

CITY OF PUNTA GORDA  
PROCUREMENT DIVISION



PROCUREMENT POLICY

**PROCUREMENT DIVISION - MISSION STATEMENT**

Promote and maintain high ethical values and purchasing practices that are in accordance with the Florida Statutes and City Ordinances, which include:

- Acquisition of goods and services in an efficient and effective manner.
- Expending public dollars in a way that instills public trust in the City's Procurement System.

Version 2 – June 6, 2012  
Original Adoption June 20, 2001

## PROCUREMENT POLICY REVISIONS

<b>Date</b>	<b>Approving Authority</b>	<b>Revision Number</b>	<b>Section(s) Revised</b>	<b>Description of Revision</b>
6/20/2001	City Council			Original Adoption
6/6/2012	City Council			Adoption of Version 2
9/28/2012	City Manager	12	Sections 17, 20	Section 17 Award Thresholds Section 20 Delegation of Purchasing Authority
12/16/2013	City Manager	13	Section 6, 23	Section 6 Local Vendor Preference Section 23 Purchasing Card Policy
12/17/2014	City Council	14	Section 2, 9 Ordinance 8A-16	Section 2 Sealed Solicitation Threshold Section 9 Small Dollar Threshold Ordinance 8A-16
4/14/2015	City Manager	15	Sections 3, 13 & Renumber remaining sections	Section 3 Procurement Methods Section 13 (Add Section) Competitive Negotiations Renumber existing sections 13 through 24 to 14 through 25
4/15/2015	City Council	16	Section 6 – Eliminated from Policy	Section 6 – Local Vendor Preference eliminated by City Council – Section left intentionally blank
9/10/2015	City Manger	17	Section 9	Section 9 (Add Section) Informal Proposals
3/16/2016	City Manager	18	Section 1.8	Section 1 - Renumber 1.8 to add Federal 2 CFR 200 compliance
2/8/2017	City Manager	19	Section 1.8 and 1.11	Section 1 – 1) Add subsection 1.8.2 defining Labor Surplus Area; 2) Revise Ethics section relating to City Personnel Rules & Regulations, FS 112, Adding a definition for "Conflict of Interest", and revising "Gratuities" section.
3/13/2017	City Manager	20	Section 1.5	Section 1 – Add to subsection 1.5 definitions related to Public-Private Partnerships.
3/13/2017	City Manager	20	Section 1.8.2	Section 1 – Add to subsection 1.8.2 defining threshold Micro-purchases and for 2 CFR 200.323(a). Provide provisions for conducting price and cost analysis and independent estimates for federal grant purchases.
3/13/2017	City Manager	20	Section 26	Add Section 26 to address Public-Private Partnership provisions.
9/5/2017	City Manager	21	Section 25	Emergency Operations Procurement Policy

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# 1. GENERAL PROVISIONS

## 1.1 PURPOSES AND INTENT

1.1.1 PURPOSES AND POLICIES. The underlying purpose of this Policy is to provide the City of Punta Gorda ("City") a unified procurement system, with centralized responsibility. This Policy clarifies and modernizes the rules and regulations governing procurement by the City while allowing the continued development of procurement policies and practices. This Policy provides for increased economy in procurement activities and enables the City to maximize, to the fullest extent practicable, the purchasing value of public funds. This is accomplished by fostering effective broad-based competition while promoting fair and equitable treatment of all persons who participate in the City procurement process. This Policy provides safeguards for the maintenance of a procurement system of quality and integrity and is intended to provide for increased public confidence in the procedures followed by the City in public procurement.

1.1.2 USE. This Policy shall be used by City staff. Failure to follow the guidelines stated in this Policy may be grounds for administrative discipline, up to and including termination. This Policy creates no rights for or in any third party, to any particular application or interpretation of this Policy or in any contract, bid, proposal, invitation for bids, or request for proposals of the City.

1.1.3 CHANGES TO POLICY. If, after acceptance of this policy, an item is discovered and requires implementation, it may be amended by the City Manager, unless the change affects the intent of the policy, in which case, it will be brought back to City Council. Any amendment(s) must be approved by the City Manager.

## 1.2 REQUIREMENT OF GOOD FAITH.

This Policy requires all parties involved in the negotiation, performance, or administration of City contracts to act in good faith.

## 1.3 APPLICATION OF THIS POLICY

This Policy shall apply to all expenditures of City funds regardless of their source, including federal assistance monies, except for funds expended for exempt procurements as specified in Section — Exceptions/Exemptions. It shall also apply to the disposal of City surplus and obsolete property. Nothing in this Policy shall prevent the City from complying with the terms and conditions of any grant, bequest, or cooperative agreement. In case of conflict between this policy and the terms and conditions of any grant, bequest, or cooperative agreement, the terms of the grant, bequest, or cooperative agreement shall govern.

## 1.4 EFFECTIVE DATE

This Policy was adopted by the City Council on June 1, 2001.

## 1.5 DEFINITIONS

The words defined in this Section shall have the meanings set forth below whenever they appear in this Policy, unless: (a) the context in which they are used clearly requires a different meaning; or (b) a different definition is prescribed for a particular "Part" or provision.

1.5.1 ADDENDA — a written change, addition, alteration, correction or revision to a solicitation package.

1.5.2 AGREEMENT — an understanding, usually in writing, between the City and contractor, under which the contractor agrees to certain performances as defined in the Agreement and the City agrees to compensation for the performance rendered in accordance with the conditions of the Agreement. The terms Agreement and Contract are used synonymously.

1.5.3 AMENDMENT — method of changing the terms and conditions or requirements of an Agreement beyond what is specifically allowed by the Agreement.

1.5.4 AWARD — the acceptance of a bid, offer, or proposal through the issuance of a purchase order, notice to proceed or agreement executed by the proper authority.

1.5.5 BEST INTEREST – grants the Procurement Manager the discretion to take the most advantageous action on behalf of the City in the absence of policy, ordinance, law or regulation.

- 1.5.6 BEST VALUE – a procurement method that emphasizes value over price. The best value might not be the lowest cost and is generally achieved through request for proposals and invitations to negotiate.
- 1.5.7 BIDDER — a person who submits a response to a solicitation. The terms bidder and offeror are used synonymously.
- 1.5.8 BRAND NAME OR EQUAL SPECIFICATIONS — a descriptive form of specification whereby the commodity or product is described by a unique identifier specific to a particular seller or manufacturer that distinguishes it from its competition. It may be a name, term, symbol, design or any combination thereof. It may also include specifications from one or more items by manufacturers' names or catalog numbers to describe the standard of quality, performance or other salient characteristics needed to meet the City's requirements and which provides for the submission of equivalent products.
- 1.5.9 BRAND NAME SPECIFICATION — a specification limited by manufacturers' names or catalogs. Departments shall be required to prepare and submit a justification to Procurement documenting the intent and purpose for the brand name restriction.
- 1.5.10 CHANGE ORDER — written change order issued on or after the effective date of the Agreement to correct errors, omissions, or discrepancies in Agreements or purchase orders. Change order may also be used to cover acceptable overruns and freight costs, incorporate requirements to expand or reduce the scope of commodities or services ordered, or to meet unforeseen field, regulatory or market conditions; or a written change order authorized by the proper authority, authorizing additions, deletions or revisions in the work or an adjustment on the contract price at times in accordance with the change order clause of a construction contract and signed by City and Contractor.
- 1.5.11 CHARTER — the charter of the City of Punta Gorda as amended from time-to-time.
- 1.5.12 CITY — shall mean the City of Punta Gorda, Florida
- 1.5.13 CITY REPRESENTATIVE – shall be assigned by the department and will assume all duties and responsibilities and will have the right and authority designated in the contract to monitor the performance and completion of work and assure compliance with contract documents and specifications.
- 1.5.14 COMMODITIES — all personal property, including but not limited to supplies, goods, equipment, materials and printing, which are purchased, leased or otherwise contracted for by the City.
- 1.5.15 CONSTRUCTION — the process of building, altering, restoring or repairing, improving or demolishing any public structure or building or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair or routine maintenance of existing structures, buildings or real property.
- 1.5.16 CONSULTANT'S COMPETITIVE NEGOTIATIONS ACT (CCNA) — the common name for Section 287.055 of the Florida Statutes (F.S) concerning the procurement of architectural, engineering, landscape architecture, surveying and mapping services.
- 1.5.17 CONTRACT ADMINISTRATOR – assigned by the Procurement Manager to administrate the contract in accordance with the terms and conditions and reports contract status and issues to the contract manager. The contract administer shall maintain the repository for all contract correspondence.
- 1.5.18 CONTRACT MANAGER – defined as the Procurement Manager or designee and is responsible for the contract process and retention.
- 1.5.19 CONTRACTOR — any person having a contract with the City of Punta Gorda to perform a service or sell or lease land or a commodity. The terms contractor and vendor are used synonymously.
- 1.5.20 CONTRACTUAL SERVICES — the rendering by a contractor of its time and effort rather than the furnishing of specific commodities, supplies, materials, goods, equipment and other personal property.



- 1.5.21 COOPERATIVE PURCHASING – a procurement activity, in which the City participates either as a lead or participating agency, to purchase commodities and services in cooperation with other governmental agencies.
- 1.5.22 DESIGNEE — a duly authorized representative of another person.
- 1.5.23 DEVELOP – means to plan, design, finance, lease, acquire, install, construct or expand.
- 1.5.24 EPROCUREMENT – conducting all or some of the procurement function over the Internet, which includes vendor registration, public posting of solicitation package, on-line electronic response by bidders, automatic notification, automated issuance and tracking of addenda, unsealing of sealed solicitations, awarding of solicitations.
- 1.5.25 ESTABLISHED CATALOG PRICE — the price included in a catalog, price list, schedule, or other form that:
  - 1.5.25.1 is regularly maintained by a manufacturer or contractor; and
  - 1.5.25.2 is either published or otherwise available for inspection by customers; and
  - 1.5.25.3 states prices at which sales are currently or were last made to a significant number of any categories of buyers or the general buying public for the commodities or services involved.
- 1.5.26 EVALUATION AND SELECTION COMMITTEE — group of persons selected by the City Manager or the Procurement Manager to evaluate, rank in preferential order those firms or individuals interested in providing services in response to a request for proposal, request for qualifications or an invitation to negotiate.
- 1.5.27 EXTERNAL FUNDED PURCHASES - means any procurement activity that receives funding from federal, state, regional or other funding agencies.
- 1.5.28 FORMAL SEALED SOLICITATION PROCESS — the use of an invitation for bid, request for proposals, request for qualifications, or invitation to negotiate pursuant to this Policy.
- 1.5.29 FRANCHISE — a special right or privilege conferred by the City of Punta Gorda in accordance with the City's Charter.
- 1.5.30 GENERAL PROCUREMENT PROCEDURES – specific general procedures related to solicitation processes and procurement activities. Refer to Standard Operating Procedures for procedures, which are deemed necessary for documentation by the Procurement Manager.
- 1.5.31 GENERAL SERVICES — support services performed by an independent contractor requiring specialized knowledge, experience, or expertise. The service rendered does not consist primarily of acquisition of equipment or materials. Examples of general services are janitorial, pest control services, and maintenance of equipment.
- 1.5.32 GOVERNMENTAL AGENCY — any agency of the Federal, State or local government.
- 1.5.33 HARD COPY – submitting response documents, or partial response documents, in paper format.
- 1.5.34 INVITATION FOR BIDS — a written solicitation for competitive sealed bids with the title, date and hour of the public bid opening designated and specifically defining the commodities and services for which bids are sought. This method of procurement may be in a single or multi-step format.
- 1.5.35 INVITATION FOR FORMAL QUOTES — a written solicitation for competitive quotes with a defined due date and time and specifically defining the commodities and contractual services for which quotes are sought.
- 1.5.36 INVITATION TO NEGOTIATE - a competitive negotiation process that is used when the Procurement Manager deems it is in the City's best interest to negotiate with bidders to achieve flexibility and "best value". The solicitation is sealed with the title, date and hour of the public opening designated. This method of procurement may be in a single or multi-step format.
- 1.5.37 LOCAL VENDOR – any persons, firms, sole proprietorships, partnership, companies, or corporations, which has a physical address in within Charlotte County with a permanent office or other site where a local vendor conducts, engages in or carries on all or a portion of its business;

has personnel, equipment and materials sufficient to constitute a present ability to perform the service and/or provide the commodities; and the vendor has a valid Business Tax Receipt issued by Charlotte County, a minimum of six (6) months prior to the release of the invitation to bid, that authorizes the business to provide the services or commodities within Charlotte County. Post Office Boxes are not verifiable and shall not be used for the purpose of establishing said physical address.

- 1.5.38 LOW BID - a vendor who is qualified to perform the work and meets all conditions required under an invitation to bid or informal quote or formal quote and has been deemed responsive and responsible, and who submitted the lowest price in the solicitation activity, which may or may not include additional consideration for award as identified in the solicitation package.
- 1.5.39 MANDATORY SOLICITATION AMOUNT A/K/A MANDATORY BID AMOUNT — the dollar amount at which the Formal Sealed Solicitation Process is required unless an exemption is provided in this Policy. The mandatory solicitation amount is Fifty Thousand Dollars (\$50,000.00).
- 1.5.40 NON-LOCAL VENDOR - any persons, firms, sole proprietorships, partnership, companies, or corporations, located outside of Charlotte County, Florida.
- 1.5.41 NOTICE OF AWARD — the written notice by the City to the successful bidder stating that upon compliance by the successful bidder with the conditions precedent to the Agreement within the time specified, the City will sign and deliver the Agreement.
- 1.5.42 OBSOLETE PROPERTY — any personal property belonging to the City which may no longer be used for its intended purpose, which has completed its useful life cycle, or the use of which has become economically impracticable.
- 1.5.43 ON-LINE RESPONSE - bidder's responding, in its entirety or partially, to a solicitation in electronic response format acceptable to the City and as prescribed in the solicitation.
- 1.5.44 OPERATE – means to finance, maintain, improve, equip, modify or repair.
- 1.5.45 PERSON — any natural person or any corporation, partnership, association of persons, and any other organization or entity capable of entering into a contract.
- 1.5.46 PIGGYBACK PURCHASING - a procurement activity that allows the City to make purchases directly from state contracts, national contracts and other government agency contract when deemed to be in the best interest of the City.
- 1.5.47 PRIVATE ENTITY – means any natural person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, nonprofit entity, or other private business entity.
- 1.5.48 PROCUREMENT – Purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction; includes all functions that pertain to the acquisition, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration. The combined functions of purchasing, inventory control, traffic and transportation, receiving, receiving inspection, storekeeping, and salvage and disposal operations.
- 1.5.49 PROCUREMENT MANAGER — the manager of the Procurement Division of the City of Punta Gorda, or his or her designee, who shall be the principal public purchasing official for the City and who is responsible, under the direction of the City Manager, for the procurement of commodities and contractual services as well as the management and disposal of commodities.
- 1.5.50 PROFESSIONAL SERVICES — services rendered by members of a recognized profession or possessing a special skill. Professional services may include a report or written advice; however, the main thrust of the service is not considered labor, but the exercise of intellectual ability.
- 1.5.51 PURCHASE ORDER — the City's document to formalize a purchase Agreement and transaction with a contractor, conveying acceptance of a contractor's proposal, bid or quotation. The purchase order shall contain statements as to quantity, description, and price of the commodities, services, or construction ordered and applicable terms as to payment, discounts, date of performance, transportation, insurance and other factors or suitable references pertinent to the purchase and performance by the contractor.

- 1.5.52 PURCHASING CARD – is a form of credit card utilized by trained and authorized City staff to make and pay for purchases through the credit card provider on behalf of the City.
- 1.5.53 QUALIFYING PROJECT means:
- 1.5.53.1 A facility or project that serves a public purpose, including, but not limited to, any ferry or mass transit facility, vehicle parking facility, airport or seaport facility, rail facility or project, fuel supply facility, oil or gas pipeline, medical or nursing care facility, recreational facility, sporting or cultural facility, or educational facility or other building or facility that is used or will be used by a public educational institution, or any other public facility or infrastructure that is used or will be used by the public at large or in support of an accepted public purpose or activity;
  - 1.5.53.2 An improvement, including equipment, of a building that will be principally used by a public entity or the public at large or that supports a service delivery system in the public sector;
  - 1.5.53.3 A water, wastewater, or surface water management facility or other related infrastructure; or
  - 1.5.53.4 Notwithstanding any provision of this section, for projects that involve a facility owned or operated by the governing board of a county, district, or municipal hospital or health care system, or projects that involve a facility owned or operated by a municipal electric utility, only those projects that the governing board designates as qualifying projects pursuant to this section.
- 1.5.54 QUOTATION — an informal or formal unsealed response by a contractor to the City stating the prices, terms and conditions under which the contractor will furnish certain commodities or services.
- 1.5.55 REQUEST FOR PROPOSALS — a solicitation for sealed proposals with the title, date and hour of the public opening designated. A request for proposals may be used when the City is incapable of specifically defining the scope of work for which the commodities or contractual service is required and when the City is requesting that a qualified bidder propose commodities or contractual services to meet the qualifications, experience and the specifications of the solicitation document. Price is usually not a primary evaluation factor. Process allows negotiation of all terms, including price, prior to contract award, which includes negotiation with a single or short list of bidders of a Best and Final Offer. This method may be a single step or multi-step process. This method may also be conducted in a small dollar purchase activity.
- 1.5.56 REQUEST FOR QUALIFICATION — a solicitation for sealed qualification with the title, date and hour of the public opening designated. A request for qualification may be used when the City is soliciting for services governed by CCNA procedures or should the City determine the need to pre-qualify contractors for services prior to obtaining pricing. This method may be a single step or multi-step process. This method may also be conducted in a small dollar purchase activity.
- 1.5.57 RESPONSE – a bidder who submits a bid or offer in hard copy or on-line response format to a solicitation. The terms response and submittal package are used synonymously.
- 1.5.58 RESPONSIBLE BIDDER — a bidder who is fully capable to meet all of the requirements of the solicitation and subsequent Agreement. The bidder shall possess the full capability, including financial and technical, to perform as contractually required. The City reserves the right to reject any response by a bidder who has previously failed to perform properly or to complete on time, previous contracts with the City or other entities. Such a rejected response shall preclude the bidder from being considered a responsible bidder. The person or company shall not be on the City's current de-barred or suspension list.
- 1.5.59 RESPONSIVE BIDDER — a bidder who has submitted a response that fully conforms in all material aspects to the solicitation. The person or company shall not be on the City's current de-barred or suspension list.
- 1.5.60 SEALED SUBMITTAL PACKAGE — the receipt of sealed responses submitted by bidders as a result of requests for sealed competitive solicitations.

- 1.5.61 SINGLE SOURCE – a procurement decision whereby purchases are directed to one source because of territorial issues, standardization, warranty, or other factors even though other competitive sources may be available but not authorized to conduct business with the City.
  - 1.5.62 SOLE SOURCE — a situation created due to the inability to obtain competition. May result because there is only one vendor or vendor possesses the unique ability or capability to meet the particular requirements or needs of the City or user department. The Procurement Manager shall require a written justification from the user department or requestor explaining why this is the only source for the requirement.
  - 1.5.63 SOLICITATION PACKAGE – a set of documents prepared by the City providing information, specifications, terms and conditions required by the Bidder for submitting a submittal package. The solicitation package in whole or in part may be electronically generated by the City’s eProcurement system. The terms solicitation package and solicitation information are used synonymously.
  - 1.5.64 SPECIFICATIONS — any description of the physical or functional/performance characteristics or of the nature of a service, commodity or construction item. It may include a description of any requirement for inspecting, testing or preparing a commodity, service or construction item for delivery. Specifications may also contain provisions for inclusion of factors which will lead to the ultimate calculation of lowest total cost.
  - 1.5.65 SUBMITTAL PACKAGE — the responses submitted by bidders as a result of competitive solicitations.
  - 1.5.66 SURPLUS PROPERTY — any personal property belonging to the City, which is capable of being used but is in excess of the normal operating requirements of the City as determined by the Procurement Manager.
  - 1.5.67 UNBALANCED BID – an unbalanced bid occurs in a unit price bid when the bidder artificially shifts a significant part of the costs for an item to another item to the potential detriment of the City.
  - 1.5.68 USER DEPARTMENT — any department of the City that utilizes any commodities, services, or construction procured under this Policy.
- 1.6 NON-COMPLIANCE WITH POLICY
- 1.6.1 All City staff shall comply with the City’s Procurement Policy for all procurement activities.
  - 1.6.2 Failure to comply shall result in the Department Director submitting a “Notice of Non-Compliance” form to the Procurement Manager.
  - 1.6.3 All forms will be submitted to the City Manager for signature. If payment was not made by purchasing card, the invoice will not be paid until all signed documents are received in Procurement.
  - 1.6.4 Repetitive failure to comply with the Procurement Policy shall result in a referral by the Procurement Manager, Finance Director or City Manager to the Human Resource Division.
- 1.7 PUBLIC ACCESS TO PROCUREMENT INFORMATION
- Procurement information shall be public record to the extent provided by law, including but not limited to Public Records Act, F.S. 119, and shall be available to the public as provided by law and applicable City ordinances and resolutions.
- 1.8 LAW AND GRANT REQUIREMENTS
- 1.8.1 In any situation where compliance with this Policy will place the City in conflict with state or federal law or the terms of any grant, the City shall comply with such federal or state law, grant requirements, or authorized regulations to the extent they are either not reflected in this Policy or are contrary to provisions of this Policy.
  - 1.8.2 Goods and services, which are funded by a Federal Grant Program, must be procured in accordance with 2 CFR §200.318 through §200.326 (aka Federal Super Circular).
    - 1.8.2.1 The City defines the Labor Surplus Area as Charlotte, Lee, Desoto and Sarasota counties in the state of Florida.

- 1.8.2.2 Micro-purchase threshold is defined as the most restrictive threshold between the City's current one-quote threshold requirement and the current Federal Micro-purchase threshold defined in 2 CFR §200.67 at the time of purchase.
- 1.8.2.3 Independent estimates will be performed in all instances when the total anticipated purchase price is determined to exceed the current Federal Simplified Acquisition Threshold.
  - 1.8.2.3.1 Determining the independent estimate will be responsibility of the requesting City Department/Division with assistance of Procurement.
  - 1.8.2.3.2 The Department/Division must document all efforts and resources used to calculate the independent estimate.
  - 1.8.2.3.3 The requesting Department/Division must provide all documentation resulting from the independent estimate to Procurement with the requisition.
  - 1.8.2.3.4 If an independent estimate is provided by an outside source (i.e. vendor, contractor, etc) they will be ineligible for submitting a response to the solicitation.
- 1.8.2.4 Price analysis, also known as price evaluation, will be conducted in all instances when the total purchase price exceeds the current Federal Simplified Acquisition Threshold including contract change orders.
  - 1.8.2.4.1 Staff must determine and document if the price is fair and reasonable.
- 1.8.2.5 Cost analysis must be conducted in all instances when only one (1) response is received for a solicitation, no price competition purchases (i.e. sole/single source), and for all contract change orders.
  - 1.8.2.5.1 Staff must request detailed costs for the purchase from the vendor or contractor, which is inclusive of all vendor or contractor's cost associated with providing the goods or services. Vendor or contractor's detailed cost must include general administrative cost and profit calculations.
  - 1.8.2.5.2 Staff must negotiate profit as a separate element of the price for all cases where a cost analysis is performed.
  - 1.8.2.5.3 Staff must validate costs are allowable in accordance with Federal Regulations.
  - 1.8.2.5.4 Staff must determine and document if the cost and profit is fair and reasonable.
- 1.8.2.6 Cost analysis is not required if two (2) or more responses are received in response to a solicitation unless the prices received are deemed to be unreasonable.

## 1.9 OWNER DIRECT PURCHASE PROGRAM

The City has authorized by ordinance a tax savings program under the Exemptions Section, which will be referred to as the Owner Direct Purchase Program. This authorization will allow the City to include the Owner Direct Purchase Program, for large dollar materials and equipment purchases, in awarded agreements to Vendors and contractors. Inclusion of the Program in agreements shall be at the discretion of the Procurement Manager and shall be in accordance with F.S.

## 1.10 VENDOR ETHICS

- 1.10.1 The purpose of this section is to assure the solicitation process is not distorted or compromised by private lobbying outside this Policy, which is designed to allow fair and open competition in the Procurement process.
- 1.10.2 No bidder may disclose their bid or proposal, outside the evaluation/selection process, to members of the evaluation or selection committee, or members of the City of Punta Gorda City Council, City

Manager, or City of Punta Gorda staff member, prior to the issuance of the Notice of Intent to Award. The city contact person shall be identified in each solicitation and shall be the sole authorized contact for the City throughout the solicitation process.

- 1.10.3 Any bidder whose bid or proposal is not selected shall not discuss the matter with the evaluation or selection committee or with any City of Punta Gorda City Councilmember, City Manager, or City of Punta Gorda staff member, but may file a protest under the requirements of this policy.
- 1.10.4 Notwithstanding any other provision of this section, an interested person is free at any time to contact the authorized City contact person for the purpose of clarifying the evaluation and selection procedures.
- 1.10.5 If a violation is discovered, the bid or proposal offered by the violator shall be disqualified from further consideration and/or evaluation and rejected.

## 1.11 ETHICS

### 1.11.1 Responsibility to the City.

1.11.1.1 Follow the policy, procedures, City Personnel Rules and Regulations, and Ordinances of the City and Florida Statute Chapter 112, which addresses rules for proper conduct and operation of government.

1.11.1.1.1 Disciplinary actions will be in accordance with the City Personnel Rules and Regulations.

1.11.1.2 Understand the authority granted by the City.

1.11.1.3 Avoid activities, which would compromise or give the perception of compromising the best interest of the City.

1.11.1.4 Reduce the potential for any charges of preferential treatment by actively promoting the concept of competition.

1.11.1.5 Obtain the maximum benefit for funds spent as agents for the City.

### 1.11.2 Conflict of Interest.

1.11.2.1 Conflict of interest is defined as: No employee of the City acting in his or her official capacity as a City employee or public officer acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for the City from any business entity of which the officer or employee or the officer's or employee's spouse or child is an officer, partner, director, or proprietor or in which such officer or employee or the officer's or employee's spouse or child, or any combination of them, has a material interest. Nor shall a public officer or employee, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the City if he or she is serving as an officer or employee of City. Exemptions to this definition are in accordance with Florida Statute 112.313.

1.11.2.2 Avoid any private or professional activity that would create a conflict between your personal interest and the interests of the City.

1.11.2.3 Avoid lending money to or borrowing money from any Vendor.

### 1.11.3 Perception

1.11.3.1 Avoid the appearance of unethical or compromising practices in relationships, actions and communications.

1.11.3.2 Avoid business relationships with personal friends. Request a reassignment if the situation arises.

1.11.3.3 Avoid noticeable displays of affection, which may give an impression of impropriety.

1.11.3.4 Avoid holding business meetings with Vendors outside the office. When such meetings do occur, the meeting location should be carefully chosen so as not to be perceived as inappropriate by other persons in the business community or your peers.

- 1.11.4 Gratuities.
  - 1.11.4.1 Never solicit or accept money, loans, credits or prejudicial discounts, gifts, entertainment, favors or services from present or potential Vendors, which might influence or appear to influence purchasing decisions.
  - 1.11.4.2 Never solicit gratuities in any form for yourself or the City.
  - 1.11.4.3 Donations, promotional items and samples donated to professional/business organizations and distributed at professional/business organizational functions are acceptable.
  - 1.11.4.4 Non-perishable gifts must be returned with an explanation to the Vendor or if perishable either returned to Vendor, or display in a public area for consumption of the general public, or donated to a charity in the name of the Vendor.
- 1.11.5 Business Meals
  - 1.11.5.1 There are times when during the course of business it may be appropriate to conduct business during meals, in such instances, the meal should be for a specific business purpose.
  - 1.11.5.2 Avoid frequent meals with the same Vendor. The employee shall pay for their own meals.
  - 1.11.5.3 Employees may accept meals donated through professional/business organization meetings or Vendor conducted seminars.
- 1.11.6 Relationship with Vendors
  - 1.11.6.1 Maintain and practice, to the highest degree possible, business ethics, professional courtesy, and competence in all transactions.
  - 1.11.6.2 Association with Vendors at lunches, dinners or professional/business organization meetings is an acceptable professional practice enabling the buyer to establish better business relations provided that the employee keeps free of obligation to the Vendor.
  - 1.11.6.3 Purchase without prejudice, striving to obtain the maximum value for each dollar of expenditure.
  - 1.11.6.4 Preclude from showing favoritism or be influenced by Vendors through the acceptance of gifts, gratuities, loans or favors.
  - 1.11.6.5 Adhere to and protect the Vendor's business and legal rights to confidentiality for trade secrets, and other proprietary information.
  - 1.11.6.6 Refrain from publicly endorsing products.
- 1.11.7 Vendor Relationship with the City
  - 1.11.7.1 Remain free of any and all interests and activities, which are or could be detrimental or in conflict with the best interests of the City.
  - 1.11.7.2 Refrain from engaging in activities where the employee has a significant personal or indirect financial interest.
  - 1.11.7.3 Exercise discretionary authority on behalf of the City.
  - 1.11.7.4 Avoid acquiring interest or incurring obligations that could conflict with the interests of the City.
  - 1.11.7.5 It shall be a breach of ethical standards for any person or firm to present false documents or falsely represent his / her firm.
  - 1.11.7.6 A breach of this Section may result in debarment for consideration of awards.
- 1.11.8 Relationships with other Agencies and Organizations
  - 1.11.8.1 An employee shall not utilize their position to exert leverage on individuals or firms for the purpose of creating a benefit for agencies or organizations that they may represent.

- 1.11.8.2 All involvement and transactions shall be handled in a professional manner with the City's interests taking precedence.

## 2. **MANDATORY FORMAL SEALED SOLICITATION THRESHOLDS**

### 2.1 FORMAL SEALED SOLICITATION THRESHOLD

2.1.1 The mandatory solicitation thresholds assigned to procurement activities are defined by the City ordinance and as adopted by City Council. The mandatory sealed solicitation thresholds are defined as:

2.1.1.1 Formal Sealed Solicitation Process – Fifty Thousand Dollars (\$50,000.00) for the acquisition of commodities, equipment, general services, professional services, and construction.

2.1.1.2 Formal Solicitation Process for Architectural and Engineering Services, as defined by F.S. 287.055 Consultant's Competitive Negotiation Act (CCNA):

2.1.1.2.1 Study Activity – threshold as provided in F.S. 287.017, Category Two

2.1.1.2.2 Architectural and Engineering Services for a project with basic construction cost estimated by the City to exceed the threshold provided in 287.017, Category Five

2.1.2 Procurement activities under the mandatory solicitation thresholds shall be processed as small dollar procurements in accordance with current procedures, if applicable.

## 3. **PROCUREMENT METHODS**

### 3.1 ACCEPTABLE PROCUREMENT METHODS

3.1.1 The Procurement Manager shall determine, in consultation with the User Department, the most effective and efficient procurement method to fulfill the need while optimizing the dollar spent.

3.1.2 The acceptable competitive procurement methods are:

3.1.2.1 Invitation to Bid – Formal Sealed

3.1.2.2 Request for Proposal – Formal Sealed or Small Dollar Unsealed

3.1.2.3 Request for Qualifications – Formal Sealed

3.1.2.4 Invitation to Negotiate – Formal Sealed

3.1.2.5 Formal Quotes – Small Dollar Unsealed

3.1.2.6 Informal Quotes – Small Dollar Unsealed

3.1.2.7 Reverse Auction – Small Dollar Unsealed

3.1.2.8 Competitive Negotiations – Unsealed for qualified purchases

3.1.3 Other acceptable procurement methods are:

3.1.3.1 Piggyback

3.1.3.2 Cooperative Purchasing

3.1.3.3 Sole/Single Source

3.1.3.4 Emergency/Immediate Need

3.1.3.5 Inter-local Agreements

## 4. **WRITTEN REQUESTS**

### 4.1 WRITTEN REQUEST

A written request is defined as a purchase requisition or memorandum addressed to Procurement requesting a commodity or service to be procured.



## 4.2 CONTENT

Each written request made by the requesting department shall set out sufficient facts, details, circumstances, and reasoning as well as substantiate specific determination that is made.

## 4.3 OBTAINING SUPPORTING INFORMATION

While the Procurement Manager is responsible for the execution of the written request, other City personnel, particularly technical personnel and appropriate personnel in the User Department, are responsible for furnishing to the Procurement Manager, in an accurate and adequate fashion, the information pertinent to the request. When requested, such information shall be furnished in writing to the Procurement Manager who shall have the authority to decide the final form and content of the request and to resolve any questions or conflicts arising with respect thereto.

## 4.4 FORMS

The Procurement Manager is authorized to prescribe methods and operational procedures to be used in preparing written requests.

## 4.5 RETENTION

Each written request shall be filed in the solicitation or Agreement file to which it applies; shall be retained as part of such file for so long as the file is required to be maintained; and, except as otherwise provided by law or regulation, shall be open to public inspection.

# 5. VENDORS

## 5.1 VENDOR SELECTION

5.1.1 Vendors will be added to the Procurement Division's database upon completion of the on-line vendor registration or as required by the Procurement Division.

5.1.2 A minimum of three (3) vendors will be solicited for all types of solicitations that exceed Three Thousand Dollars (\$3,000.00), with the exception of Sole Source, Emergency and Exempt Purchases.

5.1.3 Procurement may utilize the following resources for seeking competitive vendors/contractors:

5.1.3.1 Procurement's Database

5.1.3.2 Internet

5.1.3.3 Publications

5.1.3.4 Procurement Solicitation and Database providers

## 5.2 QUALIFYING VENDORS

The City may make such investigations as it deems necessary to determine the ability of the vendor to perform the work, and the vendors shall furnish to the City all such information and data for this purpose as the City may request. The City reserves the right to reject any bid, at any time, if the evidence submitted by or investigation of such vendor fails to satisfy the City that such vendor is properly qualified to carry out the obligation of the Contract and to complete the work contemplated therein or has provided false or misleading information. Conditional bids will not be accepted. The City reserves the right to reject the submittal package if any vendor who has previously failed to perform properly, or to complete on time, contracts of similar nature; who is not in a position to perform the contract; or who has habitually and without just cause neglected the payment of bills or otherwise disregarded its obligations to subcontractors, suppliers or employees. Ability of a vendor to obtain a Performance Bond and/or Payment Bond shall not be regarded as the sole test of such bidder's competency or responsibility.

## 5.3 VENDOR DEBARMENT OR SUSPENSION

5.3.1 **AUTHORITY TO DEBAR OR SUSPEND.** After reasonable notice to the person or company involved and reasonable opportunity for that person or company to be heard, the Procurement Manager, after written request by the Department and consultation with the City Attorney, shall have the authority to debar or suspend a person or company for cause from consideration for award of future contracts. The debarment shall be for a period commensurate with the seriousness of the cause(s), and shall continue for the entire time set by the Procurement Manager. The Procurement

Manager shall also have the authority to suspend a person or company from consideration for award of contracts if there is probable cause for debarment. If suspension precedes a debarment, the suspension period shall be considered in determining the debarment period. The Procurement Manager may suspend a person or company for a period of not more than three (3) months. During the period of debarment or suspension, the person or company may not bid on any City contracts, regardless of dollar amount, nor be approved as a subcontractor on any City contract.

- 5.3.2 CAUSE FOR DEBARMENT. The causes for debarment include the following:
- 5.3.2.1 Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such a contract or subcontract.
  - 5.3.2.2 Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a contractor.
  - 5.3.2.3 Conviction under state or Federal antitrust statutes arising out of the submission of bids or proposals.
  - 5.3.2.4 Violation of contract provisions, as set forth below, of a character which is regarded by the Procurement Manager to be so serious as to justify debarment action:
    - 5.3.2.4.1 Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
    - 5.3.2.4.2 A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts of the City or other governmental entities; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment; or
    - 5.3.2.4.3 Refutation of an offer by failure to provide bonds, insurance or other required certifications within time period stated in the solicitation package; or
    - 5.3.2.4.4 Refusal to accept a purchase order, agreement, or contract, or to perform thereon provided such order was issued timely and in conformance with the offer received; or
    - 5.3.2.4.5 Presence of principles or corporate officers in the business of concern, who were principals within another business at the time when the other business was suspended or de-barred within the last three (3) years under the provisions of this section; or
    - 5.3.2.4.6 Violation of the ethical standards set forth in this Policy or state law; or
    - 5.3.2.4.7 Any other cause the Procurement Manager, in consultation with the City Attorney, determines to be so serious and compelling as to affect responsibility as a City vendor including debarment by another governmental entity for any cause listed in this Policy.
- 5.3.3 Decision. The Procurement Manager shall issue a written decision to debar or suspend. The decision shall:
- 5.3.3.1 State the reason for the action taken, and
  - 5.3.3.2 Inform the de-barred person or company of its rights to Administrative Review.
- 5.3.4 Notice of Decision. A copy of the decision for the debarment or suspension shall be mailed or otherwise furnished immediately to the de-barred person, the City Manager, and any other party intervening.
- 5.3.5 ADMINISTRATIVE REVIEW FOR DEBARMENT OF PERSONS OR COMPANY AND DETERMINATION BY THE PROCUREMENT MANAGER.

- 5.3.5.1 Administrative Review Procedure. The procedure for any grievance or appeal required by this article shall be:
  - 5.3.5.1.1 The person or company shall file a written notice to the City Manager of the person or company's intention to appeal or protest the Procurement Manager's determination. This must be completed within fourteen (14) calendar days of the issuance of the Notice of Decision. The City Manager, or his designee, shall act as the Appellate Officer.
  - 5.3.5.1.2 The written notice shall explain in detail to the City Manager the person or company's appeal and defense to the Notice of Decision. The City Manager shall hand down formal findings and conclusion for granting or denial of the appeal within ten (10) calendar days of the written notice to the Procurement Manager.
  - 5.3.5.1.3 Within two (2) working days of the receipt of the written formal findings of fact and conclusion for granting or denial of appeal, the City Manager shall cause notification to be issued to the person or company of their decision. Such notification shall be transmitted via either facsimile, email, or certified return receipt required mail.
- 5.3.5.2 Reinstatement. A debarred person or company may only be reinstated upon submission of an application to the Procurement Manager. Each application for reinstatement, after the term of debarment has been complete, shall include the following information:
  - 5.3.5.2.1 The name, address and telephone number of the party making the request or the party's representative.
  - 5.3.5.2.2 A statement of the financial responsibility of the company.
  - 5.3.5.2.3 A statement of facts indicating how the circumstances, which led to the debarment, have been resolved.
  - 5.3.5.2.4 A list of jobs completed during the two (2) years prior to the reinstatement application.
  - 5.3.5.2.5 A list of all departments of the City for which the person has performed work.
- 5.3.5.3 Grounds. Request for reinstatement during the period of debarment shall be made in writing based upon the following:
  - 5.3.5.3.1 Discovery of new and material evidence not previously available.
  - 5.3.5.3.2 Dismissal of the indictment or reversal of the conviction.
  - 5.3.5.3.3 Bona fide change in ownership or management sufficient to justify a finding of present responsibility.
- 5.3.6 Procedures. The determination whether to reinstate shall be based on the written submission of evidence, without further intervention of the Appellate Officer. Upon consideration of the written submission, the Procurement Manager shall make a determination whether or not reinstatement is warranted. If the Procurement Manager determines that the person should not be reinstated, the person or company may request intervention by the Appellate Officer in accordance with Section - ADMINISTRATIVE REVIEW FOR DEBARMENT OF PERSONS OR COMPANY AND DETERMINATION OF THE PROCUREMENT MANAGER.

6. **SECTION INTENTIONALLY BLANK**

7. **SPECIFICATIONS**

7.1 DUTIES OF THE PROCUREMENT MANAGER

The Procurement Manager shall promulgate regulations governing the preparation, maintenance, and content of specifications for commodities, services, and construction required by the City, under the direction of the City Manager.

## 7.2 GENERAL PURPOSE AND POLICIES

- 7.2.1 **PURPOSE.** The purpose of a specification is to serve as a basis for obtaining a commodity, service, or construction item adequate and suitable for the City's needs in a cost-effective manner, taking into account, to the extent practicable, the costs of ownership and operations as well as initial acquisition costs. It is the policy of the City that specifications permit maximum practicable competition consistent with this purpose. Specifications shall be drafted with the objective of clearly describing the City's requirements.
- 7.2.2 **USE OF FUNCTIONAL OR PERFORMANCE DESCRIPTIONS.** Specifications shall, to the extent practicable, emphasize functional or performance criteria while limiting design or other detailed physical descriptions to those necessary to meet the needs of the City. To facilitate the use of such criteria, User Departments shall endeavor to include as a part of their purchase requisitions the principal functional or performance needs to be met. It is recognized, however, that the preference for use of functional or performance specifications is primarily applicable to the procurement of commodities and services. Such preference is often not practicable in construction, apart from the procurement of supply type items for a construction project.
- 7.2.3 **PREFERENCE FOR COMMERCIALY AVAILABLE PRODUCTS.** It is the general policy of this City to procure standard commercial products whenever practicable. In developing specifications, accepted commercial standards shall be used and unique requirements shall be avoided, to the extent practicable.

## 7.3 PROCEDURES FOR THE DEVELOPMENT OF SPECIFICATIONS

### 7.3.1 PROVISIONS OF GENERAL APPLICATION.

- 7.3.1.1 Specifications of Alternatives may be included. A specification may provide alternate descriptions of commodities, services, or construction items where two (2) or more design, functional, or performance criteria will satisfactorily meet the City requirements.
- 7.3.1.2 Contractual Terms not to be Included. To the extent feasible, a specification shall not include any solicitation or contract term or condition such as a requirement for time or place of bid opening, time of delivery, payment, liquidated damages, or qualification of bidders.
- 7.3.1.3 Use of Existing Specifications. If a specification for a common or general use item had been developed or a qualified products list has been developed for a particular supply, service, or construction item, it shall be used unless the Procurement Manager makes a determination that its use is not in the City's best interest and that another specification shall be used.

### 7.3.2 SPECIFICATIONS FOR COMMON OR GENERAL USE ITEMS.

- 7.3.2.1 Preparation and Utilization. A specification for a common or general use item shall, to the extent practicable, be used when:
- 7.3.2.1.1 A commodity, service, or construction item is used in common by several User Departments or used repeatedly by one (1) User Department, and the characteristics of the commodity, service, or construction item as commercially produced or provided, remain relatively stable while the frequency or volume of procurements is significant; or
  - 7.3.2.1.2 The City's recurring needs require uniquely designed or specially produced items.
- 7.3.2.2 Final Approval. Final approval of a proposed specification for a common or general use item shall be given by the Procurement Manager.
- 7.3.2.3 Revisions. Revisions to specifications for common or general use items which do not change the technical elements or the specifications but which are necessary for clarification may be made upon approval of the Procurement Manager or User Department.

### 7.3.3 BRAND NAME OR EQUAL SPECIFICATION.

- 7.3.3.1 Use. Brand name or equal specifications may be used when the Procurement Manager determines that:
  - 7.3.3.1.1 No specification for a common or general use item or qualified products list is available;
  - 7.3.3.1.2 Time does not permit the preparation of another form of specification, not including a brand name specification;
  - 7.3.3.1.3 The nature of the product or the nature of the City's requirements makes use of a brand name or equal specification suitable for the procurement; or
  - 7.3.3.1.4 Use of a brand name or equal specification is in the City's best interest;
- 7.3.3.2 Designation of Several Brand Names. Brand name or equal specifications shall seek to designate as many different brands as practicable as "or equal" references and shall further state that substantially equivalent products to those designated will be considered for award.
- 7.3.3.3 Required Characteristics. Unless the Procurement Manager determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics which are required.
- 7.3.3.4 Nonrestrictive Use of Brand Name or Equal Specifications. Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.
- 7.3.3.5 The City shall make the determination that:
  - 7.3.3.5.1 the commodity/service proposed meets the minimum material requirements to determine responsiveness; and
  - 7.3.3.5.2 the commodity/service proposed is equal or exceeds the specifications or requirements provided.
- 7.3.3.6 Proposed commodity/service containing a material defect to minimum requirements or failing to meet or exceed department's requirements or specifications shall be deemed non-responsive and rejected.

### 7.4 BRAND NAME SPECIFICATION

- 7.4.1 Use. Since use of a brand name specification is restrictive, it should be used only when a determination is made that only the identified brand name item or items will satisfy the City's needs.
- 7.4.2 Competition. The Procurement Manager shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable.
- 7.4.3 Justification. In the event the Department requests brand name specifications, they will be required to provide a written justification to Procurement of the reasons why they must have this brand name. Failure to satisfactorily justify their reason may be cause to specify an equal product.

### 7.5 QUALIFIED PRODUCTS LIST.

- 7.5.1 USE. A qualified products list may be developed with the approval of the Procurement Manager when testing or examination of the commodities or construction items prior to issuance of the solicitation is desirable or necessary in order to best satisfy City requirements.

7.5.2 SOLICITATION. When developing a qualified products list, a representative group of potential commodities shall be solicited to submit products for testing and examination to determine acceptability for inclusion on a qualified products list. Any potential Vendor, even though not solicited, may offer its products for consideration.

7.5.3 TESTING AND CONFIDENTIAL DATA. Inclusion on a qualified products list shall be based on results of test or examinations conducted in accordance with prior published requirements. Except as otherwise provided by law, trade secrets, test data, and similar information provided by the Vendor will be kept confidential when requested and justified in writing by the Vendor. However, qualified products lists test results shall be made public but in a manner so as to protect the confidentiality of the identity of the competitors by, for example, using numerical designations.

#### 7.6 MAXIMUM PRACTICABLE COMPETITION

All specifications should seek to promote overall economy for the purposes intended and encourage competition in satisfying the City's needs, and should not be unduly restrictive.

#### 7.7 NON-RESTRICTIVENESS REQUIREMENT

All specifications should be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply, service, or construction item, or procurement from a sole source, unless no other manner of description will suffice.

#### 7.8 SPECIFICATIONS PREPARED BY OTHER THAN CITY PERSONNEL

The requirements of this Section shall apply to all specifications prepared by other than City personnel, including, but not limited to, those prepared by consultants, architects, engineers, designers, vendors and other draftsmen of specifications. Preparation of specifications by other than City personnel shall be subject to F.S. 287.075, which states that a materially interested contractor or its employees, agents, or subcontractors, may not knowingly participate, through decision, approval, disapproval, or preparation of any part of a purchase request, investigation, or audit, in the procurement of commodities or contractual services by the City in which the contractor, or its employees, agents, or subcontractors, has a material interest.

### 8. **COMPETITIVE PROCUREMENT – GENERAL PROVISIONS**

#### 8.1 AUTHORIZED AGENTS IN CITY PROCUREMENT

8.1.1 The City's procurement process is centralized and authorization to procure needs and requirements of the City are limited to Procurement staff, excluding those City delegated purchasing buyers authorized to make limited purchases under the Delegated Purchasing Authority or Procurement Card Policy.

8.1.2 Department users are not authorized to competitively solicit their requirements or needs outside of the Delegated Purchasing Authority Policy or Procurement Card Policy.

#### 8.2 VENDOR CONTACT PROHIBITION

Vendor or persons acting on their behalf shall not contact any member of the City of Punta Gorda, City Council, City Manager, or City of Punta Gorda staff member other than the Authorized City Contact Person identified in the Solicitation, or their designated Procurement staff member, regarding a solicitation package, or their submittal package, City's Intent to Award, or City's Intent to Reject (if applicable) at any time prior to the FORMAL AWARD for this project. Any such contact shall be cause for rejection of their submittal package.

#### 8.3 PRE-SOLICITATION MEETINGS

Pre-solicitation meetings are utilized by Procurement to request input and assistance from all interested bidders in preparing a solicitation. Procurement will issue a notice through the eProcurement website, based on the commodity/service classification, inviting all registered interested vendors in the classification to participate in the process.

#### 8.4 PRE-SUBMITTAL CONFERENCES

Pre-submittal conferences or a meeting may be conducted to explain the procurement requirements. They shall be announced to all prospective bidders known to have accessed the on-line solicitation package. Excluding construction solicitations, the conference should be held long enough after the solicitation has been issued to allow bidders to become familiar with it, but sufficiently before the opening to allow consideration of the conference results in preparing their responses. Pre-submittal conference for construction shall be held

in accordance with FS 255.0525. Nothing stated at the pre-submittal conference shall change the solicitation unless a change is made in the form of an addenda to the on-line solicitation or written addenda as provided in Subsection — Addenda to Solicitation.

#### 8.5 INSURANCE REQUIREMENTS

Contracts for all services, inclusive of construction services, performed on City property or rights-of-ways shall contain requirements for the protection of the City through sufficient insurance as specified by the City's Risk Manager. The form and adequate proof of all such insurance shall be approved by the Risk Manager prior to the execution of any contract by the City and prior to the issuance of purchase orders confirming the award of a contract. The City reserves the right to request specific insurance requirements from those bidders who may not perform services, in accordance with the above, as may be deemed to be in the best interest of the City.

#### 8.6 INDEMNIFICATION

All contracts for services shall require that the contractor defend, indemnify and hold the City, the City's representative or agent, and the officers, directors, agents, employees, and assigns of each harmless from and against any and all claims, demands, suits, judgments, damages to persons or property, injuries, losses, or expenses of any nature whatsoever (including attorneys' fees at trial at appellate level) arising directly or indirectly from or out of any negligent act or omission of the elected firm, its subconsultants and their officers, directors, agents or employees; any failure of the elected firm to perform its services hereunder in accordance with generally accepted professional standards; any material breach of the elected firm's representations as set forth in the proposal or any other failure of the elected firm to comply with the obligations on its part to be performed under this contract. The indemnification shall be prepared by the City Attorney.

#### 8.7 BID SECURITY

- 8.7.1 REQUIREMENT FOR BID SECURITY. Bid security shall be required for all competitive sealed bidding for construction or service contracts when the price is estimated by the Procurement Manager to be Two Hundred Thousand Dollars (\$200,000.00) or greater. Nothing herein prevents the requirement of such bonds on contracts under Two Hundred Thousand Dollars (\$200,000.00) when the circumstances warrant. At the discretion of the Procurement Manager the requirement for bid security may be exempted.
- 8.7.2 AMOUNT OF BID SECURITY. Bid security shall be in an amount equal to at least five percent (5%) of the amount of the bid, or Procurement Manager may designate a dollar amount for security.
- 8.7.3 ACCEPTABLE BID SECURITY. Acceptable bid security shall be limited to:
- 8.7.3.1 a one-time original bid bond in a form satisfactory to the City underwritten and sealed by an Authorized Surety Company in accordance with F.S. 287.0935; or
  - 8.7.3.2 an original bank certified check or cashier's check; or  
an acceptable electronic bid bond through a City approved e-commerce clearinghouse for insurance underwritten and sealed by an Authorized Surety Company in accordance with F.S. 287.0935.
- 8.7.4 ACCEPTABLE SUBMISSION OF BID SECURITY - All forms of bid security shall be submitted in the format stated in the solicitation package prior to the due date and time established for the solicitation.
- 8.7.5 NON-SUBSTANTIAL FAILURE TO COMPLY. If a submittal package does not comply with the security requirements of this Policy, the submittal package shall be rejected as non-responsive, unless the failure to comply is determined by the Procurement Manager to be non-substantial where:
- 8.7.5.1 only one (1) bid is received, and there is not sufficient time to rebid the contract; or
  - 8.7.5.2 the amount of the bid security submitted, though less than the amount required by the solicitation package, is equal to or greater than the difference in the price stated in the next higher acceptable bid; or
  - 8.7.5.3 the bid guarantee becomes inadequate as a result of the correction of a mistake in the bid or bid modification if the bidder increases the amount of guarantee to required limits

within forty-eight (48) hours after the bid opening.

## 8.8 PERFORMANCE AND PAYMENT BONDS

### 8.8.1 GENERAL

8.8.1.1 Bonds shall be delivered to the City and shall become binding on the parties upon the execution of the contract.

8.8.1.2 A performance bond satisfactory to the City, executed by a surety company authorized to do business in this State or otherwise secured in a manner satisfactory to the City, in an amount equal to one hundred percent (100%) of the price specified in the contract.

8.8.1.3 A payment bond satisfactory to the City, executed by a surety company authorized to do business in this State or otherwise secured in a manner satisfactory to the City, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the price specified in the contract. The performance and payment bonds shall be equal to 100% of the contract price.

### 8.8.2 REQUIREMENT FOR BONDS

8.8.2.1 Public Construction. Performance and payment bonds shall be in accordance with F.S. 255.05.

8.8.2.2 Non- Public Construction. The City reserves the right to require performance and payment bonds on non-Public Construction contracts when a contract is awarded in an amount of One-Hundred Thousand Dollars (\$100,000.00) or greater.

8.8.3 ALTERNATE PERFORMANCE/PAYMENT BOND. An alternative form of security in the form of cash, a money order, a certified check, a cashier's check, or an irrevocable letter of credit may be used in lieu of performance and payment bonds when deemed appropriate by the City Manager.

8.8.4 AUTHORITY TO REQUIRE ADDITIONAL BONDS. Nothing in this Section shall be construed to limit the authority of the City to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in this Section.

8.8.5 REDUCTION OF AMOUNT DURING PERFORMANCE. The Procurement Manager may reduce the amount of the performance bond as work is completed if such reduction is in the best interest of the City.

8.8.6 AUTHORIZED SURETIES. Authorized surety bond insurers shall comply with F.S. 287.0935.

8.8.7 EXEMPTION OF REQUIREMENT. At the discretion of the Procurement Manager, the requirement for performance and payment bonds for non-Public Construction contracts may be exempted.

### 8.8.8 BOND FORMS AND COPIES –

8.8.8.1 BOND FORMS. The Procurement Manager shall promulgate the form of the bonds required by this Section, which shall be reviewed and approved by the City Attorney.

8.8.8.2 CERTIFIED COPIES OF BONDS. Any person may request and obtain from the City Clerk a certified copy of a bond upon payment of the cost of reproduction of the bond and postage, if any. A certified copy of a bond shall be prima facie evidence of the contents, execution, and delivery of the original.

## 8.9 ADDENDA TO SOLICITATION

Any modifications to the solicitation made prior to due date and time stated in the solicitation shall be by addenda provided electronically through the City's eProcurement system or in writing to the same persons to whom the original solicitation was noticed or otherwise provided. Each addendum shall reference the portions of the solicitation it amends. City's response to clarification questions or other informational requests are informal and will be posted on the eProcurement system and all vendors shall be notified of the City's response.



8.10 TIMELINESS.

All addenda shall be distributed within a reasonable time to allow prospective bidders to consider them in preparing their response. If the established due date and time will not permit such preparation, such time shall be increased to the extent possible in the addendum.

8.11 EXTENSION OF TIME FOR RESPONSE ACCEPTANCE

After opening of solicitation, the Procurement Manager may request bidders to extend the time during which the City may accept their responses. The reasons for requesting such extension shall be documented.

8.12 BIDDER RESPONSIVENESS AND RESPONSIBILITY

8.12.1 DUTY CONCERNING RESPONSIVENESS AND RESPONSIBILITY – Prior to recommending or awarding an Agreement, the Procurement Manager must be satisfied that the prospective bidder is responsive and responsible.

8.12.2 STANDARDS OF RESPONSIVENESS.

8.12.2.1 Responses shall conform in all material respects to the requirements and specifications stated in the solicitation. A response deemed non-responsive by the City is not valid and shall be rejected.

8.12.2.2 Factors to be considered in determining whether the standard for responsiveness has been met include, but are not limited to, whether a prospective bidder has:

8.12.2.2.1 Bidder complied with all stated minimum qualification requirements documentation; and

8.12.2.2.2 Submitted a response in compliance with all items or documentation required in the solicitation package and/or documents. These items include, but are not limited to original signed documents/bid forms, original bid security, brochures, leaflets, and samples; and

8.12.2.2.3 Responded to all monetary requirements; and

8.12.2.2.4 Responded to all delivery or project time frames; and

8.12.2.2.5 Responded to proper identification of manufacturer or products proposed; and

8.12.2.2.6 Proper completion of the On-Line eProcurement Bid Request or optional hard copy Invitation Document as amended by the most current addenda issued through the eProcurement Bid Request; and

8.12.2.2.7 Proper completion of all response forms; and

8.12.2.2.8 The bidder met or exceeded the City's specifications or scope of services as specified.

8.12.2.3 DETERMINATION. A non-responsive response may not be cured after the due date and time of the solicitation as it may provide the bidder with a competitive advantage over other bidders or potential bidder. The determination of responsiveness is not discretionary.

8.12.3 STANDARDS OF RESPONSIBILITY

8.12.3.1 Responsibility relates to the qualifications of the bidder to fulfill their contract to the City in a manner prescribed in the solicitation package and at a satisfactory level.

8.12.3.2 Factors to be considered in determining whether the standard for responsibility has been met include, but are not limited to, whether a prospective bidder has:

8.12.3.2.1 met all minimum qualification requirements prescribed in the solicitation package; and

8.12.3.2.2 bidder currently has available or may procure the appropriate financial, material, equipment, facility, and personnel resources

- and expertise, or the ability to obtain them, necessary to meet all contractual requirements; and
- 8.12.3.2.3 a satisfactory record of past performance with the City and references provided; and
- 8.12.3.2.4 a satisfactory record of integrity; and
- 8.12.3.2.5 qualified legally to contract with the City; and
- 8.12.3.2.6 supplied all necessary information in connection with the solicitation package concerning responsibility.
- 8.12.3.3 INFORMATION PERTAINING TO RESPONSIBILITY. Evidence of responsibility is sometimes obtained after the due date and time of the solicitation. The prospective bidder shall supply information requested by the Procurement Manager, or designee, documenting the responsibility of such bidder. If such bidder fails to supply the requested information, the Procurement Manager shall base the determination of responsibility upon submitted information or may find the prospective bidder non-responsive because of such failure to submit documentation.
- 8.12.3.4 ABILITY TO MEET STANDARDS. The prospective bidder may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:
  - 8.12.3.4.1 acceptable evidence that such bidder possesses such necessary items; or
  - 8.12.3.4.2 acceptable plans to subcontract for such necessary items; or
  - 8.12.3.4.3 an acceptable documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.
- 8.12.3.5 DETERMINATION. Determining responsibility of a bidder involves discretion and judgment by the awarding authority.
- 8.12.4 WRITTEN DETERMINATION OF NON-RESPONSIVENESS AND NON-RESPONSIBLE REQUIRED. If a bidder, who otherwise might have been awarded a contract, is found to be non-responsive and/or non-responsible, a written determination of non-responsiveness and/or non-responsibility setting forth the basis of the finding shall be prepared by the Procurement Manager and delivered electronically or in hard copy to the Bidder. The final determination shall be made part of the procurement file.
- 8.13 PRE-OPENING MODIFICATION OR WITHDRAWAL OF RESPONSES
  - 8.13.1 PROCEDURE.
    - 8.13.1.1 Hard Copy. Responses may be modified or withdrawn by written notice duly executed and delivered to the office of the Procurement Manager at any time prior to the deadline for submitting a hard copy response. A notice of withdrawal or modification must be in writing and signed by a person duly authorized to do so. In a case where signed by deputy or subordinate, the principal's proper written authority to such deputy or subordinate must accompany the notice of withdrawal or modification.
    - 8.13.1.2 On-line Response. Modifications and withdrawal of responses submitted electronically on-line may be processed at any time prior to the due date and time by the bidder.
    - 8.13.1.3 After expiration of the period for receipt of bids, no bid may be withdrawn or modified, except in accordance with Section - Mistakes in Bids.
  - 8.13.2 DISPOSITION OF BID SECURITY. As applicable, if a response to a solicitation is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.
  - 8.13.3 RECORDS. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.

8.14 LATE RESPONSES, LATE WITHDRAWALS, AND LATE MODIFICATIONS

- 8.14.1 DEFINITION. Any hard copy submittal package received by the City after the established due date and time is late. The City's eProcurement website will not allow an attempt to submit an electronic response after the established due date and time. Request for withdrawal or modification of a submittal package received by the City after the established due date and time set is late.
- 8.14.2 TREATMENT. No late submittal package, late modification, or late withdrawal will be opened or considered for sealed solicitations or formal quotations. However, a hard copy submittal package, response withdrawal, or submittal package modification that is misplaced by City personnel will be considered if discovered before the contract award and the date and time stamp is prior to the established due date and time indicated in the solicitation package.  

Bidder shall make arrangements for return of their submittal package at their expense.
- 8.14.3 NOTICE. Bidders submitting late submittal packages will not be considered for award and shall be notified as soon as practicable.
- 8.14.4 RECORDS. Records shall be made and kept for each late submittal package, request for late modification or late withdrawal in the appropriate procurement file.

8.15 MISTAKES IN RESPONSES

- 8.15.1 GENERAL. Correction or withdrawal of a submittal package after the deadline for submitting responses will not be allowed.
- 8.15.2 CONFIRMATION OF BID. When the Procurement Manager knows or has reason to conclude that a mistake has been made, he or she should request the bidder to confirm the response. Situations in which confirmation should be requested include obvious and apparent errors on the face of the submittal package or a submittal package unreasonably lower than the other submittal package submitted. If the bidder alleges mistake, the submittal package will be deemed non-responsive and rejected by the Procurement Manager.

8.16 MODIFICATION AND WITHDRAWAL OF BIDS

- 8.16.1 MINOR INFORMALITIES. Minor informalities are matters of form rather than material substance from the solicitation, or non-material mistakes that can be waived or corrected without prejudice to other bidders.
- 8.16.2 Material substance is defined as any portion of a bidder's response that materially affects the submittal package, which includes but is not limited to, the effect on price, quantity, quality, manufacturer, product, delivery, or contractual conditions and shall not be considered a minor informality.
- 8.16.3 The Procurement Manager may waive minor informalities or allow the bidder to correct them depending on which is in the best interest of the City. Examples include the failure of a bidder to:
  - 8.16.3.1 Submit the number of hard copies required by the solicitation package; or
  - 8.16.3.2 Failure to furnish non-material information with their response; or
  - 8.16.3.3 Acknowledge receipt of an addendum to the solicitation, but only if:
    - 8.16.3.3.1 it is clear from the response that the bidder received the addendum and intended to be bound by its terms; or
    - 8.16.3.3.2 the addendum involved had a negligible effect on price, quantity, specifications, quality, or delivery.
- 8.16.4 MISTAKES WHERE INTENDED CORRECT BID IS NOT EVIDENT. If within twenty four (24) hours after submittal packages are opened, any bidder files a duly signed written notice with the City, through the office of the Procurement Manager, and within five (5) calendar days thereafter demonstrates to the satisfaction of the City, by clear and convincing evidence, that there was a material and substantial clerical mistake in the preparation of the submittal package or that the mistake is clearly evident in the solicitation package but the intended correct submittal package is not similarly evident, then the Procurement Manager will reject their submittal package response. Thereafter, the bidder will be disqualified from further bidding on the subject contract.

- 8.16.5 MISTAKES WHERE INTENDED CORRECT RESPONSE IS EVIDENT. If the mistake and the intended correct bid are clearly evident in the submittal package, the response shall be corrected to the intended correct response. Examples of mistakes that may be clearly evident in the submittal package are errors in extending unit prices and arithmetic errors. Mistakes in unit prices shall not be corrected.
- 8.16.6 WITHDRAWAL OF SUBMITTAL PACKAGE. No bidder may withdraw their submittal package after the established due date and time. However, those responses found with obvious and apparent errors shall be deemed non-responsive and rejected.
- 8.16.7 DETERMINATIONS REQUIRED. When a bid is corrected or withdrawn, or correction or withdrawal is denied, the Procurement Manager shall prepare a written determination showing that the relief was granted or denied in accordance with these regulations.
- 8.17 CANCELLATION OF SOLICITATIONS; REJECTION OF RESPONSES
  - 8.17.1 GENERAL. A solicitation may be canceled, or any or all submittal packages may be rejected in whole or in part as may be specified in the solicitation package, when it is in the best interest of the City and as approved by the Procurement Manager. The reasons therefore shall be made part of the contract file.
  - 8.17.2 POLICY
    - 8.17.2.1 Solicitations should only be issued when there is a valid procurement need unless the solicitation states that it is for informational purposes only.
    - 8.17.2.2 Preparing and distributing a solicitation requires the expenditures of City time and funds. Bidders likewise incur expense in examining and responding to solicitations. The City reserves the right to cancel a solicitation when in the City's best interest.
  - 8.17.3 NOTICE. Each solicitation package issued by the City shall state that the solicitation may be canceled as provided for in this Policy.
  - 8.17.4 PROCEDURE
    - 8.17.4.1 "DATE DUE." As used in this Section "opening" means the due date and time established for receipt of competitive responses to solicitations.
    - 8.17.4.2 PRIOR TO DATE DUE. Prior to date due, a solicitation may be canceled in whole or in part when the Procurement Manager determines in writing that such action is in the City's best interest for reasons including but not limited to:
      - 8.17.4.2.1 the City no longer requires the commodities, services, or construction; or
      - 8.17.4.2.2 the City no longer can reasonably expect to fund the procurement; or
      - 8.17.4.2.3 proposed addenda to the solicitation package would be of such magnitude that a new solicitation is desirable.
  - 8.17.5 AFTER DUE DATE. After the due date, but prior to award, all responses may be rejected in whole or in part when the Procurement Manager determines in writing that such action is in the City's best interest for reasons including, but not limited to:
    - 8.17.5.1 the commodities, services, or construction being procured are no longer required; or
    - 8.17.5.2 ambiguous or otherwise inadequate specifications were part of the solicitation package; or
    - 8.17.5.3 the solicitation package did not provide for consideration of all factors of significance to the City; or
    - 8.17.5.4 technical or clerical errors; or
    - 8.17.5.5 prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds; or

- 8.17.5.6 all otherwise acceptable submittal packages received are at clearly unreasonable prices and unable to negotiate a lower price with the lowest responsive and responsible bidder; or
- 8.17.5.7 there is reason to believe that the submittal package may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.
- 8.17.6 DOCUMENTATION. The reasons for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.
- 8.17.7 NOTIFICATION. When a solicitation is canceled before due date, notice of cancellation shall be sent to all vendors solicited. When all submittal packages are rejected in whole or in part after opening, notice of rejection shall be sent to all bidders. The notice of cancellation or rejection shall:
  - 8.17.7.1 identify the solicitation; and
  - 8.17.7.2 briefly explain the reason for cancellation or rejection; and
  - 8.17.7.3 where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurement of similar commodities, services, or construction.
- 8.18 REJECTION OF INDIVIDUAL RESPONSES
  - 8.18.1 NOTICE IN SOLICITATION. Each solicitation issued by the City shall provide that any response may be rejected in whole or in part when in the best interest of the City as provided in this Section.
  - 8.18.2 RIGHT TO CLARIFY AND REQUEST FOR ADDITIONAL INFORMATION. The City reserves the right to clarify submittal packages with the bidder. The City may request additional documentation after the due date and time only if the additional request does not relate to the correction of a material defect of the bidder's submittal package or provides a bidder an unfair competitive advantage over bidders or other prospective vendors.
  - 8.18.3 REASONS FOR REJECTION Reasons for rejecting a response include, but are not limited to:
    - 8.18.3.1 the bidder is deemed non-responsive; or
    - 8.18.3.2 the submittal package is not responsive; or
    - 8.18.3.3 the supply, service, or construction item offered in the solicitation is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternates or other acceptability criteria set forth in a solicitation; or
    - 8.18.3.4 the bidder fails to submit or comply with materials requirements that if allowed to correct may provide a competitive advantage over other bidders; or
    - 8.18.3.5 the submittal package ultimately (that is, after any opportunity has passed for clarifying the proposal) fails to meet the announced requirements of the City in some material respect; or
    - 8.18.3.6 the proposed price is clearly unreasonable; or
    - 8.18.3.7 there is evidence of materially unbalanced bidding in the unit prices.
  - 8.18.4 "ALL OR NONE" RESPONSES – The solicitation document shall clearly state that bidders shall bid on all items or it shall identify the requirements as a lump sum bid. Partial responses to these defined response type requirements shall be deemed non-responsive and thereby rejected. The City shall evaluate and award based on those responses fulfilling this response type requirement.
  - 8.18.5 NOTICE OF REJECTION. A notice of rejection shall be signed by the Procurement Manager and be delivered to all rejected bidders and the notice shall advise the reasons for rejection.
- 8.19 ONLY ONE RESPONSE RECEIVED
  - 8.19.1 If only one (1) responsive and responsible submittal package is received to a solicitation, an award may be made to the single bidder if the Procurement Manager finds that the price submitted is fair and reasonable and that other prospective bidders had reasonable opportunity to respond or there

is not adequate time for re-soliciting; or the Procurement Manager may negotiate with the single bidder a fair and reasonable price lower than the price bid. Otherwise, the bid may be rejected pursuant to the provisions of Section — Cancellation of Solicitations; Rejection of Bids or Proposals, and:

8.19.1.1 new solicitation may be issued; or

8.19.1.2 the proposed procurement may be canceled.

8.19.2 Revision to the material aspects of the solicitation package, such as scope, specifications, quality, agreement/terms and conditions, and quantities, is prohibited.

## 8.20 NEGOTIATION WITH THE LOWEST REPSONSIVE AND RESPONSIBLE BIDDER

8.20.1 If the Procurement Manager considers the lowest responsive and responsible bidder's price to be high, they shall have the authority to negotiate a lower price with the lowest responsive and responsible bidder.

8.20.2 Otherwise, the bid may be rejected pursuant to the provisions of Section — Cancellation of Solicitations; Rejection of Bids or Proposals, and:

8.20.2.1 new solicitation may be issued; or

8.20.2.2 the proposed procurement may be canceled.

8.20.3 Revision to the material aspects of the solicitation package, such as scope, specifications, quality, agreement/terms and conditions, and quantities, is prohibited.

## 9. **SMALL DOLLAR UNSEALED COMPETITIVE BIDDING PROVISIONS**

### 9.1 SMALL DOLLAR THRESHOLDS

Any procurement of commodities, contractual and professional services or construction under Fifty Thousand Dollars (\$50,000.00), may be made in accordance with small purchase procedures promulgated by the Procurement Manager, provided, however, that procurement requirements shall not be divided so as to constitute a small purchase under this Section. The City Manager has the authority to amend thresholds for small dollar purchases as deemed necessary to allow efficiency in the procurement process.

### 9.2 USE

9.2.1 Small purchases may be made in accordance with the procedures authorized in this Section; provided, however, those contracts for construction of municipal public works shall be made in accordance with applicable state laws including F.S. Chapter 180, as amended from time to time.

9.2.2 The current known requirement of any commodity or service shall not be divided to circumvent the requirement of the small dollar threshold or Mandatory Bid Amount. However, there is no requirement to aggregate all predicted amounts of any commodity or service for formal bidding. The Procurement Manager may deem it more beneficial or economical to purchase an annual or alternate quantity of a commodity or service at one time or to enter into an open-end contract for annual or alternate requirements. In such cases, if the aggregate total exceeds the mandatory bid amount, formal bid procedures shall be used.

9.2.3 PROCEDURES. The Procurement Manager shall adopt, implement and enforce operational procedures for making small purchases under the competitive sealed solicitations thresholds. Such operational procedures shall require the preparation and maintenance of written records adequate to document the competition obtained, properly account for the funds expended and facilitate an audit of the small purchase made. Such records shall include the names of persons from whom quotations are sought and obtained, dates of inquiry, nature and description of service for which inquiry is being made and amounts quoted, with exactly what will be provided for such amount.

9.2.4 DIRECT SOLICITATION. Small purchases of commodities and contractual and professional services when the estimated value is Three Thousand Dollars (\$3,000.00) or less may be made upon receipt of one (1) telephone quotation.

9.2.5 INFORMAL QUOTATIONS. Small purchases of commodities and contractual and professional services when the estimated value is in excess of Three Thousand Dollars (\$3,000.00) but not more

than Twenty-Five Thousand Dollars (\$25,000.00) may be made upon receipt of not less than three (3) telephone quotations. In order to determine a fair and reasonable price, additional quotations may be solicited. Informal quotations of \$5,000.00 or more will be given a tracking number and date for responding.

9.2.6 FORMAL QUOTATIONS. Small purchases of commodities and contractual and professional services when the estimated value is in excess of Twenty-Five Thousand Dollars (\$25,000.00) but less than Fifty Thousand Dollars (\$50,000.00), may be made after attempts have been made to solicit quotations from a minimum of three (3) different sources of supply by a formal written request for quotations. Procurement shall solicit quotes through the eProcurement system, direct mail or facsimile request to prospective vendors. The names of the persons submitting quotations and the date and amount of each quotation shall be recorded and maintained as a public record. Formal quotations will be given a tracking number and date for responding.

9.2.6.1 Response time is the period of time between the date of release or issue of the solicitation and the due date and time set for receiving submittal packages. In each case, bidding time will be set to provide bidders a reasonable time to prepare their submittal package. A minimum of five (5) calendar days shall be provided for formal quotations. The Procurement Manager may authorize a shorter time when it is deemed necessary for a particular procurement.

9.2.7 INFORMAL PROPOSALS. Small purchases of commodities, contractual and professional services when the estimated value is less Fifty Thousand Dollars (\$50,000.00) may be made after attempts have been made to solicit proposals from a minimum of three (3) different sources of supply by a request for informal proposals. Procurement shall solicit proposals through the eProcurement system, direct mail or facsimile request to prospective vendors. The names of the persons submitting proposals and the date shall be recorded and maintained as a public record. Informal proposals will be given a tracking number and date for responding.

9.2.7.1 Response time is the period of time between the date of release or issue of the solicitation and the due date and time set for receiving submittal packages. In each case, bidding time will be set to provide bidders a reasonable time to prepare their submittal package. A minimum of five (5) calendar days shall be provided for informal proposals. The Procurement Manager may authorize a shorter time when it is deemed necessary for a particular procurement.

9.2.7.2 Evaluation and award of informal proposals shall generally follow the requirement of SECTION – EVALUATION AND SELECTION COMMITTEES.

9.2.8 AWARD. The Procurement Manager has the authority to approve all small purchases.

## 10. SEALED COMPETITIVE SOLICITATION PROVISIONS

### 10.1 SOLICITATION PACKAGE

10.1.1 The on-line solicitation, also defined as eProcurement Bid Request, is provided on the City's eProcurement website and is used to initiate a competitive sealed procurement activity. A solicitation document and other attachments are attached to the on-line solicitation to instruct bidders and define the terms and conditions of the resulting Agreement.

10.1.2 All applicable reference documentation shall be incorporated by reference in the solicitation package and provide specific identification of documents and where such documents may be obtained.

10.1.3 The solicitation package shall be issued and shall include a purchase or service description and contractual terms and conditions applicable to the procurement. The solicitation package shall also include the following:

10.1.3.1 Instruction and information to bidders concerning the response requirements, including the due date and time for receipt of responses, the address of the office to which hard copy responses are to be delivered, the due date and time for response acceptance by the City and any other pertinent information; and

10.1.3.2 Specifications, which may be in a form of a scope of work, for the commodities,

equipment and/or services; and

10.1.3.3 Warranty and bonding or other security requirements, as applicable; and

10.1.3.4 Request for Proposal, Request for Qualifications and Invitation to Negotiate shall provide response format requirements, evaluation criteria, evaluation and selection process; and

10.1.3.5 Invitations to Bid for Local Agency Projects and Grant Funded Projects shall be structured to meet the funding requirements.

## 10.2 RESPONSE TIME.

Response time is the period of time between the date of release or issue of the solicitation and the due date and time set for receiving submittal package. In each case, bidding time will be set to provide bidders a reasonable time to prepare their responses. A minimum of fourteen (14) calendar days shall be provided, except for construction which shall be as defined by the F.S. 255.0525. The Procurement Manager may authorize a shorter time when it is deemed necessary for a particular procurement.

## 10.3 BIDDER SUBMITTAL PACKAGE.

The solicitation package shall identify the acceptable response method, which shall be on-line responses submitted on the City's eProcurement system, hard copy responses, electronic responses or a combination of both. Hard copy and electronic media responses shall be submitted in a sealed envelope, which shall be clearly identified as a bid or proposal on the exterior of the envelope and delivered to the Procurement Office.

## 10.4 PUBLIC NOTICE.

Public notice of the solicitation shall be given not less than fourteen (14) calendar days prior to the date and time set forth in the notice for accepting submittal packages and opening of the submittal packages (unless a shorter time is deemed necessary for a particular procurement by the Procurement Manager). Such notice shall be given by publication on the City's eProcurement website, other various internet based posting websites and in the Procurement Office. The notice shall state the place, date and time of the solicitation opening. Solicitation notices shall be furnished to vendors registered in the eProcurement system for commodities related to the solicitation. Notices of availability shall indicate where, when and for how long solicitation package may be obtained; generally describe the supply, service, or construction desired; and may contain other appropriate information. Public notice for construction shall be in accordance with F.S. 255.0525.

## 10.5 SOLICITATION PACKAGE PROTEST

10.5.1 WRITTEN NOTICE OF PROTEST. Any person or vendor who is adversely affected by the City's Solicitation Package's contents shall file a written notice of protest with the Procurement Manager within 72 hours after the posting and release of the Solicitation Package by the City. Saturdays, Sundays, and City holidays shall be excluded in the computation of the 72-hour time periods provided by this paragraph.

10.5.2 FORMAL WRITTEN PROTEST. The formal written protest shall be filed within 5 business days after the date the notice of protest is filed. The formal written protest shall state with particularity the facts and laws upon which the protest is based.

10.5.3 WAIVER OF RIGHTS. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of the vendor's rights to protest the Solicitation Package.

## 10.6 QUESTIONS AND CLARIFICATION PERIOD

10.6.1 Vendors shall address all questions and request clarification for a Solicitation Package to the Purchasing Agent. Questions shall be submitted via the eProcurement questions & answer board and shall be received by the date and time stated in the Solicitation Package. All answers to questions submitted shall be published and answered in a manner that all vendors will be able to view prior to the date and time stated in the Solicitation Package or soon thereafter.

10.6.2 WAIVER OF RIGHTS. Failure to post a question or request for clarification by the established date and time shall constitute a waiver of the vendor's rights to protest the Solicitation Package.

## 10.7 RECEIPT, OPENING, AND RECORDING OF RESPONSES

10.7.1 RECEIPT. Receipt of submittal packages may be on-line in the City's eProcurement system or in hard copy or electronic format in the Procurement Office.



- 10.7.1.1 On-line responses and modifications shall remain sealed in the eProcurement system and will be electronically time stamped with the date and time submitted on-line.
- 10.7.1.2 Hard copy submittal packages and modifications shall be time-stamped, but not opened, and shall be stored in a secure place until the time and date set for bid opening.

10.8 OPENING AND RECORDING

On-line response and modifications shall be electronically unsealed on the City’s eProcurement site and/or hard copy or on-line responses opened publicly by the Purchasing Agent, or designee, and one (1) witness as soon after the time and place designated in the solicitation package. Submittal packages shall be read aloud and tabulation shall be made available for public inspection within twenty-four hours, excluding weekends and City holidays, after the opening of the solicitation. No late submittal packages shall be accepted or opened if received after the due date and time established in the solicitation package. It will be the bidder’s responsibility to make arrangements for the return of their submittal package at their expense.

10.9 PUBLIC AVAILABILITY

A copy of the solicitation package shall be made available for public inspection in the Procurement Division and on-line in accordance with Chapter 119.

10.10 PROVISIONS RELATED STRICTLY TO COMPETITIVE SEALED BIDDING – STATE AND FEDERAL FUNDED PROJECTS, INCLUSIVE OF LOCAL AGENCY PROJECTS “LAP”.

10.10.1 The provisions stated in this section apply to this specialized bidding method for STATE AND FEDERAL FUNDED PROJECTS, INCLUSIVE OF LOCAL AGENCY PROJECTS “LAP” projects.

10.10.2 USE OF COMPETITIVE SEALED BIDDING - Contracts shall be awarded by competitive sealed bidding.

10.10.3 PREPARATION FOR BIDDING

10.10.3.1 REQUESTING DEPARTMENT RESPONSIBILITIES PRIOR TO SUBMITTING PROJECTS FOR BID. The requesting Department shall be responsible for review functions prior to submitting the project to Procurement for bid preparations:

10.10.3.1.1 Reviewing all specifications for completeness and accuracy;

10.10.3.1.2 Reviewing all plans and drawings for completeness and accuracy;

10.10.3.1.3 Obtain all regulatory agency permits and submit copies of permits to Procurement for records retention;

10.10.3.1.4 Review and compare Engineer’s estimate by utilizing current pricing data established through recent contract bidding averages, commercial estimating guides for Public Works Projects and FDOT method of estimating. The Engineer’s estimate shall be valid and accurate with current reference data available. Department shall provide documentation and sources utilized for validating the Engineer’s estimate.

10.10.3.1.5 As required by FDOT the requesting Department shall utilize FDOT method of estimating to validate Engineer’s estimates for National Highway Systems projects.

10.10.3.2 SUBMITTING PROJECTS TO PROCUREMENT FOR BID - Upon meeting the requirements above, the Department shall submit the following documents to Procurement for bidding of the project:

10.10.3.2.1 Construction checklist shall be completed with all required signatures. The City’s Building Division shall review and approval all plans for ADA compliance prior to release of bid.

10.10.3.2.2 Copies of all permits and validation of Engineer’s estimate.

- 10.10.3.2.3 Bid general and technical specifications shall be submitted in a hard copy and digital format. One (1) complete set of plans/drawing in hard copy and digital format.
- 10.10.4 INVITATION TO BID – The invitation for bids is used to initiate competitive sealed bid procurement.
  - 10.10.4.1 An invitation for bids shall be issued and shall include a project description, specifications, reference for project-related documents, and contractual terms and conditions applicable to the procurement.
  - 10.10.4.2 Incorporation by Reference. The invitation for bids may incorporate documents by reference provided that the invitation for bids specifies where such documents can be obtained
  - 10.10.4.3 Acknowledgement of Addenda. The invitation for bids shall require the acknowledgment of the receipt of all addenda issued.
  - 10.10.4.4 BIDDING TIME. Bidding time is the period of time between the date of distribution of the invitation for bids and the time and date set for receipt of submittal packages. In each case, bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of three (3) weeks shall be provided.
- 10.10.5 BIDDER SELECTION
  - 10.10.5.1 REQUIREMENT. The City shall comply with FDOT/Federal requirements for selection of bidders.
- 10.10.6 EVALUATION AND AWARD
  - 10.10.6.1 EVALUATION. Procurement shall examine and certify submittal packages to ensure compliance with specifications and complete submittal of all required documents. An evaluation of all responsive submittal packages will be prepared by Procurement. The evaluation shall include all unit prices, extended prices, total project cost, completion timeframes, payment terms and variances referenced.
  - 10.10.6.2 SUBMITTAL OF EVALUATION TO FUNDING AGENCY. Procurement shall submit an evaluation for review and approval for award of contract.
  - 10.10.6.3 BASIS FOR AWARD. Award of bids shall be made to the bidder(s) which are deemed by the City and Funding Agency as being the lowest, responsive and responsible, meeting all the specifications set forth in the solicitation and provided that such bidder has met all other criteria as set forth in the bid requirements. In addition to proposed price, the City may consider the criteria that may be used in the awards including, but not limited to:
    - 10.10.6.3.1 Adheres to or exceeds all performance, technical specifications and contract requirements; or
    - 10.10.6.3.2 Start and completion time frames; or
    - 10.10.6.3.3 Guarantees and Warranties; or
    - 10.10.6.3.4 Company references and financial status; or
    - 10.10.6.3.5 Past experience with similar service; or
    - 10.10.6.3.6 Adherence to all required securities and other submittals with bid response.
- 10.10.7 NOTICE OF AWARD - The Funding agency and this policy's proper level of authority shall approve the award. Upon receiving the approval, a notice of award shall be provided as soon as practicable by the Purchasing Agent. Upon receipt of all required bidder contractual documents, a notice to proceed and purchase order shall be issued to the awarded bidder.
- 10.10.8 Specific procedures are provided for in a Standard Operating Procedure.

## 10.11 REQUEST FOR PROPOSAL – PROVISIONS

- 10.11.1 **CONDITIONS FOR USE.** A request for proposals may be used when the procurement requires experience, quality and price criteria for selecting a provider or the City is incapable of specifically defining the scope of work for which the commodities or contractual service is required or when the City is requesting that a qualified bidders to propose commodities or contractual services to meet the specifications of the solicitation package. The City's written determination must specify reasons that explain why flexibility and negotiation may be necessary in order for the City to achieve the best value. A request for proposals shall include, but is not limited to, general information, functional or general specifications, statement of work, proposal instruction and evaluation criteria. All requests for proposals shall state the relative importance of price and any other evaluation criteria. The City may engage in negotiations with the bidders or shortlisted bidders to determine whether they are also responsible bidder and for the purpose of clarification to assure full understanding of and conformance to the solicitation requirements. Bidders shall be accorded fair and equal treatment with respect to any opportunity for discussion and negotiation of price pursuant to Section — Proposal Discussions with Individual Bidders for the purpose of obtaining the best and final offer.
- 10.11.2 The key element in determining best value is the need for flexibility. The request for proposal method differs from competitive sealed bidding in two (2) important ways:
- 10.11.2.1 it permits discussion with competing bidders and allows negotiation of price; and
  - 10.11.2.2 it allows comparative subjective evaluations to be made when selecting among acceptable proposals for award of the contract.
- 10.11.3 **CONTENT OF THE REQUEST FOR PROPOSALS,** The request for proposals shall be prepared in accordance with Section — Invitation to Bids and shall also include:
- 10.11.3.1 a statement that discussions may be conducted with bidders who submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted without such discussions; and
  - 10.11.3.2 a statement of if, when and how price should be submitted.
- 10.11.4 **EVALUATION OF SUBMITTAL PACKAGES**
- 10.11.4.1 **EVALUATION FACTORS IN THE REQUEST FOR PROPOSALS.** The request for proposals shall state all of the evaluation factors, which includes price, and their relative importance.
  - 10.11.4.2 **EVALUATION.** The evaluation shall be based on the evaluation factors set forth in the request for proposals and the best interest of the City. Numeric rating systems may be used.
- 10.11.5 **PROPOSAL DISCUSSIONS WITH INDIVIDUAL BIDDERS -** Discussion may or may not be held with individual bidders prior to the evaluation and selection committee scoring the bidders. Discussions are held to:
- 10.11.5.1 facilitate a determination of who is a responsive and responsible bidder;
  - 10.11.5.2 promote understanding of the City's requirements and the bidders' proposals; and
  - 10.11.5.3 facilitate arriving at a contract that will be most advantageous to the City, taking into consideration price and the other evaluation factors set forth in the request for proposals and the best interest of the City.
- 10.11.6 **CONDUCT OF DISCUSSIONS.** Bidders shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. The Purchasing Agent should establish procedures and schedules for conducting discussions. If during discussions there is a need for any substantial clarification, the request shall be amended to incorporate such clarification.
- 10.11.6.1 Clarifications in the submittal packages may be made by the bidders after submission and prior to award. Any clarification to the submittal packages must be reduced to writing by the bidder and submitted to the Purchasing Agent.

- 10.11.6.2 Every precaution must be taken to assure fair and equal treatment of all bidders. Thus, responsive bidders must be afforded an equal opportunity to discuss and revise pricing.
- 10.11.6.3 Proposal information shall be public record to the extent provided by law, including the Public Records Act, Public Records Act, F.S. Chapters 119 and 286, and shall be available to the public as provided by law and applicable City ordinances and resolutions.
- 10.11.6.4 A date and time should be established for the submission of best and final offers and shall be communicated to all responsive bidders. After such time, bidders shall not be allowed to revise or withdraw their proposals. Only one best and final offer may be submitted by each bidder, and it must be clearly designated as such.
- 10.11.7 AWARD. The Purchasing Agent shall make a written determination showing the basis on which the award was found to be most advantageous to the City.
  - 10.11.7.1 Proposal information shall be a public record to the extent provided by law, including the Public Records Act, F.S. Chapter 119, and shall be available to the public as provided by law and applicable City ordinances and resolutions.

## 10.12 INVITATION TO NEGOTIATE PROVISIONS

- 10.12.1 CONDITIONS FOR USE - If the City determines that the use of an invitation to bid will not result in the best value to the City, Procurement may procure commodities and contractual services through an invitation to negotiate. The City's written determination must specify reasons that explain why flexibility and negotiation may be necessary in order for the City to achieve the best value. An invitation to negotiate shall be made available to all vendors simultaneously and must include a statement of the commodities or contractual services sought; the due date and time for the receipt of replies and of the public opening; and all terms and conditions applicable to the procurement, including the criteria to be used in determining the acceptability of the reply. If the City contemplates renewal of the contract, that fact must be stated in the invitation to negotiate.
- 10.12.2 The key element in determining best value is the need for flexibility. The invitation to negotiate method differs from competitive sealed bidding and request for proposals in two (2) important ways:
  - 10.12.2.1 it permits discussion with competing bidders and changes in their responses, scope/requirements and price; and
  - 10.12.2.2 it allows comparative subjective evaluations to be made when selecting among acceptable proposals for award of the contract.
- 10.12.3 EVALUATION OF SUBMITTAL PACKAGES
  - 10.12.3.1 EVALUATION FACTORS IN THE INVITATION TO NEGOTIATE. The invitation to negotiate should state all of the evaluation factors, which may include price, and their relative importance.
  - 10.12.3.2 EVALUATION. The evaluation should be based on the evaluation factors set forth in the invitation to negotiate and the best interest of the City. Numeric rating systems may be used.
- 10.12.4 DISCUSSIONS WITH INDIVIDUAL BIDDERS. Discussion may or may not be held with individual bidders prior to the evaluation a selection committee scoring the bidders. Discussions are held to:
  - 10.12.4.1 facilitate a determination of who is a responsible and responsive bidder;
  - 10.12.4.2 promote understanding of the City's requirements and the bidders' response; and
  - 10.12.4.3 facilitate arriving at a contract that will be most advantageous to the City, taking into consideration price and the other evaluation factors set forth in the request for proposals and the best interest of the City.
- 10.12.5 CONDUCT OF DISCUSSIONS. Bidders shall be accorded fair and equal treatment with respect to any opportunity for discussions and revise submittal packages. The Purchasing Agent shall establish procedures and schedules for conducting discussions.
  - 10.12.5.1 Clarifications, revisions and changes in the submittal package may be made by the

bidders after submission and prior to award. Any clarification or revision of the submittal package must be reduced to writing by the bidder.

10.12.5.2 Every precaution must be taken to assure fair and equal treatment of all bidders. Thus, responsive bidders must be afforded an equal opportunity to discuss and revise their submittal packages.

10.12.5.3 Proposal information shall be a public record to the extent provided by law, including the Public Records Act, F.S. Chapters 119 and 286, and shall be available to the public as provided by law and applicable City ordinances and resolutions.

10.12.6 EVALUATION AND SELECTION. The Evaluation and Selection Committee, as defined by the Procurement Manager or City Manager, shall evaluate and make selection in accordance with Section – Evaluation and Selection Committee.

10.12.7 NEGOTIATION. Following the Evaluation & Selection Phase, City, in its sole discretion, may enter into a Negotiation Phase with the short listed Bidders or the top ranked Bidder. City will have the option to negotiate Bidder’s submittal, including but not limited to proposed scope, pricing, timelines and value added features. If a Negotiation Phase is not used, City, in its sole discretion, may proceed in making an award based upon the Evaluation & Selection Phase.

10.12.7.1 Best and Final Offer Phase. Following the Negotiation Phase, if any, the City in its sole discretion may proceed in making an award, or may enter into a Best and Final Offer Phase. A Best and Final Offer Phase would allow the selected Bidders to modify responses, incorporating changes discussed during the Negotiation Phase.

10.12.7.2 If a Best and Final Offer Phase is not used, City may proceed in making an award by formalizing any and all negotiated changes to the submittal in writing, and submitting the revised Agreement to the Selected Bidder for review prior to making an award.

10.12.8 AWARD. The Procurement Manager shall make a written determination showing the basis on which the award was found to be most advantageous to the City.

### 10.13 PROCUREMENT OF CONSTRUCTION

10.13.1 APPLICATION - The provisions of this Section shall apply to all procurements of construction services.

#### 10.13.2 RESPONSIBILITY FOR SELECTION OF METHODS OF CONSTRUCTION SERVICES

10.13.2.1 The City shall use a state of Florida licensed and certified contractor, authorized by the State of Florida to perform prescribed construction services, or local specialty licenses for those services not licensed through the State of Florida but authorized through local jurisdictions. The Procurement Manager shall determine the method for obtaining and implementing construction contracting, unless the City Council directs the use of some other method, including:

10.13.2.1.1 City Construction Management.

10.13.2.1.2 Multiple contractors managed by:

10.13.2.1.2.1. A designated general contractor

10.13.2.1.2.2. Construction manager

10.13.2.1.2.3. Procurement agent

10.13.2.1.2.4. Design build

10.13.2.1.2.5. Any other commonly accepted construction method utilized by government or industry, which may be used to the benefit of the City.

10.13.2.2 The process shall be in accordance with this policy and dependent upon the type of activity and estimated cost.

#### 10.13.3 RIGHT OF CONSTRUCTION CONTRACT CHANGE

- 10.13.3.1 CITY-INITIATED CHANGE ORDERS. The City shall have the right based on the terms contained in each construction contract, to require changes in quantities, additions or deletions of work or other changes within the original intent of the contract. All changes to construction contracts must be approved in advance by the authorized level of authority. Refer to Section — Change Orders to Contracts and Agreements.
  - 10.13.3.2 CONTRACTOR-REQUESTED CHANGE ORDERS. Change orders may be requested by contractors, in accordance with the Agreement, for such things as unforeseen field conditions, regulatory, acts of God, and justifiable delays. All changes to construction contracts must be approved in advance by the authorized level of authority. Refer to Section — Change Orders to Contracts and Agreements.
  - 10.13.3.3 FORM. All changes to construction contracts that alter the terms and conditions of the Agreement or provide for a change in scope of the project beyond the original intent, must be contained in a Change Order or Formal Amendment to the Agreement. Refer to — CHANGE ORDERS TO CONTRACTS AND AGREEMENTS.
- 10.14 PROCUREMENT OF ARCHITECTURAL, ENGINEERING, LANDSCAPE ARCHITECTURAL, AND SURVEYING/MAPPING SERVICES, PURSUANT TO F.S. 287.055
- 10.14.1 PROCUREMENT UNDER F.S. 287.055 THRESHOLDS. This provision does not apply to the procurement of architectural, engineering, landscape architectural and surveying/mapping services below Florida Statute prescribed current thresholds at the time the procurement request is submitted to Procurement.
  - 10.14.2 REQUEST FOR QUALIFICATIONS SOLICITATION. Procurement of services shall be in accordance with the F.S. 287.055, Consultant's Competitive Negotiations Act (CCNA)
    - 10.14.2.1 The Department shall complete a request for services and submit to the Procurement Manager.
    - 10.14.2.2 Services shall be procured based on an existing contract, engineering library or a request for qualifications will be sent to an appropriate list of vendors, and the submittal packages received shall be considered in accordance with this Section.
  - 10.14.3 REVIEW OF QUALIFICATIONS. A duly appointed evaluation and selection committee shall review all qualifications and submittals of those persons responding to the request for qualifications.
  - 10.14.4 SHORT LIST. The evaluation and selection committee shall reduce the number of bidders (short list) to at least three (3) of the highest ranking firms. If fewer than three (3) qualified, responsive and responsible bidder, the short list will be based on the total qualified bidders.
  - 10.14.5 DISCUSSIONS. Prior to or after short-listing the firms, the evaluation and selection committee may request presentations or interviews. Such discussions may encompass formal presentations by each bidder. The requirements of presentations or discussion will be the same for each bidder presenting or being interviewed.
  - 10.14.6 RANKING OF BIDDERS. The members of the evaluation and selection committee, after presentations/interviews by each short-listed bidder, will vote on the final ranking. The ranking of bidders shall indicate the committee's view of the bidder that will best serve the interest of the City.
  - 10.14.7 NEGOTIATIONS. The evaluation and selection committee will nominate a member of the committee to assist Procurement in the negotiations of an Agreement with the highest-ranked bidder to perform services at a price and terms, which the City determines to be fair and reasonable. If the City is unable to negotiate a satisfactory contract with the bidder obtaining the highest ranking, negotiations with that bidder shall be formally terminated. City shall undertake negotiations with the second-ranked bidder. If these negotiations also prove unsatisfactory, negotiations shall again be terminated and the City will negotiate, in turn, with each bidder in accordance with their ranking by the committee, until an agreement is reached or the short list is exhausted. When a short list is exhausted, the committee shall select additional qualified bidders with which to attempt to negotiate a contract, in the order of their competence and qualifications.

- 10.14.8 REIMBURSABLE ITEMS. The negotiating team shall consider reimbursable items as necessary or desirable for each Agreement under consideration. If an Agreement is to contain reimbursable items, the Agreement shall have a limitation as to the types of reimbursable item included and the maximum monetary amount to be paid by the City.
- 10.14.9 TRUTH-IN-NEGOTIATIONS. For any lump-sum or cost-plus-a-fixed-fee professional service contract over \$150,000, the firm receiving the award shall execute a truth-in-negotiations certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting. Any professional service contract under which such a certificate is required shall contain a provision that the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the City determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of the contract.
- 10.14.10 PROHIBITION AGAINST CONTINGENT FEES. The City shall be responsible for assuring that all contracts for professional services contain the required "prohibition against contingent fees" as contained in F.S. 287.055.
- 10.14.11 AWARD OF CONTRACT. At the successful conclusion of negotiations, an Agreement award will be recommended to the appropriate level of award authority for approval.
- 10.15 PROCUREMENT OF PROFESSIONAL SERVICES (NON-CCNA) MANDATORY FORMAL SEALED SOLICITATION THRESHOLD
  - 10.15.1 Professional Services at or above the mandatory formal sealed solicitation threshold amount and not required to be procured pursuant to the Consultant's Competitive Negotiations Act, shall be procured by invitation to bid, request for proposal or invitation to negotiate in accordance with this Policy.
  - 10.15.2 All general services at or above the mandatory bid amount whereby a price and other criteria may be quantitatively evaluated shall be acquired by a procurement method as deemed appropriate.
- 10.16 SMALL PURCHASES OF PROFESSIONAL SERVICES
  - 10.16.1 The Procurement Manager is authorized to enter into award, multiple awards, open-end, fixed, or any other types of contracts for professional services not covered by CCNA requirements below the mandatory bid amount, and CCNA Professional Services under the designated threshold.

## 11. EVALUATION AND AWARD - FORMAL BIDS AND QUOTES

### 11.1 EVALUATION

- 11.1.1 QUALIFICATION OF SUBMITTAL PACKAGES – Procurement shall review all submittal package received to verify all material requirements have been satisfied in accordance with the solicitation package. Those responses deemed to be responsive and responsible shall be submitted to the department for evaluation.
- 11.1.2 EVALUATION OF SUBMITTAL PACKAGES – Procurement shall prepare an evaluation package for the requesting department. The package shall include, but not be limited to, the following:
  - 11.1.2.1 Detailed evaluation – The detailed evaluation shall be in the form of a table or spreadsheet and shall identify the following as they may apply:
  - 11.1.2.2 Minimum qualification requirement and Procurement's verification of Bidder's meeting or failure to meet these requirements;
  - 11.1.2.3 Price schedule by item, quantities and shall state all pertinent information relating the individual items;
  - 11.1.2.4 Extended price for responses received;
  - 11.1.2.5 Bidder's responses to specific terms, such as, delivery, payment terms, variances, and other special conditions as they may apply;
  - 11.1.2.6 Maximum percentage increase responses shall be applied to the total unit prices and extended prices when applicable and requested in a term contract. The maximum

percentage increase shall be utilized in the overall evaluation of price in term contact solicitations.

11.1.2.7 Procurement has the option to utilize evaluation scenarios in the case of unit price term contract solicitations, which have unknown estimated quantities, to determine the overall lowest bidder.

11.1.2.8 Payment discounts, which grant a discount for payment by the City within thirty (30) days or more from the invoice date will be utilized in the overall price evaluation.

11.1.2.9 Bidder's responses as deemed applicable.

11.1.2.10 Reference surveys as deemed applicable.

11.1.3 The Department shall submit a recommendation for award to Procurement based on the evaluation packages provided by Procurement.

## 11.2 BASIS FOR AWARD.

11.2.1 Award of bids and quotes shall be made to the bidder(s) who is deemed by the City as being the lowest, responsive and responsible bidder meeting all material aspects and the specifications set forth in the solicitation package. In addition to proposed price, the City may consider the criteria that may be used in the award including, but not limited to:

11.2.1.1 Adheres to or exceeds all performance, technical specifications and contract requirements; or

11.2.1.2 Delivery time frame or, if services, start and completion time frames; or

11.2.1.3 Guarantees and Warranties; or

11.2.1.4 Company references and financial status; or

11.2.1.5 Past experience with similar services, materials or equipment; or

11.2.1.6 Length of time committed for firm pricing; or

11.2.1.7 Adherence to all required securities and other submittals with response.

11.2.2 The City reserves the right to use both primary and secondary vendors/contractors or to use multiple vendors to protect the City's overall interests.

11.2.3 **PRODUCT ACCEPTABILITY.** The solicitation package may set forth evaluation criterion to be used in determining product acceptability. It may require the submission of bid samples, descriptive literature, technical data, or other material. It may also provide for accomplishing any of the following prior to award:

11.2.3.1 inspection or testing of a product prior to award for such characteristics as quality or workmanship, or

11.2.3.2 examination of such elements as appearance, finish, taste, or feel; or

11.2.3.3 demonstration of product or equipment proposed; or

11.2.3.4 other examinations to determine whether it conforms to any other purchase description requirements.

11.2.3.5 The acceptability evaluation is not conducted for the purpose of determining whether one bidder's item is superior to another but only to determine that a bidder's offering is acceptable as set forth in the solicitation package. Any bidder's offering, which does not meet the acceptability requirements, shall be rejected as non-responsive.

11.2.4 **DETERMINATION OF LOWEST BIDDER.** Following determination of product acceptability, if any is required, the submittal package will be evaluated to determine which responsive and responsible bidder offers the lowest cost to the City in accordance with the evaluation criteria. Examples of such criteria include, but are not limited to, transportation cost, and ownership or life cycle cost formulas. Evaluation factors need not be precise predictors of actual future cost, but to the extent possible such evaluation factors shall:

11.2.4.1 be reasonable estimates based upon information the City has available concerning past,



current or future use; and

11.2.4.2 treat all submittal packages equitably.

11.2.5 WAIVE LOWEST BIDDER AWARD. In the event the Department recommends award of the solicitation to other than the lowest bidder, the Department shall prepare a justification stating their reason for requesting a waiver and risks that may result in awarding the Agreement to the lowest bidder. The Purchasing Agent shall prepare the waiver package for the Procurement Manager's review. The Procurement Manager will advise the City Manager and/or City Council if he/she is in agreement with the waiver request and shall submit the waiver package in accordance with the below thresholds:

11.2.5.1 Requests defined as a Small Dollar Procurement request shall be submitted to the City Manager for review and approval or decline of the award based on the waiver request.

11.2.5.2 Requests defined as a Sealed Competitive Procurement request shall be submitted to the City Council for their review and approval or decline of the award based on the waiver request.

11.2.6 RESTRICTIONS. Nothing in this Section shall be deemed to permit contract award to a bidder submitting a higher quality item than that designated in the solicitation, if such bidder is not also the lowest as determined under this Section.

### 11.3 SUBMITTAL PACKAGES EXCEEDING BUDGET APPROPRIATIONS

If all submittal packages received are above the budget appropriation for such contract, the Procurement Manager may negotiate with the lowest bidder a price at or below the budget estimate or may reject all submittal packages. However, the Department shall provide Procurement with documentation of the budget indicating the funds appropriated for the commodity or service. This documentation may include departmental budget worksheets processed in support of the appropriated budget. Revision to the material aspects of the solicitation package, such as scope, specifications, quality, agreement/terms and conditions, quantities and prices, is prohibited.

### 11.4 LOW TIE BIDS

11.4.1 DEFINITION. Low tie bids are low responsive submittal packages from responsible bidders that are identical in price.

11.4.2 TIE BIDS. If two (2) or more bidders are tied, the tie may be broken and the successful bidder selected in accordance with the best interest of the City, and the following may be given consideration:

11.4.2.1 Quality of the items or services bid if such quality is ascertainable.

11.4.2.2 Delivery time, if provided in the response by the bidders.

11.4.2.3 Certification of a "Drug Free Workplace Program" which meets criteria established in F.S. 287.087 for Local Agency Projects.

11.4.2.4 Location of the vendor with the following award preferences: 1) A City of Punta Gorda vendor; 2) A Charlotte County vendor; 3) A Florida Vendor.

11.4.2.5 If the above criteria are impossible to determine with any reasonableness or do not resolve the issue, the award may be given to that bidder whose submittal package was received earliest in time by the City as indicated by the electronic submission of an on-line response and or the time clock stamp impressed upon the response of each bidder.

### 11.5 NOTICE OF AWARD

The award shall be approved by the policy's proper level of authority. Upon receiving the approval, a notice of award shall be provided as soon as practicable by the Purchasing Agent.

### 11.6 DISPOSITION OF SOLICITATION

When submittal packages are rejected, or a solicitation canceled after submittal packages are received, the submittal packages that were received prior to the due date and time shall be retained in the procurement file, or, if unopened, returned to the bidders upon request and at their expense.

## 12. **EVALUATION AND SELECTION COMMITTEES**

### 12.1 EVALUATION AND SELECTION COMMITTEE (ESC)

The ESC shall consist of a minimum of three (3) City employees, which shall be ad hoc for each instance and appointed by the City Manager or the Procurement Manager.

### 12.2 COMMITTEE CHAIR

The ESC will appoint the Committee Chair.

### 12.3 COMMITTEE CONSULTANT

The assigned Purchasing Agent, City Attorney or their designees shall serve as consultants to the ESC without any voting privileges or powers to evaluate any proposer.

### 12.4 ROLE OF PURCHASING AGENT

12.4.1 In the absence of an ESC meeting, the Purchasing Agent or designee shall be the only form of contact with the bidders until a contract has been successfully negotiated and awarded.

12.4.2 The Purchasing Agent or designee will be responsible for receiving all negotiation documentation and shall distribute to the ESC.

### 12.5 MEETINGS

All meetings of the ESC or any form of evaluation shall comply with the F.S. Chapters 119 and Chapter 286.

### 12.6 COMMUNICATION

All ESC communication shall comply with the F.S. Chapters 119 and Chapter 286.

### 12.7 PRESENTATIONS/INTERVIEWS

All presentations and interviews shall comply with the F.S. Chapters 119 and Chapter 286.

### 12.8 ETHICS

The ESC members or any other evaluation persons shall comply with the Code of Ethics for Public Officers and Employees and shall sign an ESC COMMITTEE MEMBER STATEMENT.

### 12.9 RECOMMENDATION TO AWARD AUTHORITY

After an agreement has been reached, the Procurement Manager will prepare the recommendation for award, which will indicate the fee schedule and/or contract price, and present to the appropriate award authority. If necessary, the Procurement Division will prepare the agenda package for City Council. The agenda package shall include, but not be limited to, cover sheet, final agreement, and ESC meeting minutes.

### 13. **COMPETITIVE NEGOTIATIONS**

#### 13.1 CONDITIONS FOR USE OF COMPETITIVE NEGOTIATION PROCUREMENT

13.1.1 Competitive negotiation procurement is not permissible unless the intended purchase meets the following requirements:

13.1.1.1 Purchase is for historical materials; and/or

13.1.1.2 Purchase is for used equipment or materials.

#### 13.2 GENERAL

13.2.1 All specifications, variance allowances and justification for the requirement of historical and/or used materials and/or equipment shall be drafted by the Department and submitted to Procurement for review.

13.2.2 DETERMINATION. The Procurement Manager shall determine whether or not the purchase of materials or equipment is justified under this section. Such determination and the basis therefore, shall be submitted in writing to the authorized level of authority for approval or denial.

13.2.3 In all instances the Purchasing Agent shall attempt to locate at least three (3) suppliers and negotiate the price and terms and conditions for the procurement. All research and negotiations shall be documented. The Purchasing Agent shall prepare an evaluation and recommendation for award for the Department to complete and justify their recommendation for award.

#### 13.3 AWARD.

The award recommendation shall be made to the vendor who has the submittal that best meets the procurement, with favorable price(s) and is deemed to be in the best interest of the City. The documentation shall be submitted to the Procurement Manager for approval to submit the intended award to the authorized level of authority for award.

### 14. **SOLE/SINGLE SOURCE PROCUREMENT**

#### 14.1 CONDITIONS FOR USE OF SOLE/SINGLE SOURCE PROCUREMENT

14.1.1 CONDITIONS. Sole/Single source procurement is not permissible unless a requirement is available from only a sole/single source. A requirement for a particular proprietary item does not justify sole/single source procurement if there is more than one potential bidder for that item. The following are examples of circumstances which could necessitate sole/single source procurement:

14.1.1.1 where the compatibility of equipment, accessories, or replacement parts is the paramount consideration; or

14.1.1.2 where a sole Vendor's item or service is needed for trial use or testing; or

14.1.1.3 where a sole Vendor's item is to be procured for resale; or

14.1.1.4 where a sole Vendor's item or service is not available from another source; or

14.1.1.5 when the manufacturer authorizes a sole vendor to sell to the City.

#### 14.2 GENERAL

14.2.1 All specifications shall be drafted to promote overall economy for the purposes intended, to encourage competition in satisfying the City's need, and shall not be unduly restrictive so as to limit availability to a single source.

14.2.2 DETERMINATION. The determination as to whether procurement shall be made as a sole/single source shall be made by the authorized level of authority. Such determination and the basis therefore, shall be submitted in writing to the authorized level of authority for approval or denial. Any request by a User Department that a procurement be restricted to one (1) potential contractor shall be accompanied by with the City's Sole/Single Source Request form with a detailed explanation as to why no other will be suitable or acceptable to meet the need. The documentation shall be submitted to the Procurement Manager for approval to release a Notice of Intended Decision to Enter Into a Sole/Single Source Contract.

14.2.3 DETERMINATION BY PURCHASING AGENT. All research conducted shall be documented when a Sole/Single Source procurement is identified by the Purchasing Agent. The documentation shall

be submitted to the Procurement Manager for approval to release a Notice of Intended Decision to Enter Into a Sole/Single Source Contract.

#### 14.3 NOTICE OF INTENDED DECISION TO ENTER INTO A SOLE/SINGLE SOURCE CONTRACT

14.3.1 POSTING. The Purchasing Agent shall complete the Notice of Intended Decision to Enter Into a Sole/Single Source Contract and release on the City's eProcurement site for a minimum of seventy-five (75) hours, excluding Saturday, Sunday and City observed holiday.

14.3.2 PROTEST. Any vendor shall have the right to submit a written protest to the City's intended decision within seventy-two (72) hours from the date and time the notice was released on the City's eProcurement system to the Procurement Manager. A vendor's failure to submit a written protest within this timeframe shall constitute a waiver of the vendor's right to protest.

14.3.3 CONCLUSION. The appropriate level of authority will authorize the award to the intended vendor in the absence of a written protest duly filed by the deadline to the Procurement Manager.

14.3.4 EFFECTIVE TIME. The sole/single source documentation shall remain effective for a period of one (1) year after award and additional awards may be made based on original conclusion.

#### 14.4 NEGOTIATION

The Purchasing Agent shall have the right to negotiate as appropriate as to price, delivery and terms with the intended vendor upon the Procurement Manager's authorization to award. Negotiation of scope shall not be allowed.

#### 14.5 RECORD OF SOLE/SINGLE SOURCE PROCUREMENT

For the purpose of complying with this Section, a record of sole source procurement shall be maintained that states the contractor's name; the amount and type of each contract; a listing of the commodities, services, or construction procured under each contract; and the identification number of each contract file/purchase order and all documentation. All purchases under this category in the amount of \$25,000.00 or more shall be reported to Council on a monthly basis.

### 15. **EMERGENCY PROCUREMENT**

#### 15.1 EMERGENCY PROCUREMENT

Notwithstanding any other provision of this Policy, the City Manager or Procurement Manager may make or authorize others to make emergency procurements when a threat to public health, welfare, property, safety or other substantial loss to the City under emergency conditions exists.

#### 15.2 DEFINITION OF EMERGENCY CONDITIONS

An emergency condition is a situation which creates impairment to public health, property, welfare, safety or other substantial loss as may arise by reason of floods, epidemics, riots, equipment failures, substantial loss or such other reason as may be proclaimed by the City Manager. The existence of such condition creates an immediate and serious need for commodities, services, or construction that cannot be met through normal procurement methods and the lack of which would impair the operations of City government, the preservation or protection of property, or the health or safety of any person, or would be detrimental to the best interest of the City.

#### 15.3 SCOPE OF EMERGENCY PROCUREMENT

Emergency procurement shall be limited to those commodities, services, or construction items reasonably necessary to meet the emergency.

#### 15.4 SOURCE SELECTION METHODS

15.4.1 GENERAL. The procedure used for any emergency purchase shall be selected to assure that the required commodities, services, or construction items are procured in time to meet the emergency. Given this constraint, such competition as is practicable shall be utilized.

15.4.2 AFTER UNSUCCESSFUL COMPETITIVE SOLICITATIONS. Competitive solicitations are unsuccessful when submittal packages received pursuant to a solicitation are unreasonable, noncompetitive, or the low bid exceeds available funds, and time or other circumstances will not permit the delay

required to re-solicit competitive sealed bids/proposals. If emergency conditions exist after an unsuccessful attempt to use competitive solicitation, an emergency procurement may **be made**.

#### 15.5 DETERMINATION AND RECORD OF EMERGENCY PROCUREMENT

15.5.1 DETERMINATION. The Department Director of the User Department shall make a written justification stating the basis for an emergency procurement and for the recommended selection of the particular contractor. Such determination shall be sent promptly to the City Manager and the Procurement Manager for review, approval or denial.

15.5.2 RECORD. A record of each emergency procurement shall be made as soon as practicable and shall set forth the contractor's name; the amount and type of the contract; a listing of the commodities, services, or construction procured under the contract; and the identification number of the contract file/purchase order. All purchases under this category in the amount of \$25,000.00 or more shall be reported to Council on a monthly basis.

### 16. EXCEPTIONS/EXEMPTIONS

#### 16.1 EXCEPTIONS

16.1.1 RESERVED FOR CITY COUNCIL In addition to other authority specifically reserved to the City Council in this Policy, the authority for approving the following types of purchases and contracts shall remain vested in the City Council:

16.1.1.1 FRANCHISE. All franchise agreements shall be approved by the City Council.

16.1.1.2 IntER-LOCAL AGREEMENTS. All inter-local agreements require the approval of the City Council.

16.1.1.3 LAND. All purchases of land require the approval of the City Council.

16.1.1.4 LEGAL, AUDITING, AND ACTUARIAL SERVICES. All contracts for legal, auditing and actuarial services are exempt from any provisions of this Policy. Legal Services include services of expert witnesses, court reporters, appraisers and other services as determined by the City Attorney.

16.1.1.5 MediCAL DIRECTOR. Any contract with a medical doctor to serve as medical director for the City shall require City Council approval and is exempt from any provisions of this Policy.

#### 16.2 EXEMPTIONS

16.2.1 EXEMPTIONS. The Procurement Manager, City Manager and City Council shall have the authority to purchase the following types of commodities and services without regard to the provisions of this Policy. The award authority levels in this policy shall apply to these purchases.

16.2.1.1 Services involving special skill, ability, training or expertise and which are, in their nature, unique, original or creative; and

16.2.1.2 The purchase of advertising, legal notice publication, utility services (including, but not limited to, electric, water, cable TV, communication and telephone services), dues and memberships in trade or professional organizations, subscriptions to periodicals and professional publications, reference books and materials, and similar products and services; and

16.2.1.3 Contracts for the provision of academic programs, reviews, lectures or seminars; and

16.2.1.4 Contracts for health services involving examination, diagnosis, treatment, prevention, medical consultation or administration; and

16.2.1.5 Contracts for performing arts, entertainers, and artistic services which are original and creative in character and skill; and

16.2.1.6 Contracts for maintenance service for equipment, when considered by the Procurement Manager to be in the best interest of the City and when recommended by the User Department, and when the services are to be performed by the equipment manufacturer, manufacturer's service representative, a distributor of the

manufacturer's equipment, or when at least three (3) responsible providers of the service have been evaluated; and

16.2.1.7 Purchases from petty cash under policies adopted and implemented by the Procurement Manager.

16.2.1.8 Owner Direct Purchase Program may be utilized to purchase goods, materials and equipment the cost of which has been incorporated as a part of a competitively solicited project.

## 17. **WAIVING PROCUREMENT REQUIREMENTS**

### 17.1 WAIVER PROCESS

17.1.1 The process of waiving procurement requirements shall be closely scrutinized and monitored for valid reasoning and justification. This process shall not be treated lightly by the approving authorities as it is not a preferred practice but may be necessary to obtain goods and services in the best interest of the City.

17.1.2 The requesting department shall prepare a written waiver request including:

17.1.2.1 Complete details of the goods/services required for purchase; and

17.1.2.2 Why the purchase is requiring special treatment, and

17.1.2.3 Why waiving the procurement requirements are in the best interest of the City.

17.1.3 The request shall be signed by the Department Director and submitted to Procurement for review.

17.1.4 Following is an example unacceptable justifications for waiving the procurement requirements:

17.1.4.1 "The vendor will save the City money"

17.1.4.2 "The vendor works well with the City"

17.1.5 The Purchasing Agent shall submit all documentation for the Procurement Manager's review. The Procurement Manager will advise the City Manager and/or City Council if he/she is in agreement with the waiver request and submit the waiver package in accordance with the below thresholds:

17.1.5.1 Requests defined as a Small Dollar Procurement request shall be submitted to the City Manager for review and approval or decline of the award based on the waiver request.

17.1.5.2 Requests defined as a Sealed Competitive Procurement request shall be submitted to the City Council for their review and approval or decline of the award based on the waiver request.

## 18. **AWARD AUTHORITY**

### 18.1 AUTHORITY LEVELS

18.1.1 **AWARD AUTHORITY.** The authority levels to award the procurement of goods and services will range from an Authorized Department Delegated Buyer, Procurement Manager, City Manager, and/or City Council authority to approve. In all instances any one of the authority levels may request higher authority to approve the purchase.

18.1.2 **DEPARTMENT DELEGATED BUYER.** The department-delegated buyer is authorized to award Field Purchase Orders or Purchasing Card purchases for commodities, fixed assets and services off of City Property based on the following maximum thresholds:

18.1.2.1 Department Directors, Managers, Supervisors in an amount under two thousand, five hundred dollars (\$2,500.00);

18.1.2.2 Administrative staff with management approval in an amount under two thousand, five hundred dollars (\$2,500.00); and

18.1.2.3 Field staff in an amount under one thousand, five hundred dollars (\$1,500.00)

18.1.2.4 Due to the fact that there is no competition in procuring seminars,

registrations, books, hotel registrations and other educational or association expenses, the department-delegated buyer is not limited on these purchases.

- 18.1.3 **PROCUREMENT MANAGER.** The Procurement Manager has the authority to approve all purchases as follows:
  - 18.1.3.1 Commodities and contractual or construction services up to and including Fifty Thousand Dollars (\$50,000.00);
  - 18.1.3.2 Sole/single source purchases up to and including Twenty Five Thousand Dollars (\$25,000.00);
  - 18.1.3.3 Emergency purchases up to and including Twenty Five Thousand Dollars (\$25,000.00);
  - 18.1.3.4 Professional and Consultant Services up to and including Twenty Five Thousand Dollars (\$25,000.00); and
  - 18.1.3.5 Exempt Purchases up to and including Twenty Five Thousand Dollars (\$25,000.00).
  - 18.1.3.6 Exceptions to the award authority are listed as sole City Council approval.
- 18.1.4 **CITY MANAGER.** The City Manager has the authority to approve all purchases as follows:
  - 18.1.4.1 Commodities and contractual or construction services which are estimated to be up to and including Two Hundred and Fifty Thousand Dollars (\$250,000.00);
  - 18.1.4.2 Sole/single Source purchases up to and including Fifty Thousand (\$50,000.00);
  - 18.1.4.3 Emergency Procurements exceeding Twenty Five Thousand Dollars (\$25,000.00);
  - 18.1.4.4 Professional and Consultant Services up to and including Fifty Thousand Dollars (\$50,000.00); and
  - 18.1.4.5 Exempt purchases up to and including Fifty Thousand (\$50,000.00); and
  - 18.1.4.6 Waiver of Procurement Requirement up to and including Fifty Thousand (\$50,000.00).
  - 18.1.4.7 Exceptions to the award authority are listed as sole City Council approval.
- 18.1.5 **CITY COUNCIL.** The City Council shall approve the award of the following purchases:
  - 18.1.5.1 Commodities, equipment, construction and contractual services which are estimated to exceed Two Hundred and Fifty Thousand Dollars (\$250,000.00);
  - 18.1.5.2 Sole/single source purchases exceeding Fifty Thousand Dollars (\$50,000.00);
  - 18.1.5.3 Professional and Consultant Services exceeding Fifty Thousand Dollars (\$50,000.00);
  - 18.1.5.4 Exempt purchases exceeding Fifty Thousand Dollars (\$50,000.00); and
  - 18.1.5.5 Waiver of Procurement Requirement exceeding Fifty Thousand (\$50,000.00); and
  - 18.1.5.6 All exceptions, which include: franchise and inter-local agreements, land and real estate purchases.

## 19. **SOLICITATION PROTESTS**

### 19.1 SOLICITATION PROTEST POLICY

Any person whose submittal package is rejected, in whole or in part, or who submits a submittal package but is not awarded the contract may protest such decision, but only in strict compliance with this Section.

### 19.2 SOLICITATION PROTEST PROCEDURE

- 19.2.1 **WRITTEN NOTICE; TIME.** Any person who wishes to file a solicitation protest hereunder must file a notice of intent to do so, in writing, with the City Manager within twenty-four (24) hours, excluding Saturday, Sunday, and City observed holidays, after receipt of the notice of rejection, for rejected submittal packages, or, for contract awards, within twenty-four (24) hours after the City's declaration of its intention with regard to such award.

- 19.2.2 WRITTEN PROTEST; TIME; CONTENTS. Within five (5) City business days after filing the written notice of intent to protest, a formal written protest must be filed with the City Manager, explaining in detail the nature of the protest and the grounds upon which it is based.
- 19.2.3 PROTEST BOND. Each written protest must be accompanied by a solicitation protest bond in the form of a certified check, cashier's check or money order made payable to the City of Punta Gorda, in an amount not less than:
  - 19.2.3.1 Five percent (5%) of the protester's bid, proposal or quote amount; or
  - 19.2.3.2 In the case of submission of a "no-bid" by the protestor in the amount not less than five percent (5%) of the lowest responsive, responsible submittal package received by the City or in the case of a request for proposals or invitation to negotiate in the amount of not less than five percent (5%) of the intended contract to be awarded or awarded by the City; or
  - 19.2.3.3 In the case of Request for Qualifications in the amount of two thousand dollars (\$2,000.00); or
  - 19.2.3.4 In the case of a term contract, which is absent of "annual estimated volume/usage", in the amount of two thousand dollars (\$2,000.00).
- 19.2.4 FORFEIT OF BOND. The condition of the protest bond shall be that, should the protest be determined to be without merit and non-valid, the bond shall be forfeited to the City in its entirety.

19.3 SOLICITATION PROTEST CONSIDERATION

- 19.3.1 PROTEST DECISION. Upon receipt of a formal written protest, the City Attorney or designee shall act as the bid protest officer, and who shall be provided all applicable documents and files by the Procurement Manager. The City Attorney or designee shall decide the protest, provide written findings of fact and a conclusion as to the validity or non-validity of the protest to the City Manager within ten (10) City business days after receipt by the City of the formal written protest.
- 19.3.2 NOTICE OF DECISION. Within twenty-four (24) hours after decision on a protest the City Manager shall mail a copy thereof to the protestor.

**20. CHANGE ORDERS TO CONTRACTS AND AGREEMENTS**

20.1 CHANGE ORDER AUTHORITY

- 20.1.1 Authority levels have been assigned for change order dollar amounts and contract time extensions.

20.2 CITY REPRESENTATIVE FOR NON-CONSTRUCTION

- 20.2.1 The City Representative or Project Manager has the authority to approve change order requests in an amount under one thousand (\$1,000.00) and may approve requests for contract time extensions not to exceed five (5) days. Minor non-monetary changes, which do not result in a change in the contract amount, may also be approved by the City Representative or Project Manager.

20.3 CITY PROJECT MANAGER FOR CONSTRUCTION

- 20.3.1 The construction Project Manager has the authority to approve change order requests in an amount under five thousand (\$5,000.00), which shall be subject to availability of funds, and may approve requests for contract time extensions not to exceed five (5) days. Minor non-monetary changes, which do not result in a change in the contract amount, may also be approved by the construction Project Manager.



## 20.4 PROCUREMENT MANAGER

20.4.1 The Procurement Manager may approve change orders in a singularly or cumulatively amount that does not exceed 25% of the total contract price with a maximum cap of fifty thousand dollars (\$50,000.00) with the exception of contracts requiring City Council's approval for an award. The Procurement Manager may authorize contract time extension in excess of five (5) days and non-monetary changes, which are not considered minor, which do not result in a change in the contract amount.

## 20.5 CITY MANAGER

20.5.1 The City Manager may approve all change orders with the exception of contracts that require the City Council's approval.

## 20.6 CITY COUNCIL

20.6.1 The City Council shall approve change orders for exemption contract that are reserved for City Council approval (i.e. Franchises, inter-local agreements, land, legal, auditing, actuarial services and medical director).

## 20.7 FAILURE TO COMPLY

### 20.7.1 CITY STAFF.

20.7.1.1 All City staff shall comply with this section of the Policy.

20.7.2 Failure to comply shall result in the Department Director submitting a "Notice of Non-Compliance" form to the Procurement Manager.

20.7.2.1 All forms will be submitted to the City Manager for signature. If payment was not made by purchasing card, the invoice will not be paid until all signed documents are received in Procurement.

20.7.2.2 Repetitive failure to comply with the Procurement Policy shall result in a referral by the Procurement Manager, Finance Director or City Manager to the Human Resource Division.

20.7.3 **VENDOR.** Vendors non-compliance with this section and they begin work on unauthorized changes to the procurement prior to receiving a signed Change Order, by the City's appropriate level of authority, do so at their own expense and risk not being compensated by the City for performing unauthorized work.

## 21. **DELEGATION OF PURCHASING AUTHORITY**

### 21.1 PURPOSE

In order to facilitate the timely purchase of small dollar items, which are needed by departments of the City, a delegation of purchasing authority utilizing Field Purchase Orders or Purchasing Card, will be granted to all employees in accordance with SECTION – AWARD AUTHORITY and upon attending a mandatory training class presented by Procurement.

### 21.2 EXCLUSIONS

21.2.1 Exclusions to the Department Delegated buyer threshold shall be limited to the following transactions types:

21.2.1.1 Memberships and registration to professional association educational training events and activities; and

21.2.1.2 Hotels; and

21.2.1.3 Regulatory permits.

### 21.3 MANDATORY TRAINING

Upon mandatory training the City employee will be designated and authorized as a Delegated Department Buyer.

## 21.4 RESPONSIBILITIES OF THE DELEGATED DEPARTMENT BUYER

### 21.4.1 Responsibilities shall be:

- 21.4.1.1 Validation of available funds;
- 21.4.1.2 Validation the purchase is in accordance with the City's Procurement Policy;
- 21.4.1.3 Ensure the purchase is in the best interest of the City;
- 21.4.1.4 Obtain Division/Department supervisory approval; and
- 21.4.1.5 Validating receipt of goods/off site services and invoice processing, inclusive of processing all documentation.
- 21.4.1.6 Exclusions from delegated purchasing authority include:
  - 21.4.1.6.1 On-site services not on contract; and
  - 21.4.1.6.2 Purchases exceeding authority threshold and or Policy limits; and
  - 21.4.1.6.3 This delegated authority shall not be used to circumvent the dollar limits delegated or other purchasing regulations; and
  - 21.4.1.6.4 Purchase of items available through the Warehouse.

## 21.5 FORMAL AGREEMENTS

Under no circumstances are authorized Delegated Department Buyers, Supervisors, Managers or Department Directed allowed to enter into or sign any agreement. The Procurement Manager, City Manager and City Council are the only authorized signatories to sign and execute Agreements.

## 21.6 DISCLAIMING RESPONSIBILITY FOR IMPROPER PURCHASING

The City may disclaim responsibility and liability for any expenditure or agreement for expenditure arising from a procurement made in its name, or the name of any governmental body under its authority by an unauthorized person or any person acting outside this Policy or their authorization or delegation as provided for by this Policy.

## 22. TYPES OF CONTRACTS

### 22.1 GENERAL

Subject to the limitations of this Section, any type of commercially reasonable contract, which will promote the best interest of the City, may be used. A cost reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to the City than any other type or that it is impractical to obtain the commodities, services, or construction except under such a contract.

### 22.2 FIXED PRICE CONTRACTS

GENERAL. A fixed-price contract places responsibility on the contractor for the delivery of the product or the complete performance of the services or construction or purchase of commodities in accordance with the contract terms at fixed prices. The contractor assumes full responsibility and risk for completing the services, construction or purchase. The fixed-price contract is appropriate for use when the extent and type of work necessary to meet City requirements can be reasonably specified and the cost can be reasonably estimated, as is generally the case for services, construction or products.

### 22.3 TYPES OF FIXED PRICE CONTRACTS

22.3.1 FIRM FIXED-PRICE CONTRACT. A firm fixed-price contract provides a price that is not subject to adjustment because of variations in the contractor's cost of performing the work specified in the Agreement. The term "lump sum contract" in a construction or service solicitation is also defined as a fixed firm price contract. It should be used whenever prices, which are fair and reasonable to the City, can be established at the outset. Basis to be established may include:

- 22.3.1.1 adequate price competition for the contract; or
- 22.3.1.2 comparison of prices in similar prior procurements in which prices were fair and reasonable; or

- 22.3.1.3 establishment of realistic costs of performance by utilizing available cost or pricing data and identifying uncertainties in contract performance; or
- 22.3.1.4 use of other adequate means to establish a firm price.
- 22.3.2 FIXED PRICE TERM CONTRACT WITH PRICE ADJUSTMENT.
  - 22.3.2.1 A fixed-price term contract with price adjustment provides for variation in the contract price under conditions defined in the Agreement, other than customary provisions authorizing price adjustments due to modifications to the work or commodities supplied. The formula or other basis by which the adjustment in contract price can be made shall be specified in the solicitation package and the resulting Agreement. Adjustment allowed may be upward or downward only or both upward and downward.
  - 22.3.2.2 If the Agreement permits unilateral action by the contractor to bring about the condition under which a price increase may occur, the Agreement shall reserve to the City the right to reject the price increase and terminate without cost the future performance of the Agreement. The Agreement shall also require that notice of any such price increase shall be given within such time prior to its effective date as is specified in the Agreement. These restrictions shall not apply to fixed-price performance incentive contracts.
  - 22.3.2.3 The initial term of the Agreement may be multiple years. Term contract in excess of one (1) year is defined as a multi-term contract.
- 22.3.3 CANCELLATION DUE TO UNAVAILABILITY OF FUNDS IN SUCCEEDING FISCAL PERIODS. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the Agreement shall be canceled and the contractor shall not be reimbursed for the value of any non-recurring costs incurred but not amortized in the price of the commodities or services delivered under the contract.
- 22.3.4 CONDITIONS FOR USE OF TERM CONTRACT. A multi-term contract may be used when it is determined by the Procurement Manager that:
  - 22.3.4.1 Special production of definite quantities or the furnishing of long-term services are required to meet City needs;
  - 22.3.4.2 A multi-term contract will serve the best interest of the City by encouraging effective competition or otherwise promoting economies in City procurement. The following factors are among those relevant to such a determination:
    - 22.3.4.2.1 contractors which are not willing or able to compete because of high start-up costs or capital investment in facility expansion will be encouraged to participate in the competition when they are assured of recouping such costs during the period of contract performance;
    - 22.3.4.2.2 lower production costs because of larger quantity or service requirements, and substantial continuity of production or performance over a longer period of time can be expected to result in lower unit prices;
    - 22.3.4.2.3 stabilization of the contractor's work force over a longer period of time may promote economy and consistent quality; and
    - 22.3.4.2.4 the cost and burden of solicitation, award, and administration of the procurement may be reduced.
- 22.3.5 MULTI-TERM CONTRACT PROCEDURE - The solicitation shall state:
  - 22.3.5.1 the estimated annual amount or volume of commodities or services required for the proposed contract period; and
  - 22.3.5.2 that a unit price shall be given for each item or service, and that such unit prices shall be the same throughout the contract (except to the extent price adjustments may be provided in the solicitation and resulting Agreement); and

- 22.3.5.3 the Procurement Manager will notify the contractor on a timely basis that the funds are, or are not, available for the continuation of the contract for each succeeding fiscal period; and
- 22.3.5.4 whether bidders may submit prices for:
  - 22.3.5.4.1 the first period only; or
  - 22.3.5.4.2 the entire term of the Agreement.
- 22.3.6 CONTRACT AND SOLICITATION PROVISIONS. All eligible User Departments shall be named in the solicitation, and the actual requirements of such users that can be met under the contract shall be obtained in accordance with the contract, provided that:
  - 22.3.6.1 the City shall reserve the right to take bids separately if a particular quantity requirement arises which exceeds its normal requirement or an amount specified in the contract; and
  - 22.3.6.2 the City shall reserve the right to take bids separately if the Procurement Manager approves a finding that the supply or service available under the contract will not meet a non-recurring special need of the City.
- 22.3.7 AWARD. Award shall be made as stated in the solicitation and permitted under the procurement method utilized. Care should be taken when evaluating multi-term prices against prices for the first period that award on the basis of prices for the first period does not permit the successful bidder to "buy in", that is, give such bidder an undue competitive advantage in subsequent procurements.
- 22.3.8 Contract administration shall require:
  - 22.3.8.1 Ensuring that price adjustments are handled properly;
  - 22.3.8.2 Verifying the validity of all requests for increased compensation;
  - 22.3.8.3 Ensuring the City receives the benefits of any price reductions;
  - 22.3.8.4 Negotiation of contract prices when they are deemed to exceed the current market place;
  - 22.3.8.5 Negotiation of contract prices for renewal period(s); and
  - 22.3.8.6 Management of contractual documentation and correspondence.
- 22.4 TIME AND MATERIALS CONTRACTS AND LABOR HOUR CONTRACTS
  - 22.4.1 TIME AND MATERIALS CONTRACTS. Time and materials contracts provide an agreed basis for payment for materials supplied and labor performed. Such contracts shall, to the extent possible, contain a stated ceiling or an estimate that shall not be exceeded without prior City approval.
    - 22.4.1.1 The preferred cost method for materials shall be a minimum percentage from manufacturer's list price or suggested retail price list.
    - 22.4.1.2 Those services including materials that are absent of manufacturer's list price or suggested retail price list shall be compensated based on a percentage or fixed fee over vendor's actual invoice.
  - 22.4.2 LABOR HOUR CONTRACTS. A labor hour contract provides only for the payment of labor performed.
- 22.5 DEFINITE QUANTITY AND INDEFINITE QUANTITY CONTRACTS
  - 22.5.1 DEFINITE QUANTITY. A definite quantity contract is a fixed-price contract that provides for delivery of a specified quantity of commodities or services either at specified times or when ordered.
  - 22.5.2 INDEFINITE QUANTITY. An indefinite quantity contract is a contract for an indefinite amount of commodities or services to be furnished at specified times, or as ordered, that establishes fixed unit prices. Generally, an approximate quantity or the best information available as to quantity is stated in the solicitation. The contract may provide a minimum quantity the City is obligated to

order and may also provide for a maximum quantity provision that limits the City's obligation to order.

22.5.3 REQUIREMENTS CONTRACTS. A requirements contract is an indefinite quantity contract for commodities or services that obligates the City to order all the actual requirements of designated User Department or Departments during a specified period of time. The obligations to order the City's actual requirements are limited by the provisions of F.S. 672.306. For the protection of the City and the vendor, requirements contracts may include the following:

22.5.3.1 a provision which requires the City or any User Departments named in the solicitation to order their actual requirement of the commodities or services covered. However, the City may reserve in the solicitation and in the resulting Agreement the right to take bids separately if a particular quantity requirement arises which exceeds the City's normal requirements or an amount specified in the contract;

22.5.3.2 exemptions from ordering under the Agreement when the Procurement Manager approves a finding that the supply or service available under the Agreement will not meet a non-recurring, special need of the City; or

22.5.3.3 commodities are produced or services are performed incidental to the City's own programs, such as industries of correctional institutions that can satisfy the need.

22.5.3.4 Adjustments may be allowed in accordance with the Agreement when:

22.5.3.4.1 when a general price change applicable to all customers occurs; or

22.5.3.4.2 when a general price change alters the base price (such as a change in a manufacturer's published price list or posted price list or posted price to which a fixed discount is applied pursuant to the contract to determine the contract price).

## 22.6 LEASES

22.6.1 DESCRIPTION. A lease is a contract for the use of equipment or other commodities or real property under which title will not pass to the City at any time. When deemed necessary, the Procurement Manager, City Manager and/or City Attorney will be required to authorize a lease.

22.6.2 USE. A lease may be entered into provided:

22.6.2.1 it is in the best interest of the City; and

22.6.2.2 all conditions for renewal and termination are set forth in the lease; and

22.6.2.3 the lease is not used to circumvent normal procurement procedures.

22.6.3 Multiple year leases, which do not contain an appropriation clause, shall be approved for award by the City Council.

## 22.7 MULTIPLE SOURCE CONTRACTING

22.7.1 GENERAL. A multiple award is an award of an indefinite quantity contract for one or more similar commodities or services to more than one (1) bidder.

22.7.2 LIMITATIONS ON USE. A multiple award may be made when the award to two (2) or more bidders for similar products or services is necessary for adequate delivery, service, or product compatibility. Multiple awards should not be made when a single award will meet the City's needs without sacrifice of economy or service. Awards shall not be made for the purpose of dividing the business, making available product or vendor selection to allow for user preference unrelated to utility or economy, or avoiding the resolution of tie bids. Any such awards shall be limited to the least number of vendors necessary to meet the valid requirements of the City.

## 22.8 INTENT TO USE

22.8.1 If a multiple award is anticipated prior to issuing a solicitation, the City shall reserve the right to make such an award and the criteria for award shall be stated in the solicitation.

22.8.2 OPTION PROVISIONS

- 22.8.2.1 AGREEMENT PROVISION. When an Agreement is to contain an option for renewal, extension, or purchase, notice of such provision shall be included in the solicitation. Exercise of the option is always at the City's discretion only.
- 22.8.2.2 EXERCISE OF OPTION. Before exercising any option for renewal, extension, or purchase, the Procurement Manager should attempt to ascertain whether a competitive procurement is practical, in terms of pertinent competitive and cost factors, and would be more advantageous to the City than renewal or extension of the existing Agreement.
- 22.8.2.3 LEASE WITH PURCHASE OPTION. A purchase option in a lease may be exercised only if the lease containing the purchase option was awarded under competitive methods, or the leased supply or facility is the only supply or facility that can meet the City's requirements, as determined in writing by the Procurement Manager. Before exercising such an option the Procurement Manager shall:
  - 22.8.2.3.1 investigate alternative means of procuring comparable commodities or facilities; and
  - 22.8.2.3.2 compare estimated costs and benefits associated with the alternative means and the exercise of such option. For example, the benefit of buying new state-of-the-art equipment compared to the estimated initial savings associated with exercise of a purchase option.

## 22.9 MISCELLANEOUS CONTRACT TYPES

- 22.9.1 The following types of contracts may also be utilized by the Procurement Manager when appropriate:
  - 22.9.1.1 COOPERATIVE PURCHASES AND PIGGYBACK PURCHASES. Cooperative purchasing means a procurement conducted by or on behalf of more than one governmental entity. Piggyback purchases means the City purchases goods and services from other governmental agency contracts and such purchases are subject to the Agencies terms and conditions. Examples include, but are not limited to, Florida State Contracts, GSA Schedules, piggy backing other governmental entities contracts, local cooperative purchasing groups, national purchasing consortiums/groups and other State Purchasing Agreements. The City may purchase under cooperative and piggyback purchase contracts when they are obtained using competitive bidding procedures equivalent to those contained in this Policy.
  - 22.9.1.2 DISCOUNT-FROM-LIST. Discount-from-list contracts refers to those contracts whereby price is determined by applying a percentage discount from an established catalog price or list price.
  - 22.9.1.3 OPEN-END PURCHASE ORDERS. Open-end purchase order, also known as a Blanket Purchase Order, means a purchase order whereby a contractor provides commodities, services, or construction on demand or on a prescribed schedule not to exceed a period of twelve (12) months or fiscal year end. An open-end purchase order may be used as a release and encumbrance document to authorize an agency to order any predetermined amount from an open-end contract on an as-needed basis.

## 22.10 NEGOTIATION AFTER AWARD

- 22.10.1 The City reserves the right to negotiate the contract if the prices exceed the current marketplace.
- 22.10.2 The City reserves the right to decrease or increase services as deemed necessary.
- 22.10.3 All negotiations shall be conducted by Procurement staff. Procurement shall make the necessary amendment to the Agreement to reflect the results of the negotiation.

## 23. SUPPLY MANAGEMENT

### 23.1 DISPOSAL OF OBSOLETE AND SURPLUS PROPERTY

The Procurement Division shall have the power to sell or dispose of obsolete and surplus property by public auction, competitive sealed bidding, trade-in, or other appropriate methods in conformance with any

applicable state law. No employee of the department having direct control of the commodities or handling the disposition of the commodities shall be entitled to purchase any such commodities. No other City employee shall be allowed to purchase obsolete or surplus property except through a competitive bid process or a public auction.

## 23.2 ADOPTION OF REGULATIONS

All formal quotations or sealed bids for the sale of surplus property shall be processed under regulations adopted by the Procurement Manager in accordance with the intent and purpose of this Policy. The Procurement Manager shall also promulgate regulations and procedures for the use of other types of disposal methods.

## 24. **PURCHASING CARD POLICY**

### 24.1 INTRODUCTION

The City of Punta Gorda Purchasing Card Program is designed to improve efficiency in processing purchases from any vendor that accepts the established credit card. Many of our suppliers accept credit cards as a form of payment. The Purchasing Card Program shall be conducted in accordance with the City's Procurement Policy and Delegated Purchasing Authority Policy.

The Program will enable departments with authorized cardholders to place orders allowed by policy directly with the vendor.

### 24.2 PURPOSE

24.2.1 The purpose of the program and policy is to accomplish the following:

24.2.1.1 To provide an efficient method of purchasing and paying for goods and services in accordance with the City's Procurement Policy and Delegated Purchasing Authority Policy.

24.2.1.2 To minimize the use of Field Purchase Orders (FPOs).

24.2.1.3 To expedite the purchasing process through the Procurement Division.

24.2.1.4 To reduce the use of Blanket Purchase Orders.

24.2.1.5 To ensure purchasing card purchases are in accordance with the City's ordinances, policies and procedures.

24.2.1.6 To minimize inappropriate use of purchasing cards.

24.2.1.7 To provide for disciplinary action if the purchasing cards are misused.

### 24.3 DEFINITIONS

24.3.1 Budget Authority - The person who is responsible for funds in a particular division/department. The Budget Authority designates an individual as a Cardholder and delegates authority to a Cardholder to make charges subject to approval of the Finance Director.

24.3.2 Cardholder – The person who has been issued a credit card and is authorized to make purchases in accordance with the Procurement Policy and procedures.

24.3.3 Ghost Card – A unique purchasing card number given to a supplier for individual departments for contractual or limited purchases from a single supplier. The supplier automatically charges the card when purchases are made by an employee.

24.3.4 Electronic Statement - Statement available on Bank Web site of all charges posted to a Cardholder's account during current billing cycle.

24.3.5 Hierarchy - The system for assigning levels of access/security to information: review of charges, approval of charges, and reporting capabilities provided by the Finance Director.

24.3.6 Purchasing Card - A credit card issued to a person for the purpose of making authorized purchases on the City's behalf.

24.3.7 Purchasing Card Administrator – Designated employee to administer all aspects related to the Purchasing Card Program (training, issuing cards, monitoring card activities for compliance,

canceling cards, and problem resolution).

- 24.3.8 Reconciler - Person(s) assigned to reconcile a Cardholder's charges through the month and provide complete documentation in accordance with disbursement procedure. A Cardholder may be her/his own Reconciler and a Reconciler may manage more than one Cardholder account. A Reconciler may or may not be a Cardholder.
- 24.3.9 Supplier - Company from which a Cardholder is purchasing goods or services under the provisions of this Policy.
- 24.3.10 Transaction/Charge Limit - Dollar amount limit assigned to the Cardholder for each transaction made with the Purchasing Card.

#### 24.4 AUTHORIZATION CRITERIA

24.4.1 The Program will be controlled through the credit card's electronic system and shall be based on established authorization criteria. When a purchase authorization is requested by the supplier at the point-of-sale, the Purchasing Card system validates the transaction against all limits established by the Department and Procurement for each card issued. All transactions are approved or declined (electronically) based on the Purchasing Card authorization criteria established. The authorization criteria may be adjusted periodically as needed and may include, but are not limited to, the following:

- 24.4.1.1 Single purchase limit
- 24.4.1.2 Monthly spending limit
- 24.4.1.3 Transaction purchase limit
- 24.4.1.4 Approved Merchant Category Codes
- 24.4.1.5 Number of transactions allowed per day
- 24.4.1.6 Number of transactions allowed per month

24.4.2 The policies and procedures provided are minimum standards for Departments. Departments may establish additional controls if necessary.

#### 24.5 LIMITATIONS ON USE OF PURCHASING CARD

- 24.5.1 The limitation parameters shall be procedurally established by the Procurement Manager and Finance Director.
- 24.5.2 The purchasing card shall be used only for legitimate City purchases.

#### 24.6 VIOLATION OF POLICY

##### 24.6.1 VIOLATIONS

- 24.6.1.1 All violations of the policy and procedures may be subject to disciplinary actions, which include reprimand, written warning and termination.
- 24.6.1.2 Misuse of the purchasing card may require retribution to the City by the employee.

#### 24.7 VIOLATIONS TYPES

24.7.1 Department Unauthorized Purchases - The following types of items may not be purchased with a purchasing card, no matter the dollar amount:

- 24.7.1.1 Items purchased under any Federal, State or Local grant program if payment of grant purchases by a purchasing card is not allowed.
- 24.7.1.2 Services to be conducted on City premises or project sites, excluding contracts established through Procurement.
- 24.7.1.3 Any purchases where insurance requirements are a consideration and cardholder has not obtained the approval of the Procurement Division, excluding contracts established through Procurement.
- 24.7.1.4 Any additional goods specifically restricted by the City or Department



- 24.7.1.5 Internet transactions on an unsecured site
- 24.7.1.6 Purchases made via facsimile which the credit card number is included in the faxed documentation.
- 24.7.1.7 Employees making purchases via telephone that were not initiated by the City.
- 24.7.1.8 Gift cards, gift certificates.
- 24.7.1.9 Circumvention of the single transaction limits
- 24.7.1.10 Purchases exceeding policy limitations
- 24.7.2 Purchasing Agent Unauthorized Purchases - The following types of items may not be purchased with a purchasing card, no matter the dollar amount
  - 24.7.2.1 Items purchased under any Federal, State or Local grant program of the City
  - 24.7.2.2 Any additional goods specifically restricted by the City or Department
  - 24.7.2.3 Internet transactions on an unsecured site
  - 24.7.2.4 Purchases made via facsimile, which includes the credit card number in the faxed document
  - 24.7.2.5 Gift cards, gift certificates.
  - 24.7.2.6 Circumvention of the single transaction limits
  - 24.7.2.7 Purchases exceeding policy limitations
- 24.7.3 Fraudulent Purchases – Purchasing Card transactions for personal use, abuse, or allowing others to use the cardholder Purchasing Card.
- 24.7.4 Administrative Violations
  - 24.7.4.1 Cardholders failing to obtain and maintain required documentation for all card transactions
  - 24.7.4.2 Failure of Cardholder or Supervisor to sign off on transactions and submit to Reconciler by the deadline for submission.
  - 24.7.4.3 Lack of timely and proper reconciliation of posted transactions.
  - 24.7.4.4 Failure to properly code or verify transaction – Supervisors failing to assign proper account or project numbers for the transaction or if a contract transaction, verify the transaction with the City’s contract.
  - 24.7.4.5 Authorization of a transaction that is inconsistent or violates the City’s Procurement Policy, State, Local and Federal guidelines.
  - 24.7.4.6 Late submission of documentation or reconciliation documents or dispute documents – Cardholders submitting documentation not within the time requirements established..
- 24.8 DISCIPLINE FOR UNAUTHORIZED PURCHASES OR ADMINISTRATIVE VIOLATIONS
  - 24.8.1 First Offense – Written notification will be issued to the offender, the offender’s supervisor and Department Director citing the violation. The offender shall be required to provide Procurement with a written statement of explanation.
  - 24.8.2 Second Offense – The account (purchasing card) will be suspended for a thirty (30) calendar day period. Written notification will be issued to the offender, the offender’s supervisor and Department Director citing the violation. The offender shall be required to attend a Purchasing Card Training Class before the purchasing card is reactivated. The offender shall be required to provide Procurement with a written statement of explanation.
  - 24.8.3 Third Offense - The account (purchasing card) will be permanently closed. Written notification will be issued to the offender, the offender’s supervisor and Department Director citing the violation. The offender shall be required to provide Procurement with a written statement of explanation.

24.8.4 The Department Director, Procurement Manager, Finance Director or City Manager may submit a referral to the Human Resources Division for formal discipline or termination at any time.

#### 24.9 DISCIPLINE FOR FRAUDULENT PURCHASES

24.9.1 First Offense - The account (purchasing card) will be permanently closed. Written notification will be issued to the offender, the offender supervisor and Department Director citing the violation. The offender shall be required to provide Procurement with a written statement of explanation.

24.9.2 The Department Director, Procurement Manager, Finance Director or City Manager may submit a referral to the Human Resources Division for formal discipline or termination.

### 25. **EMERGENCY OPERATIONS PROCUREMENT POLICY**

#### 25.1 GENERAL

25.1.1 Upon the City's declaration of an emergency the standard Procurement Policy will be suspended and the City's EMERGENCY OPERATIONS Procurement Policy shall govern procurement activities until the City returns to normal operations or the need for emergency response is no longer required.

25.1.2 The City's Procurement Division will in all instances operate and process emergency procurement requirements under the Federal Uniform Guidance regulations of 2 CFR 200, which identifies purchasing dollar thresholds and solicitation process.

25.1.3 The Procurement Manager will be granted the authority to decrease the time period for soliciting solicitations based on the emergency need. Sealed formal solicitations will be in accordance with the current Federal Simplified Acquisition threshold.

25.1.4 The Procurement Manager shall have the authority to negotiate a contract with the apparent low bidder as may be deemed necessary to comply with FEMA established and acceptable pricing guidelines and to meet the City's emergency requirements.

25.1.5 The City's award authority policy shall be waived during emergency operations. The City Manager shall be granted the authority to award contracts, which are normally reserved for City Council approval, as is determined to be in the best interest of the City.

25.1.6 The City's Procurement Manager shall control all purchases for emergency response and recovery procurement needs for the City. However, the Procurement Manager is authorized to seek assistance from the County and State of Florida Emergency Operations Center in procurement events as may be deemed necessary.

#### 25.2 FEDERAL APPROVED PROCUREMENT METHODS

25.2.1 Micro-Purchases: the threshold for Micro-Purchases shall be the current dollar threshold amount defined in 2 CFR 200.067. The City's procedures for micro-purchases must be used.

25.2.2 Small purchase procedures: an informal method for securing services or supplies that do not cost more than the current Federal Simplified Acquisition threshold. The process for the purchase must be in accordance with 2 CFR 200.320

25.2.3 Sealed bids: a formal method where bids are advertised and solicited, and the contract is awarded to the responsive and responsible bidder whose proposal is the lowest in price.

25.2.4 Competitive proposals: a method similar to sealed bid procurement in which contracts are awarded on the basis of contractor qualifications instead of on price. This may or may not be a sealed process depending on the urgency of the goods or services required.

25.2.5 Non-competitive proposals: a method whereby a proposal is received from only one source, because the item is available only from a single source; there is an emergency requirement that will not permit delay; or the competition is inadequate to seek additional sources. If these conditions exist, FEMA may find this method acceptable. Otherwise, noncompetitive proposals generally are ineligible.

## 25.3 FEDERAL APPROVED CONTRACT METHODS

- 25.3.1 Lump sum: contract for work within a prescribed boundary with a clearly defined scope and a total price
- 25.3.2 Unit price: contract for work done on an item-by-item basis with cost determined per unit
- 25.3.3 Cost plus fixed fee: either a lump sum or unit price contract with a fixed contractor fee added into the price
- 25.3.4 Time and materials contracts should be avoided, but may be allowed for work that is necessary immediately after the disaster has occurred when a clear scope of work cannot be developed. Generally, FEMA will accept time and materials contracts with work duration of 70 hours immediately after a disaster. CITY must carefully document contractor expenses, and a cost ceiling or "not to exceed" provision must be included in the contract and if the contractor exceeds the maximum amount they do so at their own risk. If a time and materials contract has been used, the CITY must document why a unit or lump sum cost would not be feasible. Cost plus a percentage of cost contracts and contingency contracts are not eligible.

## 26. PUBLIC-PRIVATE PARTNERSHIPS

### 26.1 GENERAL

- 26.1.1 The process for conducting a Public Private Partnership must be in accordance with FL Statute 255.064 and processed through Procurement if such procurement facilitates the timely development or operation of a qualifying project.
- 26.1.2 The City may receive unsolicited proposals or may solicit proposals for qualifying project and may thereafter enter into a comprehensive Agreement with a private entity for the building, upgrading, operating, ownership, or financing of facilities.
  - 26.1.2.1 Written justification must be provided to the Procurement Manager if the procurement process does not promote the timely execution of a Public-Private Partnership.
- 26.1.3 The City may request an application fee from a private entity who submits an unsolicited proposal. In the event the initial application fee does not cover the City's cost process the request, the City may request additional amount in writing.
  - 26.1.3.1 If the City does not evaluate the unsolicited proposal, the City must return the application fee.

### 26.2 CITY'S RESPONSIBILITIES:

- 26.2.1 The City must ensure a professional review and evaluation of the design and construction proposed by the initial or subsequent proposers.
- 26.2.2 The City may either:
  - 26.2.2.1 Request a proposal from private entities for a qualifying project; or
  - 26.2.2.2 If the City receives an unsolicited proposal for a qualifying project and the City intends to enter into a comprehensive Agreement for the project; the City must publish notice in the Florida Administrative Register and a newspaper of general circulation in accordance with the statute. All requirements for the procurement process must be in accordance with FS 255.065.
- 26.2.3 If the qualifying project includes design work, the solicitation must include a design criteria package prepared by an architect, landscape architect or engineer licensed in the state of Florida. The requirements for the design criteria package must be in accordance with FS 255.065.

### 26.3 PROJECT QUALIFICATION, PROCUREMENT, EVALUATION AND SELECTION PROCESSES

- 26.3.1 The procurement, evaluation and selection must be in accordance with FS 255.065

### 26.4 PREPARATION, APPROVAL AND EXECUTION OF A COMPREHENSIVE AGREEMENT

- 26.4.1 The approval and execution of a Comprehensive Agreement will be conducted in accordance with FS 255.065