procurement of goods, services and construction activities and is not intended to address every issue, exception or contingency that may arise in the course of purchasing activities. The basic standard that should always prevail is to exercise good judgment in the use and stewardship of City resources and each person or entity in procurement processes of the City shall be accountable to attain that standard.

This Policy is effective immediately upon issuance and supersedes all previously issued purchasing policies, manuals, processes, procedures, instructions or directives. This Policy is subject to periodic revision as an administrative policy subject to the final approval of the City Manager, or designee. Any suggestions to improve the effectiveness of the clarity of this Policy purchasing processes of the City are welcomed and encouraged.

This Policy shall be a part of each agreement of the City and vendors, and it shall be the duty and responsibility of each vendor to be cognizant of the provisions of this Policy and adhere to its requirements.

1.1 INTERPRETATION OF POLICY

Interpretation of the provisions and procedures set forth in this Policy are the responsibility of the Purchasing Manager, subject to the guidance and supervision of the Finance Director, all with support from the City Attorney. If any provision of this Policy, or any application thereof, to any person or entity or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Policy, which can be given effect without the invalid section or application, and to this end, the provisions or applications of this Policy are declared to be severable.

1.2 APPLICABILITY AND EXCLUSIONS

A. The provisions of this Policy shall apply to the purchase of goods, services and construction activities by the City. Expenditures of Federal or State assistance funds and grants shall be conducted in accordance with the applicable mandatory Federal and State laws and regulations, which may not be reflected in this Policy or may be inconsistent with any provision of this Policy. All such grants are typically subject to pre-audit and post-audit processes and the City personnel procuring the grant shall be responsible for all such matters. However, nothing in this Policy shall prevent the City from complying with the terms and conditions of any grant, contract, gift or bequest that is otherwise consistent with laws. Further, nothing in this Policy shall prevent the City from engaging in a competitive procurement process when such procurement is exempt. Competitive procurement is the normative practice of the City and non-competitive procurement is not the normative practice and must be justified by responsible City staff whenever implemented subject to review by the Purchasing Manager.

B. The procurement of the following goods, services and construction activities are exempt from the competitive solicitation provisions of this Policy, but the City may engage competitive selection relative to such procurements and, to the extent that controlling laws or the requirement of a grant require competitive procurement processes and procedures, those requirements shall prevail:

1. Artistic services but not including advertising or typesetting.
2. Academic program reviews.
3. Advertisements except as regulated by State Statute.
4. Auditing services include those services needed to address audit, financial and fraud-related compliance, controls and to engage in forensic or investigative matters and all other related services.
5. Accounting services.
6. Banking services.

7. Bids by the City as reserved by that bid (in the absence of such reservation, written bids may be used within 1 year of the opening date of the bid, or such time frame as may be specified in the bid, upon agreement of the bidder to honor all of the terms, conditions and pricing of the originals bid).
8. Goods and services provided or awarded by other governmental agencies including, but not limited to, the United States government, states, counties, cities, school boards, community colleges, and state university systems or a qualifying cooperative procurement program.
9. Contracted items such as Pride of Florida, Respect, and contracts based on competition which are in compliance with City competitive requirements such as State of Florida contracts, public agencies, cooperative contracts, joint utilization (piggyback) contracts from within and outside the State of Florida, Federal General Services Agency contracts, and other cooperative/collaborative purchasing programs of a diverse nature when the terms, conditions and pricing meet the City's competitive requirements, are not altered and are made available for the City's participation. Piggybacked contracts shall be reviewed by the City Attorney for legality as to piggybacking and the appropriateness of the terms and conditions. The City has developed a piggyback contract form which has been well accepted by hundreds of vendors. Procurements mandated to be competitively implemented under the provisions of the *Consultants' Competitive Negotiations Act* are not lawfully piggybacked.
10. Continuing education courses, events or programs that are offered to the general public and for which fees have been collected that pay all expenses associated with the event or program.
11. City direct purchases under the City's program to maximize its tax-exempt status on transactions in which a contractor would normally be subject to the sales tax.
12. Dues, memberships, and subscriptions, local newspaper, magazines, journals.
13. Direct payments as authorized in this Policy.
14. Emergency purchases accomplished in accordance with this Policy.
15. Goods and services given to or accepted by the City by grant, gift or bequest.
16. Insurance, insurance administration, risk management and insurance broker services.

17. Lectures by individuals, speaker, trainers, facilitators and scriptwriters when the provider possesses specialized training methods, techniques or expertise in the subject matter.
18. Legal services including, but not limited to, attorney's paralegals, expert witnesses, interpreters, translation services, mediators and court reporters all procured in coordination with the City Attorney.
19. Material from publishers and copyright holders.
20. Medical or health services including, but not limited to, services mandated through the judicial system, involving examinations, diagnosis, treatment, prevention, medical consultation, counseling and outside providers administering the program including, but not limited to, substance abuse and mental health services.
21. Medicaid services delivered to an eligible Medicaid recipient unless law directs the agency otherwise.
22. Goods or services provided to the City by non-profit organizations pursuant to an agreement.
23. Prevention services related to mental health including, but not limited to, drug abuse prevention programs, child abuse prevention programs and shelters for runaways, operated by not-for-profit corporations.
24. Public notices, except as regulated by controlling law.
25. Regular utilities and government-franchised services.
26. Purchases of software and software maintenance to include, but not be limited to, subscription licenses and like transactions. These procurements are often associated with contracts with adhesive terms and conditions and terms and conditions that are imbedded into a contract by means of a link or a series of links.
27. Transactions involving real property except as may be regulated by City policies.
28. Sole source goods, and services that are demonstrated by City staff through developed evidence to be the only goods or services that meet the needs of the City and are available through only one source throughout the marketplace available to the City. City staff shall make every effort to ensure that the purchasing decisions of the City do not result in the City being in an adhesive or captive relationship with a particular vendor and shall, likewise, ensure that consultants advising City staff do not act in a manner that results in such a relationship.

29. Specialized recruiting services such as executive search firms used for the recruitment of management, executive, subject matter experts or highly specialized personnel, which are recruited with the intent of becoming part of the City's full-time/permanent staff. This exemption does not include personnel for temporary employment or staff augmentation needed on a temporary basis.

30. Sponsorships which shall be agreed upon pursuant to an agreement between the City and the sponsoring agency, which determination is vested in the City Commission unless specifically delegated in whole or part.

31. Standardized equipment annual maintenance repairs and support costs.

32. Workshop and seminar registration, attendance, training, strategic planning or costs of job-related travel.

33. Under ***Section 287.057(3)(f), F.S.*** exemption may apply for Contractual services and commodities provided by a [small business or minority business enterprise] designated by the Department of Management Services under the provision of ***Section 287.0943.***

1.3 DIRECT PAYMENTS

Unless controlled by an applicable Agreement, Direct Payment requests may be permitted for the following Purchasing:

- A. Advertisements such as in newspapers, magazines, journals, radio, television etcetera
- B. Agreements between the City Commission and non-profit organizations, the Federal Government, or other State or Local Governments agency fees; including the sale or exchange of goods and/or services
- C. All payments to employees and retirees
- D. All payments made on behalf of employees or retirees via payroll deductions
- E. Attorney Fees
- F. Banking Fees
- G. Check Request/Reimbursement
- H. Insurance
- I. Petty cash reimbursements
- J. Postage
- K. Registration of professional associations for membership and certification reimbursement
- L. Travel
- M. Tuition
- N. Utilities
- O. Subscriptions such as newspaper, membership, etc.
- P. Sponsorships

The requesting Division/Department/Office is not required to complete a purchase request nor have a purchase order issued (unless issuance of same is required for compliance purposes) to secure payments for the items listed in this Policy; however, it shall submit any necessary forms, for example, sales receipts and any additional documentation as required by the Finance Department. ***Please note sales taxes are exempt per City of Sanford sales tax exempt status.***

1.4 WAIVER OF POLICY REQUIREMENTS

The City Commission may, when it is determined to be in the best interest of the City, as memorialized in a resolution adopted by the City Commission making all necessary findings, and consistent with law and subject to a recommendation being provided by the City Manager, waive any or all requirements or provisions set forth in this Policy and proceed thereafter to take whatever action is deemed to be in the best interest of the City. Review by the Purchasing Manager and City Attorney shall occur prior to the recommendation of the City Manager being made to the City Commission. The City may not waive requirements that are established by controlling law.

1.5 CHANGES IN LAWS AND REGULATIONS AND APPLICABILITY

In the event an applicable law or regulation is modified or eliminated, or a new law or regulation is adopted, the revised law or regulation shall, to the extent inconsistent with this Policy, shall automatically supersede this Policy. As used in this Policy, when controlling law is applicable, the most recent version of the law shall be applied. The use of the phrase “controlling law” in this Policy refers to both Federal and State law to include, but not be limited to, to the maximum extent not inconsistent with this Policy, the provisions of Section 287.057, *Florida Statutes*. The provisions of the Florida Administrative Code, as codified in Chapter 120, *Florida Statutes*, may be used, but shall not be controlling as to the administrative adjudications set forth in this Policy.

1.6 REQUIREMENT OF GOOD FAITH

This Policy requires all parties involved in the solicitation, negotiation, performance or administration of City procurement activities and contracts to act in good faith which shall include, at a minimum, documentation of all City decision making processes by City staff who shall be accountable for the decisions or recommendations made. When costs are estimated as to a procurement activity, full estimates shall be provided to include those required by State law to ensure that multi-year contracts are in the best interests of the City in terms of future expenditures.

1.7 CONFIDENTIAL INFORMATION

Confidential information shall be administered in accordance with controlling law. Information furnished by a bidder shall not be disclosed by the City outside of the Purchasing Division or requesting department, as authorized by the Purchasing Division, without prior written consent by the bidder, unless required by law, as determined by the City Attorney. All other information submitted by a bidder shall be subject to public records right of access requirements.

1.8 GRANTS

When a purchasing activity is funded in whole or in part by grant funds, the City shall comply with all applicable laws governing the purchasing of goods, services and construction activities as prescribed in the grant (including, but not limited to, Title 2, *Code of Federal Regulations*, Sections 200.317 through 200.326 and 45 CFR 75 which requires that, when the City procures property or services under a Federal award, the City must follow the same policies and procedures it uses for procurements from its non-Federal funds and ensure that every purchase order or other contract includes any clauses required by Federal law). In the event of a conflict between policies, the requirements of the grant or controlling law shall be applicable. The City employee who was responsible for obtaining the grant for the City, or a designee of the City Manager, shall be responsible for grant contract and regulatory compliance and for pre-audit and post-audit results. To the extent practicable, all grant conditions and requirements shall be adopted into contracts with the vendor being required to perform and comport with and adhere to all such requirements. Although the Purchasing Division does not generally implement agreements which provide for grants to the City, grant agreements, particularly those involving State of Florida agencies, require that procurement activities be accomplished in accordance with purchasing laws and that the City certify such compliance. A “claw back”/return of funds can occur if non-compliance by the City is found in an audit of the grant agreement. The City department that is implementing the grant is generally responsible for agreement performance, but the Purchasing Division will assist the operational department in its procurement activities.

1.9 CERTIFICATIONS

When certification of compliance with State or other law or the provisions of this Policy is required such as for payment or other actions under a grant or governmental contract; the certification shall be processed as follows:

Step 1. Department which is implementing the grant or contract completes certification form to the maximum extent and certifies to the Purchasing Division and the City Attorney that the purchasing process has been completed in accordance with controlling State law and this Policy.

Step 2. The Purchasing Division reviews the department’s actions and transmits the certification to the City Attorney.

Step 3. The City Attorney completes a legal portion of the certification and provides approval to the Purchasing Division and the initiating department.

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DEFINITIONS AND ACRONYMS

Unless the context otherwise requires, the terms defined in this Section shall have the meanings set forth below whenever they appear in this Policy; provided, however, that the City may utilize the definitions of terms that are promulgated within the *Florida Statutes*, the *City Code* or implementing rules and regulations as deemed appropriate to implement the provisions of this Policy:

Addendum means a written change or supplement made, or questions answered, by the City which the City originates on its own accord or with regard to questions originating from a bidder during a solicitation during competitive procurement process. The issuance of an *addendum* is intended to provide bidders with additional information or to clarify an aspect of the solicitation and to assist bidders in making complete and knowing responses to City solicitations.

Affiliate means a corporation or entity that is related to another corporation or entity by virtue of the ownership of shares, by common ownership or by other means of control.

Agreement (contract) means the bargain of the parties in fact, as found in the language or by implication from other circumstances arising from the agreed upon terms and conditions including a course of dealing, usage of trade or during performance and including the City's web-based terms and conditions as published on the City's web site. The legal consequences of an *agreement* are determined by the provisions of the terms and conditions of the contract or the common law of contracts. The term *agreement* is synonymous with the word *contract*. A *contract* is an *agreement* between parties, creating mutual obligations that are enforceable by law. The basic elements required for the *agreement* to be a legally enforceable *contract* are:

- (1). Mutual assent;
- (2). Expressed by a valid offer and acceptance;
- (3). Adequate consideration;
- (4). Capacity/authority; and
- (5). Legality.

If a promise is breached, the law provides remedies to the harmed party, often in the form of monetary damages, or in some circumstances, in the form of specific performance of the promises made. City *contract* forms are to be used in the conduct of City business unless in limited instances, City management, after review by the Purchasing Division, the City's risk management professionals and the City Attorney, determine to use a vendor's form of *contract* or another negotiated form of *agreement*. The City employee responsible for managing a project is responsible for developing the scope of services or description of goods, etc., to be performed by a vendor as well as contract management and monitoring of the performance of a vendor under a *contract*, and all matters relating to the documenting the performance of the vendor and evaluation of the goods, services or construction activities performed by the vendor. A vendor shall not commence performance prior to the completion of a *contract*. It is common for vendors to attempt to embed terms and conditions in their procurement documents, but all such attempts shall be null and void and

of no effect in terms of amending a *contract* with the City. It is a violation of this Policy and a breach of *contract* for a vendor to attempt to modify a *contract* with imbedded terms or conditions or vendor documents and it is, likewise, violation of this Policy and a breach of *contract* for a vendor to attempt to have a City employee act outside of his or her authority. This Policy shall be a part of each *agreement* with a vendor. A purchase order, likewise, constitutes an *agreement* between the City and a vendor.

Amendment means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity or other provision of a contract, accomplished by mutual agreement of the parties.

Appropriation means the authorization to expend public funds for a specific purpose. The funding of all procurement activities of the City must be in place at the time of award of a contract.

Artistic Services means rendering by an artist of time and effort to create or perform an artistic work in the fields of music, dance, drama, fold art, creative writing, painting, sculpture, photography, graphics arts, craft arts, industrial design, costume design, fashion design, motion pictures, television, radio or tape and sound recording.

Best Value means a technique in the competitive solicitation process which permits the evaluation of objective criteria to determine the best overall value and return on investment to the City. An example is the use of cost/benefit analysis to define the best combinations of quality, services, time and cost considerations over the useful life of the acquired commodity or services.

Bid means a formal written price offer by a bidder to the City to furnish specific goods, services or construction activities in response to an invitation for bids or a multistep price bidding procedure when the competitive procurement decision is based upon pricing, but in the context of a request for proposal, request for qualifications, request for information or other form of competitive procurement being implemented, the term, *bid*, means the solicitation and response within the context of such processes.

Bid Award means formal acknowledgment of acceptance of a bid as the basis for a procurement contract, funds for which have lawfully been appropriated by the City Commission.

Bidder means a person or entity submitting a bid or response, by whatever name or type of competitive procurement activity, relating to a solicitation by the City and could be, for example, as proposer or respondent which are terms that are used interchangeably from time to time. At the time of bidding, each *bidder* shall disclose the type of business organization that exists and the method of creation as well as all owners, officers, managers, members or like information.

Bid Bond means an insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability and guarantees that the bidder will not *withdraw the bid to the detriment of the City. The bidder shall furnish bonds in the required*

amount and if the contract is awarded to the bonded bidder, the bidder will accept the contract as bid, or else the surety will pay a specific amount.

Bid Deposit means a sum of money, payable by a check or other acceptable cash alternative, such as an irrevocable letter of credit or the bidder's pledge against owned property or against personal assets deposited with the City by a bidder, as a guarantee that the bidder will enter into a contract with the City if awarded by the City and may also be in the form of a bond issued by a surety and deposited with a purchasing activity guaranteeing that the bidder will not withdraw the bid for a specified period of time, will furnish bonds as required and will accept a contract if awarded, or forfeit the deposit. The term *bid deposit* may be used interchangeably with *bid security*.

Bid Opening means the official processing which sealed solicitations are opened at the time and place specified in the solicitation documents. Bid opening minutes shall be created and maintained by the City in accordance with the requirements of controlling law and shall occur in accordance with the requirements of controlling law with respect to meeting notices and transparency.

Business means any corporation, firm, association, syndicate, partnership, sole proprietorship, joint stock company, joint venture or any other private legal entity or combination. When a bidder submits a bid to the City all aspects of *business* creation and ownership shall be disclosed to the City which will assist the City in its understanding of the longstanding nature of the *business* and an evaluation of potential conflicts of interest.

Business Day means days of operation that the City offices are open, except for holidays recognized by the City, during normal operating hours.

City means the City of Sanford, a municipal corporation organized and existing under the law of the State of Florida.

City Commission means the City's local governing body under controlling Florida law.

Change Order means a written instrument issued on or after the effective date of the formal written contract or purchase order which, when duly executed by the City and a vendor, amends the contract documents to provide for a change in the work or in the provisions of the contract documents, or changes in contract price or contract time, or any combination thereof. A *change order* to a purchase order must be processed by the Purchasing Manager for all changes that affect the original amount of the procurement.

Goods means any tangible personal property or commodity other than services or real property.

Competitive Solicitation means the process of requesting and receiving 2 or more sealed bids, proposals, or replies submitted by responsive vendors in accordance with the terms of a competitive process, regardless of the method of purchasing.

Cone of Silence/Lobbying Black-Out Period means the period during which bidders and respondents are prohibited from contacting any City Commission Member, the City Manager, any requesting or evaluating City personnel or any member of a selection committee. The goal of the *cone of silence/lobbying black-out period* is to ensure that procurement decisions are made on the basis of objective standards for the benefit of the public and not on the basis of relationships or influence. A violation of the *cone of silence/lobbying black-out period* shall result in the disqualification of the bidder from consideration under a bid or, if a contract has been awarded to a bidder who committed a violation, it shall constitute a breach of contract. A violation occurs upon any action being taken by a person or entity who seeks to influence the decision of the Mayor, a City Commissioner, City Manager, any City personnel, or any individual serving as part of a selection committee during the *cone of silence/lobbying black-out period*.

Conflict of Interest means, in addition to those defined or described in controlling law, a clash between the public interest and the private pecuniary interest of the individual concerned. The term identifies those situations where vendors or City personnel may obtain a benefit from a public contract that is personal and against the public interest but does not include lawful profit under the terms and conditions of a contract. *Conflicts of interest* may result in a breach of ethics or an ethical code. Each and every action, decision or recommendation by an agent or public official acting in an official capacity, the effect of which could be to the private pecuniary benefit or detriment of the person or person's relative may not be a defined *conflict of interest*, but may be a perceived conflict of interest which shall be avoided by all City personnel during the entire course of the procurement process as well as contract implementation. A vendor may have a *conflict of interest* if matters other than service to the City are taken in the course of a contractual relationship with the City.

Construction means the process of building, altering, repairing, replacing, improving, renovating or demolishing any public structure, road, bridge, building, infrastructure or other public improvement of any kind to any real property. Many construction activities are regulated by the requirements of controlling State law with respect to bidding and related requirements. The City also has unique requirements with regard to construction contractor bonding requirements that are distinct from the notice of commencement/construction lien process that is normative to non-public entity construction projects. The City Attorney may assist in implementing those bonding requirements and addressing the inappropriate recordation of notices of commencement. A contractor which wrongfully records a notice of commencement relating to a City construction project commits a breach of contract.

Construction Manager at Risk means a project specific delivery method that provides overall planning, coordination and control of a construction project from beginning to completion for a guaranteed maximum price.

Construction Services means all labor, services and materials provided in connection with the construction, repair, replacement, renovation or demolition, or any other improvement of any kind, to any real property.

Consultant means a person or firm that possesses unique qualifications which allows them to serve or perform specialized or advisory services. When a *consultant* is a licensed professional, whose work is accomplished under seal, all work that is performed for the City including, but not limited to, the provision of opinion letters and documents, shall be sealed. Except for attorneys procured to provide legal services, *consultants* shall not provide contract drafts or any other legal services to the City. *Consultants* shall not prepare the scope of work that they will perform for the City. All *consultants* owe a duty of loyalty to the City in the context of those persons and entities otherwise represented.

Consultants' Competitive Negotiation Act means Section 287.055, *Florida Statutes*. The law governs the processes required for procurement of professional design services for public sector projects. The City is required to follow the law for the acquisition of professional architectural, engineering, landscape architectural and survey and mapping services. The statute requires the selection to be based on a competitive selection process where the qualifications of the firm, or team, are evaluated rather than through a financially based bid process. The mandated process requires adherence with specific procedures during the procurement process. These procedures include:

- (1). A public announcement shall be provided when professional services are needed, and these services exceed certain statutory thresholds. The announcement shall include a general description of the project and direction as to how interested consultants may apply.
- (2). The City evaluates and rates the qualifications of the firms. This is accomplished by the City Commission unless its authority is delegated. The ranking usually occurs after a selection committee recommends a ranking order.
- (3). The City selects, in order of preference, at least 3 firms deemed to be the most highly qualified to perform the required services. During the evaluation process, the City considers factors such as the ability of the professional personnel; whether a firm is a certified minority business enterprise; past performance; willingness to meet time and budget requirements; location; recent, current, and projected workloads and the volume of work previously awarded with a goal of equitable distribution to all highly qualified consultants.
- (4). The City negotiates a contract with the most qualified firm at a compensation level which the City determines is fair, competitive, and reasonable. Should the City be unable to negotiate a satisfactory contract with the top ranked firm, negotiations must be terminated. The City shall then undertake negotiations with the second-ranked firm. The succession goes on in ranked order.

Consultation with the City Attorney is often beneficial in this selection process. The City may not piggyback a contract of another jurisdiction that has been procured in accordance with the *Consultants' Competitive Negotiation Act* although certain

piggybacking may occur when the piggybacked work is specifically tailored to be in compliance with the requirements of the CCNA, including qualifications-based selection procedures and scope alignment with professional services under *Section 287.055, Florida Statutes*.

Contract Administration means the management actions that must be taken to ensure full compliance with all of the terms and conditions contained within the contract document, including price. Action steps that ensure that the vendor is in full compliance with the entire contract. *Contract administration* activities include payment, monitoring of progress, inspection and acceptance, quality assurance, monitoring and surveillance, modifications, negotiations, contract closeout and other activities. This process and work are the responsibility of the operational department.

Contractor means any person or entity who has entered into a contract with the City to furnish goods, services or construction activities for an agreed upon price. The term *contractor* and *vendor* are used interchangeably. *Contractors* shall not prepare the scope of work that they will perform for the City. All *contractors* owe a duty of loyalty to the City in the context of those persons and entities otherwise represented.

Cooperative Purchasing means purchasing conducted by, or on behalf of, more than one public purchasing unit.

Debar or Debarment means an action taken by the City under this Policy to prohibit a vendor from bidding and/or doing business with the City for a specified period of time.

Department means an administrative division, *department* or office of the City by whatever name or title, which utilizes any goods, services or construction activities procured under this Policy.

Designee means a person who is chosen to represent or given the authority to act on the behalf of, another person having authority to act.

Direct Payment means the payments the Finance Department of the City can make directly for specific fees, goods, services as defined in this Policy. The requesting department is not required to complete a purchase request nor have a purchase order issued (unless issuance of same is required for compliance purposes) to secure payments for the items listed in this Policy. However, the requesting department shall submit any necessary forms and documentation as required by the Finance Department.

Direct Purchase Program means materials and goods that will be purchased and paid for directly by the City during the course of contract performance. This fund saving strategy is typically used in construction projects. The term is synonymous with *Sales Tax Recovery* which is a process in which the City has the option of purchasing all, any or none of the materials and equipment included in each contract directly from the manufacturer or supplier as the City is exempt from payment of sales and used tax on the purchase of any good and services subject to such tax which is evidenced by a State form that is issued, upon request, from time to time.

Discussion means communication between a bidder and the Purchasing Division for the purpose of eliminating minor irregularities, informalities or apparent clerical mistakes in the offer or response; clarifying any offer or response to assure full understanding of, and responsiveness to, solicitation requirements; resolving minor variations in contract terms and conditions; or establishing the competency or financial stability of any bidder.

Emergency means an immediate need for goods, services and construction activities, the lack of which would cause a disruption of essential operations where the protection or preservation of public properties would not be possible through normal purchase procedures, or where there exists a threat to public health, welfare or safety. These types of situations are rigidly controlled by controlling law. An emergency is not self-created or self-imposed managerial issue even if a managerial issue results in issues relating to the critical path of a procurement activity.

Extension means an agreement where the City and the vendor decide to change the end date of the original contract. An *extension* may occur automatically, by unilateral action of the City or by mutual agreement of the City and the vendor. An *extension* is often easier to accomplish than negotiating an entirely new contract.

Fuel Card Program means a fuel card or fleet card used as a method of payment most commonly for gasoline, diesel and other fuels at gas stations; used for traveling and emergency situations.

Filed means the delivery of applicable documents to the Purchasing Division or to the Purchasing Manager; whichever is applicable. A time and date of receipt shall be documented by the Purchasing Division in a verifiable manner for purposes of filing.

Goods mean products or commodities, of every type or nature, which are tangible, usually movable and generally not consumed at the same time they are produced.

Governing Instruments means those legal documents that establish the existence of an organization and define its powers and shall include, but are not limited to, articles of incorporation, association, constitution, charter and by-laws.

Grant means the furnishing of assistance, whether financial or otherwise, to the City or from the City from or to any person or organization. The typical use of the term *grant* in this Policy means receipt by the City of assistance, whether financial or otherwise, from any governmental or private entity. The Purchasing Division typically has no involvement in grants made by the City to others and it is the responsibility of operational departments to implement and manage such grants.

Illegal Purchase means any procurement action taken that purports to obligate the City for payment for goods, services or construction activities without following proper purchasing procedures or authority as set forth in this Policy and controlling law. The City is not bound by an illegal purchase.

Informal Request for Quotation means an informal solicitation for written price offers designed for the quick purchase of goods or services in an amount which is over \$25,000.00 and under \$50,000.00, which contains a defined statement of specifications or scope of work or services, and other applicable provisions, without formal advertising or receipt of sealed bids.

Invitation to Bid means solicitation documents, written or electronic, whether attached or incorporated by reference, which are used for competitive sealed bidding for the purchasing of goods, services or construction activities. This process is used when the City is capable of clearly defining the scope of work for which a precise specification defines actual goods, services or construction activities that are being procured.

Invitation to Negotiate means a solicitation used by the City which is intended to determine the best method for achieving a specific goal or solving a particular problem and identified responsive and responsible vendors with which the City may negotiate in order to receive the best value.

Law or Laws means Federal, State and local controlling statutes, codes, regulations, rules, codes and ordinances.

Material Interest means direct or indirect ownership of more than 5% of the total assets or capital stock of any business entity unless a specific law otherwise defines the term.

Materials mean items that are incorporated into or attached to an end item or consumed in performing which does not include land, a permanent interest in land or lease of real property.

May is a term that denotes the permissive.

Must is a term that denotes the imperative.

National Institute of Governmental Purchasing means a national, membership-based, non-profit organization providing support to professionals in the public sector purchasing profession. The organization provides its members with education, professional networking, research, and technical assistance. Their mission is to develop, support and promote the public Purchasing profession through premier educational and research programs, professional support, and advocacy initiatives that benefit members and constituents.

Negotiation means conducting legitimate, arm's length discussion and conferences to reach an agreement on terms and conditions or price.

Non-responsible refers to a bidder who does not have the capability to perform fully the contract requirements, or who does not have the experience, reputation or reliability to assure performance.

Non-responsive refers to a bidder whose submittal does not conform to the mandatory or essential requirements of the competitive solicitation.

Opening means the date and time set for *opening* of bids, receipt of statements of qualifications or receipt of proposals in competitive sealed proposals, or like date, including, in the case of a reverse auction, the date and time set for the auction to close.

Payment Bond means a financial or contractual instrument, issued by a surety that guarantees that subcontractors will be paid for labor and materials expended on the contract.

Performance Bond means an instrument executed, subsequent to award, by a successful bidder that protects the public entity from loss due to the bidder's inability to complete the contract as agreed; a risk mechanism that secures the fulfillment of all contract requirements.

Policy means a governing principle or plan which establishes the general parameters for the organization to follow in fulfilling its responsibilities.

Purchasing means buying, purchasing, renting, leasing or otherwise acquiring any goods, services, or construction and includes all functions that pertain to the acquisition of any goods, services and construction activities including the description of requirements, selection and solicitation of sources, preparation, negotiation, award of contract and all phases of contract administration.

Purchasing Manager means the central purchasing individual for the City duly authorized to conduct and approve purchasing as delegated by the City Manager; sign purchase orders for purchasing pursuant to this Policy; assist in the management of contracts and make written determinations with respect thereto.

Project Manager means a designated individual within the City to administer a specific task or contract which term may be used interchangeably with *contract manager* although the functions may be bifurcated as to any particular project.

Proposal means a document submitted by a vendor in response to some type of bid solicitation to be used as the basis for negotiations or for entering into a contract.

Public Entity Crime means a violation of any State or Federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States including, but not limited to, any bid, proposal, reply or contract for goods, services and construction activities, any lease for real property, or any contract for the construction or repair of a public building or public work, involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy or material misrepresentation.

Purchasing Card Program means a program designed to improve efficiency in processing low dollar purchases of goods, services and construction activities from any provider that accepts a credit card. The Program allows the cardholder to purchase approved goods,

services and construction activities directly from vendors within the transaction cycle limit established for each cardholder. Each purchase card is issued to a named individual, and the City is clearly shown on the card as the governmental buyer of goods, services and construction activities. Activities under the Program must be rigorously managed and monitored by supervisory personnel.

Purchasing Division means the City division responsible for overseeing a hybrid centralized/decentralized purchasing system. The Purchasing Division also administers and enforces purchasing policies and procedures, ensuring compliance with the City's policies and procedures pursuant to industry standards and all applicable Federal and State laws and regulations.

Proposer means a person or entity that submits a response to a solicitation and may be used interchangeably with the term *bidder* or *respondent* or like terms.

Public Notice means a written announcement made by the City concerning a solicitation or other information of general public interest.

Purchase Order means a City-generated document that authorizes a purchase transaction. When accepted by a vendor, it becomes a contract. A *purchase order* sets forth the description, quantities, prices, discount, payment terms, date of performance or shipment, other associated terms and conditions and identifies a specific vendor. The City's web-based terms and conditions for City contracts apply to all *purchase orders* unless specifically referenced to be inapplicable or amended. The City shall not accept vendor generated procurement documents with vendor terms and conditions unless City management determines to do so after review by the Purchasing Division, the City's risk management professionals and the City Attorney. It is common for vendors to attempt to embed terms and conditions in their procurement documents, but all such attempts shall be null and void, a violation of the duty of loyalty to the City and a breach of contract (if a contractual relationship has been consummated).

Receipt means the earlier date of the actual *receipt* of an item being delivered or the first attempted delivery by certified mail, or by any other means that provides conclusive evidence of the attempt to deliver to the last known address of party.

Request for Information means a written or electronically posted request made by the City to vendors for information concerning goods, services or construction activities and responses to these requests are not offers and may not be accepted by the City to form a binding agreement.

Request for Letters of Interest means solicitations used by the City, which are intended to determine the best method for achieving a specific goal or solving a particular problem and identifies responsive vendors with which the City may, but is not obligated to, negotiate.

Request for Proposals means a solicitation method used to solicit proposals from potential providers of goods, services or construction activities in which price is not the only

determining factor and an award of a contract may be accomplished in a single step or multi-step process.

Request for Qualifications means a qualification-based solicitation which is a method used to solicit proposals from potential providers of specific services where price may not be an initial evaluation factor.

Requisition means a document created by the requesting City employee authorizing the commencement of a purchasing transaction which will typically include a description of the need and other information that is relative to the transaction; may be submitted in hard copy to the Purchasing Division with the proper documentation.

Respondent means a person or entity that submits a response to a solicitation and the term may be used interchangeably with the term *bidder* or *proposer* or like terms.

Responsible Bidder or Responsible Respondent means a person or entity that has the capability to perform contract requirements and the experience, reputation and reliability which will ensure performance.

Responsive Bidder or Responsive Respondent means a person or entity who submits a response to a solicitation which conforms in all material respects to the solicitation requirements such that the response can be considered by the City for competition and award.

Selection Committee means a group of persons, which can be referred to as a “*team*” or an “*evaluation committee*”, appointed by the City to evaluate, rank, select or make a recommendation regarding a vendor or the responses of bidders to the competitive solicitation. The *team* may also be tasked with negotiating the terms and conditions of the contract that implements the solicitation. Sunshine Law and government transparency matters are applicable to processes using this selection and negotiation process as well as ethical standards. Typically, the results of the process are recommendations to the City Commission or City Manager for ultimate action.

Services means the furnishing of labor, time, effort, materials or equipment by a vendor which include, but are not limited to, consulting, professional, legal, auditing, technical, design, maintenance and construction, but does not include employment agreements or collective bargaining agreements.

Shall is a term that denotes the imperative.

Sole Source Purchasing means a non-competitive situation created due to the documented inability to obtain competition; which may result in a purchasing decision whereby purchases are directed to a single source to the exclusion of all others because there are no other competitive sources available in the marketplace as a result of only a single vendor possessing the unique ability or capability to meet the particular requirements of the City. This is a situation that should be avoided in purchasing decision making as vendors, oftentimes over time, develop the ability to control pricing and contractual terms and

conditions through adhesive contracts resulting from the dependency of the City and the City unequal bargaining power. The terms *Single Source Purchasing* is a synonymous term which also means a situation created due to the inability to obtain competition, which may result in a purchasing decision whereby purchases are directed to one source because of standardization, warranty, territorial coverage/assignment exclusivity, or other factors, even though other competitive sources may be available. It may also be the result of only one vendor or supplier possessing the unique ability or capability to meet the particular requirements.

Solicitation means an invitation or request by which the City invites persons and entities to participate in the purchasing process for the procurement of goods, services and construction activities .

Specification is used interchangeably with “scope”, “scope of services”, or “scope of work” and means any description of the physical or functional characteristics, or of the nature of the goods, services and construction activities required by the City and may include a description of any requirement for scheduling, inspecting, testing or preparing the goods, services and construction activities for delivery and approval by the City. Further, *specifications* typically provide detailed statements used in bids describing the materials, dimensions, performance requirements and workmanship of something to be built, installed, manufactured or processed.

Subcontractor means any person or entity engaged to perform part of a contractual obligation under the control of the principal contractor who shall be responsible under the contract with the City for all performance and actions of the subcontractor. Subcontractors may only be engaged by a contractor upon the written approval of the City. Subcontractor contracting, management and all other matters are the responsibility of the prime contractor.

Sunshine Law means Section 286.011 and Chapter 119, *Florida Statutes*, as well as all related laws of Florida, which relate to government transparency and public meetings which are open to the public. Committees involved in the selection and negotiation of vendors are governed by this law and bid opening must occur in compliance with this law.

Surety Bonds means a document by the Surety company on the behalf of a vendor to guarantee that an obligation will be fulfilled.

Surplus means an overstock situation when the quantity of goods on hand exceeds the quantity of goods needed. The overstocked goods may be returned to the vendor, sold at auction or disposed of in a method acceptable to the City. The term also refers to goods or materials that are technically or mechanically obsolete, no longer functioning, or has no intrinsic value or no longer needed by the City and are designated for disposal. *Surplus* property becomes available for disposal by the City because of some situation that affects the use of the item. Surplus real property is administered under a separate policy.

Suspend or *Suspension* means an action taken by the City Manager under this Policy to temporarily disqualify or exclude a person or entity from participating in City purchasing for a definite period of time.

Threshold means an identified dollar value at which procedures for methods of purchase or solicitation and authorization approval for purchases change. City employees are prohibited from making a purchase or entering into any agreement beyond the authority specifically delegated to the employee and the City is not bound by such purchases.

Vendor means a supplier, seller, contractor, consultant or other provider of goods, services or construction activities to the City or who has proposed to do so for the City as a bidder. The term vendor may be used interchangeably with terms such as “*bidder*”, “*provider*”, “*supplier*”, “*contractor*”, “*consultant*” or like terms and a potential vendor is treated as a vendor for many purposes and in many contexts such as code of conduct matters and the like.

The following acronyms may be used from time to time in or to implement the provisions of this Policy although not used in this Policy in order to maximize the training value of this Policy:

<i>CCNA:</i>	Consultants' Competitive Negotiation Act
<i>CMAR:</i>	Construction Manager at Risk
<i>GIS:</i>	Geographic Information System
<i>IRFQ:</i>	Informal Request for Quote
<i>ITB:</i>	Invitation to Bid
<i>NIGP:</i>	National Institute of Governmental Procurement, Inc.
<i>NOA:</i>	Notice of Award
<i>RFP:</i>	Request for Proposals
<i>RFQ:</i>	Request for Qualifications
<i>RFI:</i>	Request for Information
<i>RLI;</i>	Request for Letters of Interest
<i>TA:</i>	Task Authorization

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SECTION II. ETHICS IN PUBLIC CONTRACTING

2.0 STANDARDS OF CONDUCT

A. Public employment is a public trust. Public employees must discharge their duties impartially so as to assure fair competitive access to governmental purchasing activities by responsive and responsible vendors. City employees shall conduct themselves in such a manner as to foster public confidence in the integrity of this Policy and City government as a whole. No purchase may be made by a City employee outside of the provisions of this Policy. The City is committed to a procurement process that fosters fair and open competition, is conducted under the highest ethical standards, and enjoys the complete confidence of the public. Although good relationships with vendors are, of course, needed to provide the best possible and coordinated goods, services and construction activities for the benefit of the public, arm's length relationships between the City staff and vendors is the professional manner in which to implement procurement activities.

B. The Purchasing Division adheres and subscribes to the ethical codes and requirements of the National Institute of Governmental Procurement, Inc. and the Florida Association of Public Procurement Officials. All City employees involved in any part of the procurement process are required to act in an ethical manner. No officer or employee of the City shall have any personal beneficial interest, either directly or indirectly, in any expenditure, purchase, sale (not including items auctioned by the City) or contract goods, services and construction activities received by the City. Additionally, they shall not have personal or financial interest in any firm, corporation, or association furnishing or bidding on such purchase, sales, contract, or services. No employee, city management, or official, acting as agent for the City, shall directly or indirectly, purchase, rent, or lease any supply or service from a business entity in which he/she or his or her immediate relative owns a material interest. A public officer or employee acting in a private capacity may not rent, lease, or sell any supply or service to the City. Additionally, the City is governed by the Government in the Sunshine, Chapter 286 and 119, *Florida Statutes*, as well as the provisions of the *Constitution of the State of Florida*. All City records are public and can be examined by the public upon request unless exempt. All meetings of selection committees that make recommendations or determine purchasing awards are also open to the public.

C. All City, officers, elected officials and employees and anyone doing business for, on behalf of or with the City, are prohibited from placing City resources at risk through misconduct of any type or nature including, but not limited to, violations of law or this Policy and all such persons are required to report any information affecting the City that arises from such misconduct.

D. Failure of a City employee to adhere to this Policy shall constitute insubordination and shall subject that employee to disciplinary action up to and including termination.

2.1 CONFLICT OF INTEREST

A. Bidders, respondents, proposers members of a selection committee, vendors, awarded contractors and City employees shall not engage in any action that would create a conflict of interest in the performance, or possible performance, of their obligation with or to the City, or would violate, or cause others to violate, the applicable provisions of the *Florida Statutes* or Federal laws relating to ethics in government.

No purchase of goods, services and construction activities in which a conflict of interest occurs between the City and the vendor shall be made with any person or entity. A conflict of interest may occur, at a minimum, under the following situations:

1. An employee of the City or an individual chosen by the City to serve as a member of a selection committee has a Material Interest as defined in the *Florida Statutes*.
2. A member of the City Commission, the City Manager, or a spouse, or child thereof, has an employment relationship or a material or financial interest, as defined in the *Florida Statutes*.
3. A City employee becomes obligated to any vendor in which case he or she must not participate in any City transaction from which they may personally benefit and shall not accept gifts or benefits of any kind from current or prospective bidders, vendors or suppliers.

The avoidance of actual or perceived conflicts of interest is a prerequisite to the efficient and sound operation of the City and the maintenance of the public trust.

B. No public officer or employee of the City shall solicit or accept anything of value including a gift, loan, reward, promise of future employment, favor or service based upon the understanding that a purchasing recommendation or decision would be thereby influenced.

C. In addition to the prohibitions concerning gifts and gratuities as stated in Sections 112.313(2) and 112.3148, *Florida Statutes*, City employees shall not accept any gift from a lobbyist, as that term is defined in Section 112.3148(2) (b), *Florida Statutes*, regardless of the dollar value.

D. It shall be unethical for any payment, gratuity or offer of employment to be made by, or on behalf of, a vendor, to any City officer, official or employee, or a person or entity associated with a solicitation or award as a City consultant, as a bribe for the award. The promise of future work or contracts shall constitute a bribe as does the traditional payments of cash, gifts, benefits, etc.

E. It shall be unethical for any City officer, official or employee, or a person or entity associated with a solicitation or award as a City consultant to enter a business relationship with a bidder that a reasonable person would believe would affect a purchasing decision or action.

F. Any person found to be in violation of any provision of this Policy shall be subject to the sanctions contained in the disciplinary provisions of the City's Personnel Policies, Chapter 112, *Florida Statutes*, and all other applicable controlling law.

2.2 CONE OF SILENCE/LOBBYING BLACK-OUT PERIOD

A. The cone of silence/lobbying black-out period commences upon the issuance of the solicitation document or advertisement.

B. The cone of silence/lobbying black-out period for awards requiring City Commission approval concludes at the beginning of the meeting at which the City Commission will be presented an award for approval or a request to provide authorization to negotiate a contract. However, if the City Commission refers the item back to the City Manager, Purchasing Division or a department for further review or otherwise does not take action on the item, the cone of silence/lobbying blackout period will be reinstated until such time as the City Commission meets to consider the item for action.

C. The cone of silence/black-out period for awards requiring City Manager approval concludes upon issuance of a notice of award.

D. Bidders, respondents, potential vendors, service providers, lobbyists, consultants, or vendor representatives shall not contact any City Commission Member, the City Manager, any requesting or evaluating department personnel or any member of the selection committee, concerning an active solicitation during the cone of silence/lobbying blackout period.

E. All questions and inquiries concerning procedural matters shall be directed to the Purchasing Division.

F. Contact or communications by bidders with any City Commission Member, the City Manager, any requesting or evaluating City personnel, or any member of the selection committee initiated during the cone of silence/lobbying black-out period shall result in disqualification from the solicitation process.

2.3 PROHIBITION AGAINST CONTINGENT FEES

Vendors wanting to do business with the City must not hire a person or entity to solicit or secure a contract with the City for a commission, percentage, brokerage or contingent fee and any such relationship shall be disclosed prior to the award of a contract and shall be automatic grounds for disqualification.

2.4 UNAUTHORIZED PURCHASES PROHIBITED

A. No unauthorized purchases will be allowed. All City purchases must have authorization prior to implementation and cannot be utilized for personal usage.

Unauthorized purchases are strictly prohibited. Violations of this limitation may result in disciplinary action up to and including termination of employment.

B. No City employee shall obligate the funds of the City, except in the case of emergency purchasing, authorized purchasing card transactions or direct payment requests managed through the Finance Department, unless authorized by the City Commission, City Manager or Finance Director, as applicable.

C. Every purchase requisition or Contract shall be properly financed and budgeted prior to the issuance of a Purchase Order by the Purchasing Division. The City Commission may provide exceptions to this requirement.

D. Dividing or breaking up purchasing into 2 or more small purchases to avoid or to circumvent the required competition, authorized limits, or approval process is expressly prohibited. The purchase of goods or services shall be aggregated for the purpose of evaluating purchasing threshold limitations.

E. Unauthorized purchase is any purchase or contract made in the absence of approved documentation or otherwise contrary to the provisions herein and shall not be binding upon the City. Any individual making an unauthorized purchase assumes all responsibility and liability for the unauthorized purchase even though said goods, services or construction activities are used or consumed in support of the effort of the City and such actions shall be subject to disciplinary actions.

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SECTION III. AUTHORITY AND AUTHORIZATION TO ESTABLISH PROCEDURES

3.0 PURCHASING AUTHORITY

A. City Commission

1. The City Commission has the power and right to award all contracts except as otherwise provided in this Policy. All contract awards exceeding (Level 5) shall be approved by the City Commission prior to execution, unless otherwise provided by City Commission action. Said Threshold amount shall be established based on the entire compensation amount during the term of the Contract.

2. The City Commission shall approve any amendments or renewals to a contract which would increase the not to exceed amount of the contract above Level 5. However, once approved by the City Commission, the City Manager shall have authority to execute:

i. Agreement renewals which do not increase the annual not to exceed amount; and

ii. Contract amendments, which do not increase the not to exceed amount of the contract or the scope of services as approved by the City Commission.

3. The City Manager shall have authority to approve all change orders on a project for up to 10% of the original procurement expenditure provided that funds have been appropriated and are available for the project associated with the awarded contract/total project amount.

i. Change orders that increase a purchase order above the lesser of 10%, \$75,000, or increase the original purchase order above \$100,000 in total shall be presented to the City Commission for approval.

ii. When presenting a change order to the City Commission for approval, the agenda item request packet shall include, at a minimum, a listing with a brief description of any and all change orders and amendments associated with the project in order to provide complete accountability of all transactions associated with the project.

iii. With regard to awarded projects that include a contingency dollar amount, the City Commission approval shall be required with regard to all change orders that would exceed the awarded contract amount.

B. City Manager

The City Manager has the ultimate responsibility to ensure that the purchasing, contracting and administrative functions associated with the acquisition of goods, services and construction

activities are in compliance with City policy, codes, regulations, all applicable Federal laws and State Statutes and that funds have been appropriated in order to fund the purchasing activity.

1. The City Manager shall have the authority to award and execute purchases for all contracts and amendments thereto that do not exceed Level 5.

2. The City Manager shall have the authority to approve all renewals of previously awarded contracts if the compensation amount of the original contract and the renewal does not exceed level 5, with the exceptions as stated herein.

3. The City Manager shall have the authority to execute contract amendments to reflect a change to the vendor's name, due to assignments or re-organization of the vendor's entity subject to legal review by the City Attorney.

4. The City Manager shall have the authority to execute contract amendments to agreements and extensions that do not increase the not-to-experience compensation amount as approved by the City Commission. However, the requesting department shall provide written justification and all applicable supporting documentation determining such course of action is in the best interest of the City and not inconsistent with law. The written justification, supporting documentation and determination shall be included with the contract amendment for review and approval prior to City Manager execution of the contract amendment. Said documentation shall be maintained as part of the City's purchasing file.

5. The City Manager shall have authority to approve and execute task authorizations under continuing service contracts that do not exceed Level 5. This limitation shall be established based on the entire compensation amount during the term of the contract.

6. The City Manager shall have authority to approve and execute task authorizations for continuing service contracts that do not increase the entire compensation amount of agreements as authorized and approved by the City Commission. Specific limitations to City Manager authority to approve and execute task authorizations may be included in agenda requests or agreements approved by the City Commission, when applicable.

i. The City Manager shall approve all change orders on a project that are the lesser of 10%, \$75,000 or increase the original purchase order above \$100,000 in total. Change orders above these amounts shall be presented to the City Commission for approval.

ii. When presenting the change order, the City Manager approval agenda request packet shall include a listing with a brief description of any and all change orders and amendments associated with the project in order to provide a complete accountability of all transactions associated with the project.

iii. With regard to contracts awarded for projects that include a contingency dollar amount, the City Commission shall approve all change orders that exceed the awarded contract amount.

C. *Purchasing Manager*

1. The Purchasing Manager reports to the Finance Director. As such, the Finance Director shall have full purchasing authority.

2. The Purchasing Manager shall have the authority to award and execute purchases for all Contracts, or Amendments that do not exceed Level 3. This limitation shall be established based on the entire compensation amount during the term of the Contract.

3. The Purchasing Manager shall have authority to approve and execute change orders for continuing service contracts that do not exceed Level 3. This limitation shall be established based on the entire compensation amount during the term of the Contract. The Purchasing Manager shall have the authority to approve and execute change orders that do not increase the entire compensation amount of agreements as authorized and approved under the threshold of Level 3 or 10% increase.

4. The City Commission, City Manager or Purchasing Manager may request individual review and approval of specific contracts and amendments including, but not limited to, piggyback contracts or other purchasing related documents on a case-by-case basis.

D. *City Clerk*

1. The City Clerk shall serve as the public records depository of the City for records retention purposes but shall be dependent upon the Purchasing Division providing all contract documents for records maintenance purposes. The Purchasing Division shall require the assistance of all City employees engaged in the procurement process of the City.

2. Contracts, amendments, task authorization and other appropriate procurement documents shall be attested to by the City Clerk as the City Clerk deems appropriate.

E. *City Attorney*

1. The City Attorney shall serve as legal counsel and provide necessary legal Services concerning Purchasing matters and issues to the City Commission and the City Manager.

2. Contracts, agreements, amendments, and task authorizations including, but not limited to, terms and conditions, shall be reviewed by the City Attorney for legal sufficiency as needed.

3. The City Attorney shall review all documents submitted by vendors to the City for compliance with this Policy and controlling law.

4. It shall be an ethical violation by a vendor to submit a document to the City for execution which conflicts with this Policy or controlling law.

3.1 PURCHASING AUTHORIZATION TO ESTABLISH PROCEDURES

The Purchasing Division shall be responsible for overseeing a hybrid centralized/decentralized purchasing system, including but not limited to strategies, methods, and processes. The Purchasing Division also administers and enforces purchasing policies and procedures, ensuring compliance with the City's policies, processes and procedures pursuant to industry standards and all applicable Federal and State law.

A. The City Manager shall:

1. Have the authority to adopt operational procedures consistent with this Policy and in accordance with any applicable *City Code*, Federal law and Florida law governing the purchasing and management of all goods, services and construction activities by the City.
2. Operational procedures shall be approved in advance by the City Manager prior to implementation.

B. The Purchasing Manager shall:

1. Supervise the purchasing of all goods, services and construction activities required by the City.
2. Administer the purchasing functions necessary to procure and account for the goods, services, and construction activities to support City activities in accordance with codes, policy, regulations, all applicable Federal and State law and approved budgetary funds.
3. Approve and execute purchase orders, agreements, contract awards and amendments that do not exceed the threshold amount established for the Purchasing Manager by the City Manager.
4. Execute and issue by means of mail, email or facsimile transmittal or other generally accepted manner of communications, all purchase orders for goods or services including, but not limited to, owner direct purchases, which are associated with contracts, change orders, task authorization and amendments, City Manager approval forms, agenda items and change orders approved and executed by the City Commission or the City Manager.
5. Manage the City's purchasing card program, as a general manager, and, except in instances where a purchasing card has been utilized as a method of payment, the purchase of all goods, services or construction activities requires a purchase order executed by the Purchasing Manager prior to placing an order.

6. Assist the City Manager in the development of purchasing policies, procedures, and processes in the best interest of the City and implement those procedures and processes in accordance with this Policy.

3.2 POLICY THRESHOLDS

A. Contract Levels of Authority – General.

The below sets forth and prescribes the threshold dollar limits as related to the approval authority, competition (solicitation) requirements and approvals required. The increasing compensation for the entire contract term shall be taken into consideration for the purchasing threshold as outline herein and purchases shall not be implemented in a manner to evade the expenditure limits by splitting or otherwise set forth herein and, to the maximum feasible extent, purchases shall be aggregated:

Level 1: \$0 to \$2,499.99:

P-card 1 time transaction or field purchase order with firm price approved by the department director having authority over the account code from which payment is indicated. Splitting P-card transactions to avoid Policy limitations is a violation of this Policy and will result in disciplinary action to be taken against the offender including termination. Pcards are used for only goods not services.

Level 2: \$0 to \$4,999.99:

1 firm price approved by the department director having authority over the account code from which payment is indicated. Purchase order approval is vested in the Purchasing Manager.

Level 3: \$5,000.00 to \$24,999.99:

3 written quotations obtained by the department in writing. Department provides vendors with equivalent information. Quotes are attached to requisition and keyed into the electronically by the department. Purchase order approval is vested in the Purchasing Manager and City Manager and is required.

Level 4: \$25,000.00 to \$49,999.99:

An informal request for quote solicitation is processed by the Purchasing Division. The scope of services is completed by the requested department and submitted to the Purchasing Division for posting. Posting on the City's posting system shall occur for 10 business days. Purchase order approval is vested in the Purchasing Manager and City Manager required.

Level 5: \$50,000.00 or higher:

Formal sealed competitive procedures are implemented. A scope of services is prepared by the department and provided to Purchasing Division. All purchases at this level shall be supported by the formal processing certified by the Purchasing Manager. Purchases at this level shall be supported by a formal sealed bid. City Commission approval is required with regard to contracts which contain clauses obligating the City to pay an amount either specifically or undetermined, which will exceed or could exceed \$100,000.00 and any contract which contains an indemnification clause which the City indemnifies or insures (or provides insurance) all of which actions are generally in conflict with controlling law. Purchase order approval is vested in the Purchasing Manager and City Manager.

B. Splitting.

Purchases that are initiated to avoid the requirements of a higher threshold are prohibited and constitute a violation of this Policy and will result in disciplinary action to be taken against the offender. In addition, a request to increase or change order, which moves the procurement into a higher threshold level, must comply with the approval and competition requirements to the higher level.

C. Change Orders.

All purchase orders, which cause the procurement to exceed the lesser of 10%, \$75,000, or increase an original purchase order amount above \$100,000 must be approved by the City Commission.

D. Purchase Orders.

No work may commence until the vendor receives an authorized and fully executed purchase order. All purchase orders are issued electronically when the purchase requisition has been approved electronically by the Purchasing Manager.

E. *Consultants' Competitive Negotiation Act.*

Purchase orders under a *Consultants' Competitive Negotiation Act* contract shall be subject to a task authorization executed by the vendor, a copy of an active certificate of insurance, a copy of the agreement under which the task authorization is being issued, a copy of the City Commission approval agenda item and a price sheet (a summary) applicable to the particular task authorization which, if different from the underlying contract, the difference shall be explained in detail.

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SECTION IV. SPECIFICATIONS

4.0 MAXIMUM PRACTICABLE COMPETITION

The Purchasing Manager shall strive to ensure that all specifications issued by the City provide for free and open competition and may promulgate procedures for the standardization, preparation and use of specifications for supplies, services, professional services and construction required by the City. All contracts shall be awarded by one of the approved methods of source selection as specified in this Policy, procedures established by the City Commission, City Manager or Purchasing Manager and in accordance with controlling law.

4.1 SPECIFICATIONS PREPARED BY OTHER THAN CITY PERSONNEL

- A. A person or entity that prepares the evaluation criteria, specifications, or scope of work for a competitive solicitation may not respond to the solicitation or compete for award of a contract arising therefrom either directly as a respondent or indirectly as a subcontractor at any tier for a respondent. Nothing herein shall be deemed to preclude such person or entity from participating in subsequent solicitations for the same or similar goods, services and construction activities unless the terms and conditions contained in the subsequent solicitation preclude such participation as determined by the Purchasing Manager.
- B. Notwithstanding the preceding, the provision of product specifications, technical data, or other information by a person or entity to the City in situations where the person or entity is not preparing the evaluation criteria, specifications, or scope of work on behalf of, or in conjunction with, the City shall not preclude such person or entity from responding to and receiving an award of a contract resulting from such solicitation.
- C. The provisions of this Section shall not apply to professional services solicited in accordance with the *Consultants' Competitive Negotiation Act* which shall be governed by the conflict-of-interest provisions contained therein.

4.2 QUALIFIED PRODUCTS LIST

The Purchasing Manager, in consultation with the requesting department , may adopt qualified product lists after conducting a good faith review of available sources and reviewing all applicable documentation and determining such course of action is in the best interest of the City and consistent with law.

4.3 BRAND NAME SPECIFICATION

The use of a brand name specification, which may limit product competition, shall only be used when approved by the Purchasing Manager after conducting a good faith review of available sources and reviewing all applicable documentation and determining such course of action is in the best interest of the City and consistent with law.

4.4 STANDARDIZATION

The Purchasing Manager may develop a standardization program for specifications and supplies to support cost reduction and effective maintenance, training, integration and economies of scale. In developing the standardization program, consideration may include, but not be limited to the following:

- A. The uniform or common appearance, application or functionality of a supply or service;
- B. The method for periodic review of standard specifications to keep standards current;
- C. The purchasing of products previously standardized by the City may be approved by the Purchasing Manager in accordance with established limits of authority.

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SECTION V. PURCHASING ADMINISTRATION

5.0 METHODS OF SOURCE SELECTION

The general policy of the City is to advance competitive procurement activities for the benefit of the public. Sole source selection is disfavored and can provide the opportunity for importune processes and conduct. All contracts shall be awarded by one of the approved methods of source selection as specified in this Policy, procedures established by the City Manager and in accordance with any applicable Federal and Florida law. The Purchasing Division has the authority to determine the source selection, provided the procedures established by the City Manager are followed. Vendors wanting to do business with the City must be a registered vendor with the State of Florida <https://dos.myflorida.com/sunbiz/>

5.1 FORMAL SOLICITATIONS

Unless exempt, all City purchases of goods, services and construction activities in amounts equal to or greater than the formal Solicitation Threshold, as established by the City Manager, shall be conducted using formal Solicitation procedures as established by the City Manager and in accordance with any applicable Federal and Florida law <https://m.flsenate.gov/Statutes/255.0525>

A. Formal Solicitation Methods

Competitive sealed bids. Competitive sealed bids shall be solicited through an invitation to bid process, with procedures for the same established by the City Manager. The invitation to bid shall be used when the City is capable of clearly defining the scope of work for services or precise specifications for the actual goods required. The contract shall be awarded to the lowest responsible and responsive bidder.

Purchasing of construction services. The City Manager shall have the discretion to select the appropriate delivery method for a construction project. In determining which method to use, consideration shall be given to the City's requirements and resources. Contracts for construction activities shall be procured in accordance with Florida law/or applicable funding requirements and pursuant to City policies and procedures. The City shall develop a set of construction contract documents which shall be the basis of use for all City Construction projects.

Competitive sealed proposals. The City shall use a request for proposals, request for statement qualifications for qualifications based solicitation of professional services, or invitation to negotiate when soliciting competitive sealed proposals. The scope of services and required terms and conditions will be included within the solicitation document or incorporated by reference. Each solicitation shall state the criteria to be used in the evaluation of the proposals including, but not limited to, price, if applicable, and shall include each criterion's relative importance.

- i. The City shall use a request for statement qualifications solicitation process for the purchasing of professional services within the scope of practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping. Contracts for professional services shall be procured in accordance with the *Consultants' Competitive Negotiations Act* when mandated although the process may be used in other appropriate circumstances. Construction manager at risk services shall be secured in accordance with Florida law.
- ii. The City shall use an invitation to negotiate process when it desires to determine the best method for achieving a specific goal or solving a particular problem, while considering alternate methods and innovative solutions and identifies 1 or more responsive vendors with which the City may negotiate simultaneously in order to receive the Best Value.

The City shall use a request for letters of interest process when it desires to determine the best method for achieving a specific goal or solving a particular problem and identifies one or more responsive vendors with which the City may negotiate in order to receive the best value.

The City shall use a request for information process when it desires a non-binding method whereby the City publishes its need for input from interested parties for an upcoming solicitation in order to obtain comments, feedback or reactions from potential vendors prior to issuing of a solicitation. Generally, price or cost is not required. Feedback may include best practices, industry standards, technology issues and like information.

- B. ***Terms and conditions.*** Required terms and conditions will be included within the solicitation document or incorporated by reference. The terms and conditions shall include the City's web-based terms and conditions.
- C. ***Public notice.*** Public notice of each formal sealed solicitation shall be advertised and electronically noticed and shall state the place, date, and time that bids or proposals must be received.
- D. ***Bid or proposal submission.*** Competitive sealed bids or proposals must be received in the location stated in the solicitation document no later than the precise date and time set for the opening of bids or proposals to be considered responsively. A bid or proposal received after the time set for bid opening is a late bid and will not be considered for award.
- E. ***Bid or Proposal Opening.*** Competitive sealed bids or proposals shall be opened publicly and recorded by the City in the presence at least 1 witness at the time and place designated in the solicitation document or as soon as practical thereafter all

such actions being accomplished in accordance with the requirements of controlling law.

5.2 INFORMAL SOLICITATIONS

Unless exempt, all City purchases of goods, services and construction activities in amounts equal to or greater than the informal or formal solicitation threshold of \$25,000.00 shall be posted by the City for a period of fifteen (15) business days.

5.3 COOPERATIVE PURCHASING AND PIGGYBACKING

Cooperative purchasing programs are intended to provide cost savings to the City through economies of scale and reduction of administrative costs.

- A. Cooperative (joint) bidding is a form of intergovernmental cooperative purchasing in which 2 or more public purchasing agencies agree on specifications and contract terms and conditions for a given item of common usage and combine their requirements for this item in a single request for competitive sealed bids or proposals. Once submittals have been received and discussed by the participants, each public purchasing agency issues and administers its own purchase order or contract. The City may participate in, sponsor, conduct or administer a solicitation for the purchase of any goods, services or construction activities with any number of eligible governmental agencies in accordance with an agreement entered into between the participants.
- B. Piggybacking, as discussed otherwise in this Policy, is a form of intergovernmental cooperative purchasing in which public purchasing agencies engage in a competitive procurement process, enter into a contract and arrange and establish pricing under certain contractual terms and conditions. The City is authorized to piggyback such agreements by taking advantage of the pricing and terms competitively solicited by the other entity and still in effect. Sources include other cities, counties, school districts, the State, the Federal General Services Administration and cooperatives or alliances.

5.4 SINGLE/SOLE SOURCE PURCHASING

- A. A contract may be awarded without competition when the Purchasing Manager determines, in writing, after conducting a good faith review of available sources and reviewing all applicable documentation, that there is only one source for the required goods, services, or construction activities, and all other requirements of this Policy are met. These matters are also discussed otherwise in this Policy.
- B. Single source purchasing is the result of a proven situation created due to the inability to obtain competition, which may result in a purchasing decision whereby purchases are directed to one source because of standardization, warranty, territorial coverage exclusivity or other legitimate and demonstrated factors even though other competitive sources may be available. It may also be the result of only a single vendor or supplier possessing the proven and generally accepted unique ability or capability to meet the particular requirements.

- C. The description of goods and services intended for purchase form a single source must be posted in accordance with Section 287.057(3), *Florida Statutes*, and will remain posted for a period of 15 business days.
- D. Single or sole source procurement at Level 5 requires specific action by the City Commission to approve or disapprove award recommendation by the City Manager. Detailed attachments to the City Commission agenda items shall be required which shall, at a minimum, include a detailed and City-staff researched single/sole source justification which documents by clear and convincing evidence why the only source recommended is the only source available in the marketplace from which to procure the needed goods, services or construction activities.

5.5 EMERGENCY PURCHASES

- A. Notwithstanding any other provisions of this Policy, the City Manager, may make or authorize others to make emergency purchases of goods, services, or construction activities, when there exists a threat to public health, welfare, or safety, or if a situation exists which makes compliance with source selection methods contrary to the public interest; provided that such Emergency Purchasing shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the Emergency Purchasing and for the selection of the particular Vendor shall be maintained by the Purchasing Division as a public record in the Purchasing file.
- B. In the event an official state of emergency has been declared by the City Commission, the City Manager is expressly authorized to execute contracts with the State of Florida, the Federal Emergency Management Agency and other applicable emergency relief entities on behalf of the City in order to accomplish all necessary relief efforts, provided that the requirements of this Policy, the City Code and controlling Federal and State law have been met.
- C. The City Manager shall report to the City Commission emergency purchasing exceeding the purchasing authority threshold vested in the City Manager at the next available City commission meeting.
- D. Level 5 of this Policy threshold shall also apply to emergency purchases and shall be approved by the City Commission at the next available City Commission meeting, by ratification, as needed.

5.6 DIRECT PURCHASE PROGRAM

- A. When a project is proposed, the Purchasing Division, in conjunction with the requesting department, will determine, prior to the solicitation process, whether the City's direct purchase program will be utilized for that particular project.
- B. The City may, if not prohibited by controlling law, exercise a right to purchase, directly, various goods to be used in the construction project pursuant to Florida law. The Purchasing Manager is authorized to execute direct purchase program purchase orders if the associated contract includes clauses allowing the direct purchase program and has been approved by the City Commission or City Manager pursuant to established Purchasing Thresholds.

C. Nothing herein shall prohibit the City from deleting items within the solicitation and purchasing said items directly from a vendor, without further bidding, in an effort to benefit from the City's tax-exempt status, in accordance with the proper authorization.

5.7 PURCHASING CARD PROGRAM

A. The Purchasing Manager is authorized to administer procedures, established by the City Manager, relating to the City's Purchasing Card Program. The program shall include the establishment, communication, and maintenance of procedures for the control and use of such cards.

B. The Purchasing Card procedures shall establish guidelines for the use and control of Purchasing Cards, which will be assigned to, and utilized by, designated employees to purchase goods, services and construction activities on behalf of the City and shall:

1. Ensure that the City's Purchasing Card purchases are accomplished in accordance with this Policy and established procedures;
2. Ensure all cardholders receive training and that appropriate internal controls are established so that the cards are used only for authorized purposes;
3. Ensure that the City bears no legal liability for inappropriate use of Purchasing Cards;
4. Provide for disciplinary action if the Purchasing Card is misused; and
5. Provide minimum standards for the use of City Purchasing Cards; and authorize each Department to establish more stringent controls beyond those established by the City Manager.

C. The single transaction limit shall be established by the Finance Director. The Purchasing Card controlled by the Finance Department for Accounts Payable will be exempt from the single transaction limit as approved by the Finance Director or designee.

5.8 FUEL CARDS

The Purchasing Manager is authorized to administer procedures relating to the City's Fuel Card Program. The program shall include the establishment, communication, and maintenance of procedures for the control and use of such cards.

5.9 PURCHASE OF USED EQUIPMENT

The Purchasing Manager, in consultation with the requesting department, may consider the purchase of used equipment after conducting a good faith review of available sources and reviewing

all applicable documentation and determining such course of action is in the best interest of the City and consistent with law.

5.10 BID/PROPOSAL ACCEPTANCE AND EVALUATION

- A. ***Pre-Bid Meeting or Proposal Conference.*** A meeting arranged by the Purchasing Manager for prospective bidders or proposers during the solicitation period to help solicited firms fully understand the City's requirements and to give them an opportunity to ask questions regarding the solicitation.
- B. ***Opening.*** Competitive Sealed Bids/Proposals received in the location stated in the Solicitation document no later than the precise date and time set for the Opening shall be accepted without alteration or correction. The City reserves the right to accept or reject any or all bids or to waive any formalities, technicalities, irregularities or immaterial variation.
- C. ***Evaluation.*** Bids shall be evaluated based on the requirements set forth in the solicitation documents. No criteria may be used in evaluation that is not set forth in the solicitation documents. Evaluation of bids shall include consideration of the total cost for each year of the contract including, but not limited to, the costs for renewal years, as submitted by the vendor. Selection committee and presentation meetings may be open to the public as required by Florida law.
- D. ***Rejection.*** The City reserves the right to reject any or all bid at any time for its convenience with all bidders solely bearing their own costs and expenses.
- E. ***Correction or Withdrawal of Bids.***
 - 1. After a bid opening, no changes in bid prices or other bid provisions shall be permitted, except that the City has the right to waive technicalities.
 - 2. In the event of mathematical mistakes in extended pricing, the unit price shall prevail.
 - 3. Mistakes discovered before bid opening may be modified or withdrawn by means of a written notice from the bidder which must be received by the Purchasing Division prior to the time set for bid opening, as determined by the Purchasing Manager.
- F. ***Confidential Information.*** Confidential information is defined in Chapter 119, *Florida Statutes*. Such information furnished by a bidder shall not be disclosed by the City outside of the Purchasing Division or requesting department without prior written consent by the bidder as may be required by law. All other information submitted by a bidder shall be subject to public records right of access requirements as set forth in Chapter 119, *Florida Statutes*, and other controlling law.

- G. ***Exceeding Allocated Funds.*** In the event the lowest acceptable bid for a project exceeds appropriated funds which have been allocated for the project and such bid does not exceed such funds by more than 10%, the Purchasing Manager and the requesting department may, when time or economic considerations preclude re-solicitation of work of a reduced scope, to negotiate an adjustment of the bid price with the lowest responsive and responsible bidder so long as the adjusted bid price does not exceed appropriated funds and the City Manager has approved such adjustment.
- F. ***Tie Bids.*** If there are 2 or more bids that are identical in price and meet all the requirements and criteria set forth in the solicitation, the award may be made by the City Commission or City Manager pursuant to the approval limitations as stated in this Policy. In making the tie-breaker decision, the City may consider factors which, include, but are not limited to:
1. The vendor must be a registered vendor to do business in the State of Florida.
 2. The vendor with a place of business closest to the City Hall, as confirmed via the City's Geographic Information System.
 3. The vendor which provides the most advantageous delivery time, if provided in the bid by the bidders.
 4. The vendor that certifies that it has implemented a drug-free workplace program and has furnished such certification with their bid submittal.

For purposes of this tiebreaker, to be considered a vendor closest to the City, a vendor must:

1. Have been in existence for at least 6 months prior to the solicitation issuance;
2. Be located at a business address physically located closest to the City Hall as confirmed by means of the City's Geographic Information System;
3. Operate in an area which is compliance with all *Land Development Regulations* relating to the business of the vendor;
4. Provide services from the stated business location on a day-to-day routine basis and not irregularly or intermittently; and
5. Provide services from the stated business location that are a substantial component of the services being offered to the City.

RESPONSIBILITY OF BIDDERS AND RESPONDENTS

- A. Factors to be considered in determining if a Bidder is Responsible may include, but are not limited to, any or all of the following:
1. The bidder's financial condition, physical capacity, professional ability, personnel, or other resources, including the ability to furnish subcontractors possessing the same qualifications as the bidder;
 2. The bidder must have a satisfactory record of integrity, judgment, and performance as a corporation (including its shareholders and officers), or as a sole proprietorship, including in particular, any prior performance upon contracts from the State or the City, or any other government or non-government entity. Bidders who have been disqualified or debarred by the City or any other governmental entity may be judged as non-responsible;
 3. Whether the bidder has fully paid the fees, taxes and assessments owed to the City;
 4. Whether the bidder provided all required information concerning its responsibility;
 5. Ability to comply with the required completion schedule for the project;
 6. Adequate financial management system and audit procedure which provides efficient and effective accountability and control of all property, funds and assets;
 7. Evidence of experiences on projects similar in character, size and value, which have been satisfactorily completed, and which are now in satisfactory operation, and showing the location, the owner's name and address, the money value of the work, and a brief description of the project;
 8. Conformity with the civil rights, equal employment opportunity and labor law requirements of the bid documents.
 9. Ability to perform the work within the contract time. This demonstration of ability shall include:
 - i. Performance of the bidder (the entity or proprietorship as a whole) as a prime contractor on projects of similar size and type as the contract at issue;
 - ii. A list of equipment and quantities currently owned or under lease to the bidder and available for this work; and

- iii. Proper licensing of the bidder to perform the contract work required. proper licensing shall be as determined by the Purchasing Manager.
- B. ***Determination of Non-Responsibility.*** If a bidder, who otherwise could have been awarded a contract, is found non-responsible, a written finding of non-responsibility, setting forth the basis of the finding, shall be prepared by the Purchasing Manager.
- C. ***Right to Inspect.*** The City may inspect the plant, or place of business of, or equipment to be utilized by a proposed bidder or any subcontractor of an awarded contract or a contract to be awarded by the city to assist in determination of bidder responsibility.
- D. ***Establishment of Specific Criteria.*** The Purchasing Manager may establish specific criteria to determine the responsibility of a bidder relative to a particular procurement activity consistent with the criteria set forth in the solicitation.

5.12 INSURANCE, BONDS, AND SECURITY REQUIREMENTS

- A. ***Insurance Requirements.***
 - 1. Human Resources/Risk Management is responsible for determining the need, types and limits for all insurance coverage for all City procurements, as well as the adequacy of all insurance agents and companies providing coverage.
 - 2. The Purchasing Division will coordinate with Human Resources/Risk Management for the development and implementation of a vendor insurance requirement guideline to establish insurance requirements for vendors doing business with the City.
- B. ***Bid Bond/Security.***
 - 1. The City may require the submission of a bid bond or other form of security to guarantee full bid compliance. In determining the amount and type of bid bond or security required, consideration shall be given to the nature of the solicitation and performance required to protect the City and the amount will be set by the Purchasing Manager.
 - 2. When the solicitation requires a bid bond or security, failure of the bidder to supply same, in the amount and type required, shall automatically render the bidder as non-responsive to the requirements of the solicitation.
 - 3. In lieu of a bid bond, the City may accept money order, certified check, cashier's checks or irrevocable letter of credit. Cash, personal or business checks are not acceptable.
- C. ***Contract Payment and Performance Bonds.***

1. When a contract is awarded, the City may require the successful bidder to supply a payment and performance bond. When a payment and performance bond is required, it shall be in the amount and type satisfactory to the City and executed by a surety company authorized to do business in Florida that is acceptable to the City.
 2. When surety bonds are required, they shall be provided to the City in compliance with the designated form and within the specific period 14 days after the contract is executed all required bonds shall be provided to the Purchasing Manager. Contractor shall provide one hundred percent (100%) of the price specified in the contract.
 3. The original of bonds shall be filed with the City Clerk who will cause the bonds to be recorded by the Clerk of the Court as may be consistent with Florida law.
 4. In lieu of a payment and performance bond, the City may accept certified check, cashier's check, or irrevocable letter of credit. Cash, personal or business checks, or money orders are not acceptable.
- D. Nothing herein shall be construed to limit the authority of the City Commission, the City Manager, or the Purchasing Manager to require other security in addition to, or in lieu of, those bonds or in circumstances other than those specified in this Policy, when in the best interest of the City to do so.

5.13 CANCELLATION OR REJECTION OF SOLICITATIONS

Solicitations may be cancelled, or any or all submittals in response to solicitations issued by the City may be rejected by the Purchasing Manager, in whole or in part, without recourse, when it is in the best interest of the City. As the best interests of the City may require, the right is reserved to make awards for individual items, group of items, all or none, or a combination thereof, with 1 or more bidders. The City has the right to reject, for any reason and without penalty, any and all bid packages or any part of a bid package, prior to and after the rankings are made by the City. The City has the right, for any reason and without penalty, to terminate any contract negotiations commenced with any bidder. The City also reserves the right to re-advertise and solicit new bids or to abandon the project in its entirety without reason and without penalty.

5.14 CANCELLATION PRIOR TO OPENING

- A. Prior to opening, a solicitation may be cancelled, in whole or in part, without recourse, for any reason, or when the City determines, in writing, that such action is in the City's best interest for reasons, including, but not limited to, the following:
- i. The City no longer requires the goods, services or construction activities;

- ii. The City no longer can reasonably expect to fund the procurement; or
- iii. Proposed amendments to the solicitation would be of such magnitude that a new solicitation is in the best interests of the City.

- B. When a solicitation is cancelled prior to opening, notice of cancellation shall be publicly posted on the public notice display board outside of City Hall and on the City's website and shall be sent to all known solicitation document holders and shall identify the solicitation and briefly explain the reason for cancellation.

5.15 CANCELLATION OR REJECTION AFTER OPENING

A solicitation may be canceled at any time prior to award when such action is considered to be in the best interest of the City. After opening, but prior to award, any or all solicitation submittals may be rejected, in whole or in part, without recourse, for any reason, or when the City Manager determines, in writing, that such action is in the City's best interest for reasons including, but not limited to, the following:

- A. The City no longer requires the goods, services or construction activities;
- B. The submittals received are considered non-responsive or non-responsible or submittals did not address all of the factors significant to the City;
- C. The solicitation specifications or scope of services are ambiguous or otherwise inadequate;
- D. Prices contained in the submittal exceed allocated funds or are not within the budget, and it would not be appropriate to adjust the scope of services required to come within available funds or budget;
- E. There is reason to believe that the Solicitation submittals may not have been independently prepared, may have been collusive, may have a conflict-of-interest issue involved, may have been submitted in bad faith, or a cone of silence/lobbying black-out period violation occurred with respect to a submittal;
- F. Competition was insufficient;
- G. It is otherwise not advantageous or of best value to the City to award; or
- H. A written notice of rejection shall be posted by the Purchasing Division.

5.16 CONSULTANTS' COMPETITIVE NEGOTIATIONS ACT

- A. The Purchasing Manager will make the determination regarding separating "engineering functions" such as design and construction activities to provide appropriate organization checks and balances.
- B. For amounts less than the thresholds indicated in this Section, the City will award to the best qualified firm holding a current Master (Continuing) Contract with the

city as applicable for the project (if the study activity is over \$500,000 or for construction projects over 7.5 million a project specific RFQ must be solicited).

- C. Engineering and architectural firms are prohibited from bidding on work relating to a construction project if the firm designed the plans for the construction project. Every effort shall be made to ensure that firms are not evaluating their own work for errors or omissions.

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SECTION VI. CONTRACTING

6.0 TYPES OF CONTRACTS

City contracts are processed and approved by the City Attorney and no exceptions to any additional contracts are acceptable unless reviewed and approved by the City Attorney, which are determined to promote the best interest of the City.

- A. The Mayor, City Manager, or designee, shall have the authority to execute contracts. Contracts over the authority amount must be approved by the City Commission. Under no circumstance shall a City employee execute a contract on the behalf of the City for goods, services and construction activities without Purchasing Manager review and City Attorney approval.
- B. All contracts are to provide insurance; commercial general liability, comprehensive auto liability, professional liability, worker's compensation (certificates of exempts are not acceptable in lieu of workers compensation insurance), builders risk when required, garage keeper when required, sex abuse liability, and cyber security, when required and by whatever name. Each case differs and is evaluated based on the goods, services or construction activities the vendor provides. The City reserves the unilateral right to modify the general insurance requirements of the City at any time. The City Manager, or designee, has the authority to waive the insurance when in the best interest of the City, after review and comments by the City's Risk Management professionals and the City Attorney.
- C. Contracts for software services must be reviewed and approved by Information Technology Manager before purchasing software services. Funding may be identified and appropriated in the fiscal year commence of services. Every attempt shall be made to avoid adhesive contract provisions and relationships.

6.1 CONTRACT TERMS AND CONDITIONS

The City's standard contractual terms and conditions shall include provisions necessary to define the responsibilities and rights of the parties to the Contract. The Purchasing Manager shall have the authority to establish and modify any such terms and conditions subject to review by the City Attorney for legal sufficiency when required and approved by the City Commission or City Manager.

6.2 MULTI-YEAR CONTRACTS AND APPROPRIATION OF FUNDS

- A. Contracts for goods, services, or construction activities may be entered for up to a 5-year term, if it is deemed to be in the best interest of the City, if the term of the Contract and conditions of renewal or extension are included in the Solicitation, and funds are available for the first term of the Contract. Obligations for succeeding fiscal years may be subject to the availability and appropriation of funds by the City Commission. Contracts awarded under the provisions of the *Consultants'*

Competitive Negotiations Act may be continuing contracts for an extended term subject to the requirement that the contract contain a termination provision.

- B. For construction projects, total funding may be identified and appropriated in the fiscal year commencement of the construction project takes place, or to the maximum extent possible and consistent with law. Obligations for succeeding fiscal years shall be rolled over or appropriated as applicable.

6.3 **CONTRACT ADMINISTRATION AND COMPLIANCE**

- A. ***Contract Management.*** The City will conduct contract administration and compliance activities, which encompass all interaction between the City and the vendor from the time the contract is awarded until the work has been completed and accepted or the contract terminated, payment has been made, and disputes have been resolved.
- B. ***Travel Reimbursement.*** Travel reimbursement to a vendor under a contract shall be based solely on City travel policy.
- C. ***Right to Inspect Facilities.*** The City may, at reasonable times, inspect the facility or place of business of a vendor and any subcontractor which is related to the performance of any contract awarded or to be awarded by the City.
- D. ***Quality Assurance, Inspection and Testing.*** The Purchasing Manager shall take such steps as are deemed desirable to ascertain or verify that supplies, services, professional services, or construction activities items procured by the City conform to specifications. In performing this duty, the City may establish inspection and testing facilities, employ inspection personnel, enter into arrangements for the joint or cooperative use of laboratories and inspection and testing facilities, and contract with others for inspection or testing work as needed. The Purchasing Manager may delegate authority for inspection and testing to the requesting department due to their level of expertise in the subject matter. However, detailed documentation of its findings will be provided for the purchasing file.
- E. ***Obligations of Requesting Department.*** The requesting department is responsible for assigning a project manager/contract manager to each contract. The requesting department is responsible for the contract administration and compliance functions to ensure compliance with the contract, this Policy, controlling law and all other applicable requirements.
- F. ***Right to Audit Records.*** The City may, at reasonable times and places, audit the books, records, and accounts of any Person or entity, to the extent that the books, records, and accounts relate to the provision of goods, the performance of services or the effectiveness and quality of the construction activities in accordance with contractual obligations and responsibilities. Any vendor that is awarded a contract shall maintain all books, records and accounts in

compliance with generally accepted accounting principles and shall retain all books, records, and accounts for a minimum of 5 years, or a longer term as required by the funding source and designated in the solicitation or contract documents, from the date of final payment, termination, or until a full City audit is complete, whichever comes last. All books, records, and accounts related to the performance of a City Contract shall be subject to the applicable provisions of Chapter 119, *Florida Statutes*, and other controlling law.

- G. ***Settlement of a Contract Dispute.*** The Purchasing Manager, with the concurrence of the City Manager and review by the City Attorney (if needed), is authorized to settle disputes arising out of the performance of a contract, provided the settlement amount does not cause the total contract amount, including the settlement amount, to exceed the authority of the City Manager as established in this Policy. Any settlement exceeding the authority of the City Manager must be approved by the City Commission. If it is determined that termination is in the best interest of the City, the Purchasing Manager shall present a proposed letter of termination for City Commission or City Manager approval, pursuant to original agreement approval.

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SECTION VII. SALES OF SURPLUS PROPERTY, DISPOSITION OF PERSONAL SURPLUS PROPERTY

7.0 SALE OF SURPLUS REAL PROPERTY

The City Commission has instituted policies and procedures relating to the sale of surplus real property which shall control the sale of surplus real property.

7.1 DISPOSITION OF SURPLUS PROPERTY

- A. The Finance Department will operate a surplus property program for the purpose of receipt, storage, transfer, sale or use of personal surplus property no longer needed by the City. Title to property is vested in the City rather than any department. Therefore, the sale of or advertising for sale of, equipment by any department other than the Finance Division is prohibited. All departments must facilitate the disposal of surplus, obsolete, or scrap assets through the Finance Division.
- B. All departments shall submit their requests for sale or disposition of personal surplus property to the Finance Division.
- C. The Finance Director, or designee, may establish operating directives and procedures as may be required, governing:
 - 1. The sale or disposal of surplus property; and
 - 2. The trade-in of surplus property for purchase of new equipment.
- D. The Finance Director, or designee, shall be responsible for the sale and disposal of surplus property pursuant to the City's capital asset policy.

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SECTION VIII. PROTESTS AND APPEALS

8.0 NOTICE OF INTENT TO AWARD

The Purchasing Division shall publicly post a notice of intent to award on the public notice board located at City Hall for a period of at least 3 City business days after the notice is issued and shall also be posted on the City's website for the same period of time.

8.1 NOTICE OF PROTEST

A. Notice of Solicitation Protest

Any actual or prospective bidder who is aggrieved in connection with the solicitation or proposed award may protest to the Purchasing Manager. Vendors that are not bidding on the project may not have the same rights as defined herein.

B. Notice of Award Protest

1. Any bidder, who is not the intended awardee and who claims to be the rightful awardee, must, in order to challenge the decision, file a notice of award protest, in writing, with the Purchasing Division Office, within 5 days after the event, notification of determination, posting date of the award recommendation of the award itself if no recommendation is posted. The aggrieved person or entity has the burden to demonstrate the facts giving rise to the protest and the reasons why the protest should be sustained. The bidder has the responsibility to contact the City and request the award recommendation results.
2. An award protest shall not be sustained if a bidder fails to show that it would be awarded the contract if their protest is upheld.

C. The notice of award protest must:

1. Identify the protesting party and the solicitation or issue involved, including timelines.
2. Explain why the decision or action of the City was improper or incorrect.
3. Explain how and the extent to which the protesting party has been damaged.
4. The notice of award protest must include a clear statement and complete description of the grounds on which the protest is based, and specifically request the relief to which the protesting party deems itself entitled.
5. The notice of award protest may not be supplemented at a later time, but must stand as filed unless later actions occur which support the supplemental assertions in the notice of award protest.

- D. In the event of a timely notice of award protest is filed, the Purchasing Manager shall not proceed further with the solicitation or award of the contract unless a written determination that immediate execution of the award is critical to protect the interests of the City is issued.
- E. The Purchasing Manager shall attempt to resolve each notice of award protest and decisions regarding suspension or debarment or a protest in a fair and equitable manner by rendering a written decision to the protesting or claiming party within 30 days from the date of receipt of the protest.
 - 1. The decision by the Purchasing Manager involving debarment, suspension, or a notice of award protest shall be final and conclusive unless within 7 calendar days of the issuance of the written decision, the party affected by the decision delivers a written notice of appeal along with an appeal bond to Purchasing Manager which appeal bond shall be the lesser of 5% or \$5,000 if the issue cannot be determined as a monetary amount as determined by the Purchasing Manager.
 - 2. The appeal bond shall be conditioned upon the payment of all costs which may be adjudged against the appellant in the administrative hearing in which the action is brought and in any subsequent appellate court or court proceeding. In lieu of a bond, the Purchasing Manager may accept a cashier or certified check, or money order in the above referenced amount.
- F. A hearing officer appointed by the City Manager shall receive the decision and conduct a hearing at which the aggrieved person or entity shall be given the opportunity to show why the decision rendered by the review should be modified.
 - 1. The formal rules of civil procedure and evidence will not be applied. The hearing officer shall render a written decision within 30 calendar days from the date of the written notice of appeal.
 - 2. This decision shall be final and conclusive and shall be submitted to the City Manager for action unless the City Manager determines to grant relief to the bidder or appellant; provided, however, that no right of appeal to the City Manager shall exist and the review by the City Manager shall automatically occur.
- G. If the bidder who submitted the appeal prevails, the appeal bond shall be returned and the City will take corrective action relevant to the item appeals as may be negotiated by the City and the bidder with appropriate adjustments being made. If the protest or claim is denied by the hearing officer and is upheld by the City Manager, the action giving rise to the protest or claim will remain unchanged and the City will retain the appeal bond.

- H. Completion of the above steps brings to an end the administrative hearing process of the City and there shall be no appeal to the City Commission with the sole legal remedy being timely appeal to the Courts.

8.2 SETTLEMENT OF A CONTRACT DISPUTE

- A. The Purchasing Manager, with the concurrence of the City Manager and review by the City Attorney (if required), is authorized to settle disputes arising out of the performance of a City Contract, provided the settlement amount does not cause the total Contract amount, including the settlement amount, to exceed the authority of the City Manager as established in this Policy. Any settlement exceeding the authority of the City Manager must be approved by the City Commission.
- B. If it is determined that termination is in the best interest of the City, the Purchasing Division shall present a proposed letter of termination for City Commission or City Manager approval, pursuant to original agreement approval.

8.3 AUTHORITY TO DEBAR OR SUSPEND

The Purchasing Manager, with concurrence by the City Attorney, may suspend or debar for cause the right of a vendor to be included on a vendor or bid list and any bid or response from that vendor may be rejected. The City Manager will be promptly notified if such actions are necessary.

8.4 CAUSES FOR DEBARMENT/SUSPENSION

- A. A vendor may be suspended for a period not to exceed 3 years based upon a default or failure to fully comply with the conditions, specifications, time limits or other material matter relating to performance or ethical conduct pertaining to a bid, quotation, proposal or contract with or relating to the City. Offenses by a vendor such as fraud, misrepresentation, conviction by a court of competent jurisdiction of a criminal offense incident to obtaining or attempting to obtain a public or private contract or subcontract, deceit; perjury. ethical violations or other material actions of an adverse or discrediting nature in the performance of a contract or subcontract, or any other offense indicating a lack of business integrity or business honesty which currently, seriously and directly affects responsibility as a City vendor or potential City vendor. Also included are any other causes which the Purchasing Manager determines to be sufficiently serious and compelling as to materially and adversely affect the responsibility of a business as a vendor including, but not limited, to suspension or debarment by another governmental entity for cause.
- B. Effect of Conviction of Public Entity Crime: Any vendor who has been convicted of public entity crime as defined by Florida law shall not be able to transact business with the City to extent as specified in Florida law or City policy.
- C. Actions and Appeals: After the Purchasing Manager has determined that there is cause to suspend or debar a vendor/vendor and upon concurrence by the City

Attorney, the Purchasing Manager shall notify the vendor of the debarment or the period of suspension and the reasons for action taken. The action is considered final unless the vendor, within 7 calendar days from the date of receipt of the decision, delivers to the Purchasing Office a written appeal along with an appeal bond which documents and which clearly explains the suspended or debarred vendor's position and reasons why action should not be taken by the City in which case the City Manager shall appoint a hearing officer, under the provisions of the City Code, to hear such matter which decision shall be final or a recommended action depending upon the authority that the hearing officer is assigned by the City Manager.

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