



CITY OF OCALA PROCUREMENT POLICY

EFFECTIVE: NOVEMBER 5, 2024

Supersedes January 2020 Version



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ARTICLE I. PURPOSE AND APPLICABILITY

- A. **Purpose.** The purpose of this Procurement Policy is to set forth uniform policies, methods, and procedures for use by all City departments in the acquisition and contracting for all goods and services required for the operation of the City of Ocala ("City"). The purpose of this Procurement Policy is not to restrict the effectiveness of the individuals involved in day-to-day activities related to the procurement of goods and services, but to provide a sound foundation for effective, consistent, and fair procurement practices.
- B. **Applicability.** This Procurement Policy applies to the procurement of all goods, and services and related activities for the departments operating under the jurisdiction of City Council. References in Procurement Policy to the City Code, City ordinance, or any state or federal regulation, statute, circular, and/or other guidance, shall be deemed to include any revision, amendment or replacement thereof, effective after the date of its adoption.

ARTICLE II. RESPONSIBILITY AND FUNCTIONS

- A. **Procurement and Contracting Department.** The Procurement and Contracting Department is established by [City Code](#) to serve as the centralized authority responsible for supervising, overseeing, and managing solicitations, informal procurement actions, vendor relations, and contracting activities for all City departments in support of their duties.
- B. **Procurement and Contracting Officer.** [City Code](#) establishes the Procurement and Contracting Officer as the head of the Procurement and Contracting Department as appointed by the City Manager. The Procurement and Contracting Officer is responsible for:
1. developing procurement and contracting policies;
 2. managing the operations of City procurement and contracting including supplies, contractual services, professional services, construction services, warehousing, inventory, asset management, and capital improvements, except as provided in [City Ordinance 2017-34](#);
 3. assuring best practices and value, including making procurement and contracting decisions in the best interest of the City consistent with the direction and policies of City Council;
 4. supervising the bid process from solicitation preparation to contract closeout;
 5. defining procurement methods, policies, and solicitation thresholds;
 6. making all bid awards in the best interest of the City subject to final contract approval by City Council or other officer designated by City Council;
 7. performing citywide contracting oversight including drafting, negotiation, and review;
 8. authorizing emergency purchases in accordance with the Procurement Policy;
 9. preparing and enforcing standard specifications;
 10. selling, trading, donating, destroying, transferring, exchanging, or otherwise disposing of surplus and salvage materials;

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11. ensuring compliance with the procurement code and rules and regulations applicable to same;
12. overseeing projects as directed by the City Manager;
13. ensuring full and open competition where possible on all purchases and sales;
14. remaining informed of current developments in the field of procurement, contracts, market conditions, and new products;
15. securing for the City the benefits of research done in the field of procurement and contractual best practices by other governmental jurisdictions, national technical societies, national trade associations, and private businesses and organizations;
16. preparing and adopting standard procurement and contracting policies and procedures for using departments, agencies, and suppliers;
17. declaring as irresponsible those vendors who violate the requirements of the Procurement Policy, procurement code, or state or federal law; or who default on their contracts or otherwise demonstrate that they are irresponsible bidders; and disciplining those vendors by suspending or banning them from bidding on solicitations and/or receiving business from the City for a stated period of time, subject to review and approval by the City Manager or his designee;
18. overseeing vendor relations including vendor registration, contract performance, ratings, disputes, and ensuring vendors are treated fairly with open and transparent competition;
19. creating and maintaining a suspended and disbarred vendor list for vendors who violate or default on the City Procurement Policy, procurement ordinances, state or federal law, bid terms and conditions, contracts, purchase orders, amendments, or change orders;
20. preparing and maintain a current vendor’s list for sources of supplies and services to which vendors may request to be included;
21. procuring goods, services, and capital improvements in accordance with applicable laws;
22. assisting and advising City departments on policies and methods of procuring goods, services, and capital improvements;
23. negotiating and awarding contracts for goods, services and capital improvements;
24. overseeing the transfer and/or disposal of City property; and
25. operating and managing the Procurement and Contracting Department and performing such other duties and responsibilities as may be assigned by the City Manager or his designee in connection with the procurement of goods and services for the City.

ARTICLE III. GENERAL PROCUREMENT PRACTICES

- A. This Procurement Policy may not govern every purchasing situation that arises. In the event a specific purchase is not covered by these guidelines, the purchase shall be made based on the general objectives set forth herein and, in the spirit of fairness, following consultation with the Procurement and Contracting Officer.

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- B. All requests for supplies, materials, services and equipment shall be originated by the using Department. All purchases will be made through and/or by the Procurement and Contracting Department unless otherwise authorized by this Procurement Policy or excepted by the Procurement and Contracting Officer.
- C. No officer or employee of the City shall purchase any materials, supplies, equipment, or services, nor shall they make any contract, in contravention of the rules set forth in this Procurement Policy without prior written authorization. Any purchase, order or contract made contrary to the provisions of this Procurement Policy shall not be approved, nor shall the City be bound thereby. All procurement-related activity shall be subject to periodic review by both Procurement and Contracting staff and the City Auditor to ensure compliance.

ARTICLE IV. OTHER STATUTORY REQUIREMENTS

A. In addition to the rules and regulations stated and incorporated herein, the following statutes govern the City's procurement of goods and services, and it is advised that City staff shall adhere to the following with this Procurement Policy:

1. **section 180.24, Florida Statutes:** Contracts for construction; bond; publication of notices for utility projects.
2. **section 255.05, Florida Statutes:** Bond of contractor constructing public building or structure by claimants [public building, public work, or repair of public building].
3. **section 255.0525, Florida Statutes:** Bidding for competitive bids or proposals for construction projects over established thresholds.
4. **section 255.20, Florida Statutes:** Bidding and contracts for public construction works; publication of notices for the construction or improvement of public buildings, structures, or construction works over established thresholds.
5. **section 287.055, Florida Statutes:** Consultants Competitive Negotiation Act (CCNA) for the acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services.
6. **section 255.065, Florida Statutes:** unsolicited and solicited proposals for qualifying projects for the building, upgrading, operating, ownership or financing of facilities or projects that serve a public purpose.
7. **Rule 1B-24.003, Florida Administrative Code:** the general records schedule established by the Department of State and intended for use by state, county, city and special district record custodians. All documentation required to be maintained by this policy shall be retained in compliance with General Records Schedule GS1-SL.

ARTICLE I. PURPOSE AND APPLICABILITY

- A. The public must have confidence in the integrity of its government. This Section outlines expectations and responsibilities of City staff and elected officials engaged in the selection, award, and administration of contracts, including those that are, or may be, funded in whole or in part using federal, state, or local financial assistance.
- B. This Section is meant to build upon the City of Ocala’s General Standards of Conduct codified at Section 5 of the Employee Handbook, as may be amended, to provide specific guidance and considerations for contracting with outside suppliers doing business with the City.
- C. In compliance with 2 C.F.R. § 200.324(c)(2), the City hereby self-certifies that this Section is intended to comply with the requirements of the procurement standards set forth in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards regulations (the “Uniform Guidance”) codified at 2 C.F.R. §§ 200.318 through 200.327.

ARTICLE II. PROCUREMENT AND CONTRACTING DEPARTMENT OBJECTIVES

The objectives of the Procurement and Contracting Department are:

- A. Procuring commodities and services of the right quality in the right quantity at the right time from the right source at a competitive price.
- B. Improving the speed of delivery to using Departments by predetermining, through contracts or other appropriate means, the source of supply before the actual need for a commodity or service becomes known.
- C. Conserving public funds by reducing costs and improving the quality of materials purchased.
- D. Reducing the overhead costs associated with procurement functions by improving operations, streamlining procedures, and streamlining the flow of paperwork.
- E. Achieving a higher degree of cooperation and coordination with using Departments.
- F. Maintaining accurate records and controls.
- G. Developing good supplier relationships to create positive attitudes and to promote the desire to furnish the City with new ideas and commodities, as well as better prices and services.
- H. Maintaining, encouraging, and expanding participation in cooperative purchasing with other governmental entities.

ARTICLE III. GUIDING PRINCIPLES AND VALUES

- A. **Accountability.** Procurement and Contracting staff shall be responsible to the City, its departments and citizens, and the vendor community for its actions and work product in order to preserve the public trust and to protect the City’s interests by: (1) applying sound business judgment; (2) being responsible stewards of City funds; (3) promoting effective, economic, and efficient acquisition; and (4) using procurement strategies to optimize value to the City.

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- B. **Ethics.** Procurement and Contracting staff shall perform all job functions in a manner true to these principles and values in order to preserve the public’s trust by acting and conducting business on behalf of the City with honesty, integrity, and consistency.
- C. **Impartiality.** Procurement and Contracting staff shall make unbiased decisions by being open, fair, impartial, and non-discriminatory in all procurement and contracting functions, treating vendors equitably, and maximizing competition to the greatest extent practicable.
- D. **Service.** Procurement and Contracting staff shall seek to assist using Departments by serving as a resource and partner to staff, developing and maintaining relationships, and focusing on customer service while meeting the needs of the City.
- E. **Transparency.** Procurement and Contracting staff shall ensure policies and procedures are accessible and understandable in order to clearly demonstrate the responsible use of public funds.
- F. **Fair and Equitable Treatment.** Decisions and transactions made by City employees engaged in procurement and contracting activities must in all respects be fair and equitable. Actions which create any perception that City employees are exerting improper influence on behalf of vendors are strictly prohibited.
- G. **Representation.** City staff engaged in procurement and contracting activities are prohibited from misrepresenting business information, themselves (including their level of authority) or the City to anyone. Misrepresenting, withholding, or falsifying relevant information in order to derive personal benefit is strictly prohibited.
- H. **Confidentiality of Information.** The City fully respects the principle of confidentiality of proprietary information received from vendors up to the limits of Florida Public Records Act, Chapter 119. City employees must not misuse or disclose such information for personal gain or to prejudice fair competition.
- I. **Gifts, Gratuities, Favors or Hospitality.** The City selects goods and services based solely on "best value" (i.e., the optimum combination of price, delivery and quality). To avoid any perception of an improper attempt to influence business decisions, and to avoid feeling obligated to donors, City officers and employees may neither solicit nor accept gifts, gratuities, favors, generous hospitality, or anything of monetary value from contractors or parties to subcontracts. In accordance with the City’s Employee Handbook, this Section shall not apply to: (1) non-pecuniary gifts with a value of less than \$50; (2) publicly presented awards in recognition of public service; (3) bona fide transactions made in the ordinary course of business; or (4) political campaign contributions.

ARTICLE IV. CONFLICTS OF INTEREST

- A. **Conflicts of Interest.** A "conflict of interest" arises when a City employee, appointed officer, or elected official (or their spouse, domestic partner, or other relative): (i) has a material financial interest; (ii) has a managerial interest; (iii) will receive a tangible personal benefit from; or (iv) has an employment or other contractual relationship with an entity that proposes to do business with or who does business with the City. No City employee, officer or elected official

may participate in any part of the procurement process if a true or apparent conflict of interest exists where the employee, officer, or official will prepare plans, specifications, or estimates; the select, award, or administer contracts; or inspect or supervise construction. Below are four examples of circumstances that present a conflict-of-interest situation. **This list is intended to provide guidance and is not all inclusive:**

1. Self-Benefit. Using your position or relationship within the City to promote your own interests or those of a spouse, domestic partner, or other relative.
 2. Influence Peddling. Soliciting benefits for yourself or an immediate family member from outside organizations in exchange for using your influence to advance the interest of that organization with the City.
 3. Other Business Relationships and Dealings. Approving contracts with organizations in which you or your spouse, domestic partner, or other relative have a financial or other interest.
 4. Property Transactions. Directly or indirectly leasing, renting, trading, or selling real or personal property to or from the City.
- B. **Apparent Conflicts of Interest.** For the purposes of this Section, an “apparent” conflict of interest exists where a true conflict does not exist, but where a person with knowledge of the relevant facts would question the impartiality of the City employee, officer, or official participating in the procurement.
- C. **Financial Interest.** For the purposes of this Section, a “financial interest” exists where there is the potential for gain or loss to the City employee, officer, or official (or their spouse, domestic partner, or other relative) or to an organization which employs or is about to employ any of these parties as a result of a particular procurement. A prohibited financial interest may also arise from ownership of certain financial instruments or investments such as stocks, bonds, or real estate or from a salary, indebtedness, job offer, or similar interest that might be affected.
- D. **Officer and Employee Disclosure Form Requirements.** To avoid true or apparent conflicts of interest, City employees, appointed officers, and elected officials are required to immediately disclose any and all situations which create or could create a conflict of interest involving any procurement, contract, or other business involving the City. Every employee, appointed officer, or elected official who is also an officer, director, agent, employee, or owner of a substantial interest in any business entity which does or anticipates doing business with the City must complete an [Officer and Employee Disclosure Statement](#). This statement must be submitted with every procurement response affected by the conflict. In cases where there is no formal procurement, the disclosure statement should be submitted to the Human Resources Department.
- E. **Management of True, Apparent or Potential Conflicts of Interest.** Upon disclosure or discovery, the impacted City employee, appointed officer or elected official must refrain from participating in the selection, award, or administration of the affected procurement or contract until a determination has been made by the City as to whether a prohibited conflict of interest exists. The affected City employee, officer, or official shall cooperate with Procurement and

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Contracting staff and the City Attorney's Office to resolve the conflict issue in the best interests of the City.

1. At the point the actual or apparent conflict is made known, the City Attorney and Procurement and Contracting Officer will review all pertinent facts and together decide the best course of action.
2. If the City determines that a true or apparent conflict of interest exists, the City will disqualify the employee, appointed officer or elected official from acting on any matter or participating in any decision(s) that could be impacted by the conflict.
3. Employees refusing to comply with this Section may be subject to disciplinary action, up to and including termination and the selection and award of the impacted contract may be automatically invalidated at the discretion of the Procurement and Contracting Officer. Should it be determined that the selection and award will stand, such determination will be documented in writing and included in the Procurement File for the affected purchase or contract.

ARTICLE I. ANTI-LOBBYING POLICY

- A. **Purpose.** The Cone of Silence established by this Section prohibits all communications to (both oral and written) and lobbying of City of Ocala staff, appointed officers, advisory board members, elected officials, and actual or potential technical or selection committee members regarding all competitive selection processes during the period of time that the Cone of Silence is in effect. This Section is designed to not only ensure fair and open competition, but to protect the professional integrity of the procurement process by shielding it from undue influences prior to the recommendation of contract award to Council.
- B. **Applicability.** This Section and its associated restrictions apply to all informal and formal solicitations and quote requests including requests for proposals, requests for quotations, requests for letters of interest, invitations to bid, invitations to negotiate, and purchase orders or contracts for same.
- C. **Lobbying Defined.** For purposes of this Section, "lobbying" shall mean influencing or attempting to influence action or non-action, and/or attempting to obtain the goodwill of persons specified herein relating to evaluation, selection, ranking, or contract award in connection with any informal or formal solicitation, quote request, purchase order or purchasing contract award through direct or indirect oral or written communication.
- D. **Duration of the Cone of Silence.** The Cone of Silence shall be in effect from the time of advertisement until such time as City Council, the City Manager or his/her designee, or the Procurement and Contracting Officer awards or approves the contract, rejects all bids or responses, or otherwise takes action to end the selection process.
1. Communications made directly to Procurement and Contracting staff regarding competitive selection processes are permitted at any and all times.
 2. The Cone of Silence shall not apply to:
 - (a) communications at properly noticed pre-bid conferences, site visits, selection committee presentations, or pre-award meetings;
 - (b) communications during contract negotiations between the City Attorney's Office, City Manager's Office, or using Department staff and the intended awardee;
 - (c) communications made to City Council at the meeting where Council is considering approval of the proposed contract; or
 - (d) communications made as part of [Policy No. PRO-080 – Protested Solicitations and Awards](#).
- E. **Prohibited Communications.** No bidder or proposer (actual or proposed), nor any agent or third-party acting at the request of same, shall contact, communicate with, or discuss any matter relating to any informal or formal solicitation, quote request, or contract award with any City Council member, appointed officer, advisory board member, elected official, actual or potential technical or selection committee member, or employee other than Procurement and Contracting staff during the Cone of Silence. For informal solicitations hosted by using

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Departments in accordance with this Procurement Policy, bidder communication shall be limited to the City staff managing the informal procurement process and Procurement and Contracting staff.

- F. **Penalties for Violation.** Any violation of this Section by a bidder, proposer, potential bidder or proposer or any third party acting on behalf of any bidder or proposer shall be grounds for disqualification of the offending bidder or proposer from further consideration; rejection of the associated bid, proposal, quote, or contract; **AND** up to a three (3) year debarment of the offending proposer or bidder from doing any business with the City of Ocala.
- G. **Staff Misconduct.** In addition to any sanctions provided for in the City's Human Resources Policy or state or federal law, any City of Ocala employee who violates this Section shall be subject to disciplinary action up to and including termination.

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Authority for Contractual Spend or Obligation	November 5, 2024	PRO-040

ARTICLE I. PURPOSE AND APPLICABILITY

- A. **Purpose.** The purpose of this Section is to establish a consistent and acceptable method of obtaining approval for expenditures and signatures for contractual instruments used in the procurement of goods and services and to define the responsibilities of the Procurement and Contracting staff and the using Department in this process.
- B. **Applicability.** No using Department nor City employee shall have the authority to procure or sign contractual instruments or any other form of commitment on behalf of the City, regardless of value, in violation of the City's Code of Ordinances, Council Resolution, or this Procurement Policy. Violators of this Section may be personally liable for payment of such contracts and/or subject to disciplinary action, up to and including termination.

ARTICLE II. PROCUREMENT AND CONTRACTUAL AUTHORITY

- A. **Council Authority.** Pursuant to City Charter, the President of the City Council must sign all contracts, agreements, and evidences of indebtedness as the act and deed of the City, subject to the authorization and approval of the City Council.
- B. **Authority Delegated to City Manager.** Council Resolution 2020-22 empowers the City Manager or his/her designees to procure and execute contracts and amendments on behalf of the City based on contractual value per contract term. Any authority not expressly delegated to the City Manager by Council Resolution 2020-22, or other resolution, remains with City Council. The City Manager and his designees are authorized to procure and execute contracts for the purchase of goods, services, or real property or interest in real property as follows:
1. all contracts, change orders, or amendments valued at \$50,000 or less per term;
 2. all contracts, change orders, or amendments valued at \$50,001 to \$100,000 per term with the written consent of City Council President/ President Pro-Tem;
 3. all change orders and amendments which increase contract value by no more than \$50,000 of the contract value originally approved by Council;
 4. Memorandums of Lease with existing tenants to Airport ground leases;
 5. all grant applications for funding benefiting the City provided that the acceptance of funding will be subject to City Council approval through consideration of a subsequent agreement clarifying the City's rights and responsibilities;
 6. Access Agreements from utilities or other persons seeking to acquire easements in or title to real property;
 7. Modification and Note Modification Agreements and/or Satisfactions of Housing Rehabilitation Deferred Payment Mortgage for CDBG/SHIP/HOME Programs;

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8. Aesthetic Feature Agreements with the Florida Department of Transportation; and
9. non-monetary amendments or non-substantive modifications to contracts of any value.
10. All contracts, amendments, or change orders executed by the City Manager in excess of \$50,001 pursuant to an exception to this Procurement Policy shall be noted on a Council meeting agenda following execution as an Informational Item.
11. City Manager Designations. City Manager shall identify his or her designees for the procurement and execution of contracts, amendments, and change orders via the completion of a formal City Manager Contract Execution Designation Form. All City Manager Contract Execution Designations shall be kept in the Procurement and Contracting Department and published on the Procurement and Contracting intranet site.

- C. **Authority Delegated to Other City Employees.** The following individuals have been granted authority to execute certain contractual documents on behalf of the City. This listing is subject to change and will be updated accordingly by Procurement and Contracting Department staff:

Designee	Granting Instrument	Contract/ Document Type	Additional Internal Process Required?
Chief of Police and Mayor (jointly)	Council Resolution 2011-41	Interlocal Law Enforcement Agreements, Cooperation Agreements or Assistance Agreements with Federal, State, or Local Governments so long as they do not require or obligate the expenditure of City funds.	Contracting Officer review for compliance. City Attorney review for form and legality. Placed on City Council Agenda as an Informational Item.
Chief of Police	Council Resolution 99-84	Special Duty Police Officer Agreements pursuant to OPD's Special Duty Officer Program	City Attorney review for form and legality.
City Engineer	City Manager Designation (4/212021)	Change Orders for quantity, design, number of days, effort and additional costs valued at \$50,000 or less;	Contracting Officer review for compliance.
	Council Resolution 2012-62	License Agreements for property leased in connection with the construction of transportation improvements.	Contracting Officer review for compliance. City Attorney review for form and legality.
City Engineer and City Manager (jointly)	Council Resolution 98-84	Change Orders for contract price increases of no more than 110% of original price.	Placed on City Council Agenda as an Informational Item.

Designee	Granting Instrument	Contract/ Document Type	Additional Internal Process Required?
Director – Airport	Council Resolution 2003-57	T-Hanger Lease Agreements	Agreement may not be modified in any way without Council approval.
Director – Electric	Council Resolution 2001-86	GRUCom Circuit Orders	City Attorney review for form and legality.
Director – Ocala Fiber Network	City Manager Designation (7/21/2022)	Broadband Service Agreements	City Attorney review and approval for any modification to terms.
Director – Recreation & Parks	Council Resolution 1998-01	Rental Agreements for facilities under Director’s charge.	Contracting Officer review for compliance.
	Council Resolution 2015-22	Sponsorship Agreements in support of events, programs, services and facilities	City Attorney review for form and legality.
	Council Resolution 2012-44	Artwork Exhibit/Loan Agreements for the acceptance of various artwork to be loaned and exhibited in City spaces.	
Director - Planning and City Manager (jointly)	Council Resolution 2010-53	Amendment to Developers Agreement Concerning Sidewalk Letters of Credit	City Attorney review and approval. Developer’s payment of \$500 review fee prior to review.
Director - Planning or City Manager	Council Resolution 2011-35	Leases for Temporary Housing	City Attorney review and approval.
Director – Water and Sewer	Council Resolution 2015-64	Septic Tank and Well Abandonment Project Service Agreements	Contracting Officer review for compliance. City Attorney review and approval.

ARTICLE III. CONTRACT OVERSIGHT AND FORM AND LEGALITY REVIEW

- A. **Procurement and Contracting Officer Oversight.** The Procurement and Contracting Officer is obligated by the [City Code](#) to provide citywide contracting oversight to include contract drafting, negotiation, and review. Review by the Procurement and Contracting Officer shall be in addition to the “form and legality review” required to be conducted by the City Attorney in compliance with [Section 2-253, Code of Ordinances for the City of Ocala](#). The Procurement and Contracting Officer shall review all contractual instruments to verify and ensure they:
1. are clear, consistent, and complete;
 2. accurately reflect the intentions of the parties;
 3. do not include provisions for assumption of sales tax by the City;
 4. do not include provisions for automatic renewal of the contract;
 5. do not contain requirements to which the City cannot comply;
 6. are in compliance with the City’s risk management obligations;
 7. contain appropriate indemnification and other statutorily required provisions;
 8. do not waive the City’s statutory immunities; and
 9. are otherwise consistent with the City’s mission and serve the City’s best interests.
- B. Procurement and Contracting staff shall maintain a repository of all contracts and amendments reviewed.
- C. For the purposes of this Section, the term “Contract” shall include agreements, assignments, engagement letters, memoranda of understanding, memoranda of agreement, non-disclosure agreement, promise to pay, purchase orders, riders, and any other agreement (or addenda to existing contracts) between the City and one or more party or entity to do or not to do a particular thing, regardless of whether the agreement involves the payment of money.
- D. No contract may be entered into that fails to align, or that is in direct conflict with the City’s Procurement Policy, purchasing limits, other legislative procurement authority, or the City’s other contractual arrangements.
- E. No contract may be entered into that fails to include terms and conditions determined by the Procurement and Contracting Officer or other City stakeholders to be consistent with sound business practices and the City’s policies.
- F. **City Attorney Form and Legality Review.** No contract shall be entered into by the City until it has been approved as to form and legality by the City Attorney. In compliance with [Section 2-253, Code of Ordinances](#), form and legality shall mean that the contract is written in a manner that clearly articulates the terms of the contract and is in compliance with current law.

ARTICLE IV. GENERAL REQUIREMENTS FOR CONTRACTUAL INSTRUMENTS

- A. **Written Agreements Required.** Written contracts make expectations clear, enforceable and significantly reduce the risks inherent in oral agreements. To ensure ethical behavior and conduct, and to comply with Florida’s Statute of Frauds and Parol Evidence Rule, the City shall require written contracts unless: (1) expressly approved in writing by the Procurement and Contracting Officer in response to a properly submitted Contract Exception Request; or (2) the purchase is made through the lawful and approved use of the City Purchasing Card (P-Card), which precludes the issuance of a written order. (*See*, Title 1: Uniform Commercial Code; Chapter 2: Sales; §2.201 Statute of Frauds; and §2.202: Parole or Extrinsic Evidence).
- B. **Purchase Orders.** In lieu of a formal contract, the Procurement and Contracting Department may authorize the use of a Purchase Order for procurement of goods, services, or construction. The City’s Standard Purchase Order Terms and Conditions are attached and incorporated into every Purchase Order and the Purchase Order should include other information required to formalize the purchase transaction such as a description of the requested items, cost of items being purchased, delivery schedule, terms of payment, and transportation.
- C. **Contract Form.** The City Attorney shall determine the form of contract documents. Contract forms that have been developed and standardized by the City Attorney may be used without additional legal review. Using Departments are prohibited from modifying approved and standardized legal documents without the approval of the City Attorney’s Office.
- D. **Continuing Contracts.** Continuing contracts may be used for: (i) professional services procured in accordance with section 287.055, Florida Statutes, the Consultant’s Competitive Negotiation Act (CCNA); (ii) projects in which the estimated construction cost does not exceed the Category Five threshold amount established by section 287.017, Florida Statutes; and (iii) planning or study activities where the fee for professional services does not exceed the Category Two threshold amount established by section 287.017, Florida Statutes (currently \$35,000). Multiple consultants may be selected to perform professional services on the same or similar items. Nothing in this Section shall be construed to prohibit continuing contracts for professional services between a firm and the City in accordance with then existing law.
- E. **Task Work Orders Under Continuing Contracts.** Task Work Orders for individual projects under continuing contracts shall be issued in accordance with the provisions of section 287.055, Florida Statutes, among those contractors who have been awarded a general continuing contract. If multiple contractors have been selected, Task Work Orders shall be rotated among firms as deemed feasible and appropriate by the using Department based upon the specific discipline required, experience, and qualifications of the firm.
1. For each individual task to be performed under a continuing contract, the using Department shall prepare (or have prepared with the assistance of a consultant) a tasked-out scope of work. The scope of work shall include only those services to be performed and should include as applicable the: (a) narrative describing the nature of the work to be completed; (b) time for completion; (c) amount of compensation (if based on hourly rates, the hourly rates must be specified); and (d) construction cost estimate.

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2. The amount of compensation set forth in the Task Work Order should be supported by a detailed spreadsheet of tasks and subtasks with distribution of appropriate manhours by job title for each task and subtask at rates from the consultant’s contracted fee schedule as attached to the master services agreement.
 3. The scopes of work and information supporting compensation for each individual project, regardless of value, shall be forwarded to the Procurement and Contracting Department under cover of a [City of Ocala Task Work Order Coversheet](#) for review and verification of pricing by the Procurement and Contracting Officer prior to execution by either the City Manager (or his/her designee) or City Council. Individual Task Work Orders for services valued at more than \$50,000 shall be approved by City Council.
- F. **Contract Approval.** Approval of a contract is **not** automatically authorized even though the monetary impact may have been approved by Council through the budgetary process. All written contracts, contract change orders, amendments, and/or addenda must be reviewed, approved, and executed by City Council or the individual delegated by Council resolution or designated by City Manager designation, in writing, to authorize contractual spend or other obligation.
- G. **Exercise of Renewal Options and Contract Extension Procedures.** Contracts shall only be extended and/or renewed according to the term and renewal options specified in the solicitation and contract documents.
1. Renewal Options. The exercise of renewal options, to include requests for price escalations (if permissible), shall be requested by the using Department at least ninety (90) days prior to the expiration date of the current term. If the using Department or Procurement and/or Contracting Officer find that exercising the renewal option is not in the City’s best interest, a new solicitation may be developed and issued.
 2. Contract Extensions. If a contract is nearing expiration with no remaining renewal options and the replacement solicitation is still in the process of being advertised or awarded and failure to extend will jeopardize the City by creating a lapse in critical or necessary service, the Procurement and Contracting Officer shall have the discretion to grant an exception to allow the extension of the contract under the same terms and conditions of the original agreement for a period of no more than one hundred twenty (120) days to facilitate the award of the replacement contract.
- H. **Binding Effect.** The City shall be bound only by written contracts to which the City of Ocala is formally a party, that have been reviewed and approved in accordance with this Policy, and that have been executed by City officials who have specific or formally delegated or designated contract authority. Contracts signed by officers or employees without documented signature authority may be deemed void. Individuals in such circumstances may be held personally liable for the obligations assumed under such contracts and/or shall be subject to disciplinary action up to and including termination of employment.

ARTICLE I. ADVANCED ACQUISITION PLANNING

- A. The City, by and through its various departments, procures a wide range of goods and services for City operations. Procurement and Contracting staff can provide a significant value-added service to the City by working collaboratively with using Departments in the early phases of the acquisition cycle.
- B. In the past, the Procurement and Contracting Department’s function essentially commenced upon receipt of requisitions, solicitation requests, and relevant documentation from using Departments. While this approach may be sufficient for some purchases, it may not be appropriate for most major acquisitions.
- C. More often than not, procurement actions are delayed due to conflicting or unanticipated workloads, redundant requirements, repetitive after-the-fact revision of specifications or solicitation provisions, or initially unconsidered competition or business utilization issues. The best way to minimize the potential for such circumstances to arise is to identify and resolve these concerns using sound advanced acquisition planning methods for a given purchase.
- D. Advanced acquisition planning is especially necessary for major procurements and should be conducted in accordance with sound business practices and in a timely manner.
- E. Advanced acquisition planning consists of strategizing procurements, evaluating alternatives, analyzing current market conditions through market research and/or market surveys, developing educated forecasts, and consolidating or breaking out the needs of the department to avoid unnecessary purchases and to establish the best purchasing approach and deliver the most economical product or service.
 - 1. Market Research. Refers to the collection and analysis of information regarding the capabilities within the market to satisfy the City’s needs, including identification of the attributes of existing products, processes or services that meet minimum requirements, and characteristics that a yet to be identified product, process or service must possess. Market research shall serve as the foundation for the development of specifications and/or scopes of services for use in a future solicitation.
 - 2. Market Survey. Refers to an attempt to ascertain whether qualified sources capable of satisfying the City’s requirement exist. This testing of the marketplace may range from written or telephone contacts with knowledgeable experts regarding similar requirements to consulting other sources (e.g., technical/scientific journals, solicitations and/or contracts from other jurisdictions, etc.).
 - 3. Price and Cost Analyses. Refers to an evaluation of the budgeted price relative to the prices being offered by other vendors and being paid by the general public for the same or similar items based on: (a) competing suppliers’ prices or catalog pricing; (b) comparison of historical purchases by the City for the same item coupled with market data such as the Consumer Price Index or Produce Price Index or Inflation Rate over time; or (c) analyzing current published standards (i.e. labor rates).

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- F. **Research Data Sources.** There are a variety of sources of information available to assist departments in advanced acquisition planning efforts. In addition to the following list of data sources, departments are encouraged to contact subject matter experts within the City's workforce and to review how other governmental agencies and/or private enterprises are procuring similar goods and services:
1. City of Ocala's Vendor Database
 2. City of Ocala's Diverse Small Business Enterprise (DSBE) Database
 3. State of Florida Department of Management Services [State Contracts and Agreements Database](#)
 4. My Florida MarketPlace Vendor and Certified Business Enterprise [Database](#)
 5. Florida Sheriff's Association [Cooperative Purchasing Program](#)
 6. Sourcewell Suppliers and Contracts [Database](#)
 7. NASPO ValuePoint [Database](#)
 8. US Small Business Association, North Florida District [located here](#).
 9. US Department of Commerce's Minority Business Development Agency [located here](#).
 10. Marion County, Florida Procurement Bids & RFPs [located here](#).
 11. Internet Search Engines (Google, Bing, etc.)
 12. Publications and Trade Journals for the desired industry
 13. Marketing Organizations
 14. Professional Associations

ARTICLE II. DEVELOPING TECHNICAL SPECIFICATIONS AND SCOPES OF WORK

- A. **Generally.** It is the responsibility of the using Department to prepare technical specifications and scopes of work. All solicitation requests shall be accompanied by a scope of work and technical specifications stated in terms of function, performance or design. Technical specifications should be based on the department's minimal requirements and the market available to satisfy those requirements.
- B. **Scope and Specifications Must Be Non-Restrictive.** Generally, goods and services shall be described in specifications and scopes of work in a manner which encourages maximum compensation by allowing for equivalents, unless certain designs or brand names have been formally standardized by the City. Specifications and scopes shall be clear and concise and provide the salient characteristics required by the using Department and eliminate any restrictive features which might limit acceptable offers or provide an undue advantage to one supplier's products or the products of relatively few suppliers. All specifications and scopes shall be subject to review and modification by Procurement and Contracting Officer to ensure specifications/scopes allow for open competition.

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C. **Factors to Consider When Preparing Specifications and/or Scopes of Work.** The following considerations shall be taken when developing specifications and scopes:

1. Are the specifications clear, concise, and understandable?
2. Are the specifications tailored to more than one vendor?
3. Do these specifications clearly describe the department’s needs in terms of function or performance required?
4. Do these specifications clearly state the minimum requirements acceptable?
5. Do the specifications encourage competition by considering more than one potential source of supply?
6. Do the specifications indicate the end usage or expected results?
7. If a specific brand and model are referenced, has the term “or Approved Equal” been included? If not, has a reason been clearly stated why an “approved equal” is not acceptable?
8. Is there anything unusual to be considered?
9. Vendors who develop or assist with developing specifications for a project are not allowed to bid on the project.

D. **Additional Approvals Required for Certain Procurements.** Prior to issuing a solicitation request or requisition for the procurement of certain goods and services, review of the specifications for the goods or services to be procured shall be coordinated with the department(s) identified in this section to ensure open and competitive sourcing, compatibility, standardization and up-to-date specifications. This listing is subject to change and will be updated accordingly by Procurement and Contracting staff:

Type of Good/Service Requested	Department Review
Computer hardware that connects to City’s data network, software installed on City computers or will integrate/share data with City systems, cloud-based software used to store, transmit, or manage City data, copiers, scanners, cellphones, tablets, and other technology related purchases	Information Technology
Physical security devices (i.e., security cameras, badge scanners, security-related hardware and software)	Information Technology
Vehicles, motorized equipment, roadway equipment, heavy duty equipment, farm equipment, and other related purchases.	Fleet Services Department
Construction, renovation, rehabilitation, maintenance, janitorial services, electrical work, or repair of/for/to City-owned buildings or other facilities.	Facilities Department

ARTICLE III. RESPONSIBILITIES DURING THE PROCUREMENT PROCESS

- A. **Using Department Staff:** Using Department staff shall be responsible for: (1) completing purchase requisitions; (2) submitting exception request forms; (3) issuing solicitation request forms setting forth a clear description of the need for the goods or services being procured; (4) verifying funds; (5) developing scopes of work, plans and specifications; (6) reviewing solicitation documents prepared by Procurement Department staff for accuracy and completeness; (7) attending pre-bid/proposal conferences; (8) answering technical questions about bids/proposals; (9) performing technical evaluation of bids/proposals received; (10) participating in negotiations with the vendor after the issuance of the notice of intent to award; and (11) preparing the Council Report.
- B. **Using Department Director or Designee:** The Director of the Using Department, or his/her designee, shall be responsible for: (1) authorizing purchase requisitions, exception requests, and solicitation requests submitted by using Department staff; (2) verifying and signing off on sole source and single source justifications; (3) signing emergency purchase requests; (4) verifying funds availability; (5) approving plans and specifications; (6) making recommendations for evaluation and selection committee members; (7) approving and presenting recommendation for awards and answering City Council questions during Council meetings.
- C. **Procurement Manager:** The Procurement Manager shall be responsible for: (1) assigning purchase/solicitation requests to Buyers; (2) reviewing sole source/single source justifications; (3) supervising the development of the solicitation for advertisement; (4) reviewing bids/proposal packages and bidders lists; (5) reviewing addenda prior to posting; (6) making recommendations for evaluation and selection committee members; (7) supervising the preparation of the written recommendations for award; and (8) reviewing Council Report prepared by Using Department staff to verify procurement information presented.
- D. **Buyer:** Buyers shall be responsible for: (1) assisting using Departments with advance acquisition planning efforts as requested and appropriate; (2) planning and scheduling solicitations; (3) reviewing scopes of work, plans, and specifications to verify compliance; (4) preparing solicitation documents; (5) preparing bidders lists; (6) holding the pre-bid/proposal conference; (7) preparing addenda; (8) receiving, opening and evaluating bids and/or proposals; (9) developing an evaluation plan; (10) preparing technical reports for proposal evaluation; (11) conducting written and oral discussions; and (12) preparing written recommendation for awards, notice of award, and purchase orders.
- E. **Contracting Manager:** The Contracting Manager shall be responsible for: (1) assigning contracting requests to Contract Specialists/Writers; (2) supervising the preparation of contractual documents; (4) reviewing vendor prepared agreements for compliance; (5) reviewing documents prepared by Contract Specialists/Writers; (6) escalating complex or novel issues related to contract preparation to Contracting Officer for resolution; (6) supervising the routing of contractual documents for signature; (8) reviewing Council Report prepared by Using Department staff to verify contract information presented.

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- F. **Contracting Specialist/Writer:** Contract Specialists shall be responsible for: (1) preparing and reviewing contractual documents for completeness and compliance; (2) facilitating negotiations between the Using Department, vendors, and the City Attorney's Office; (3) ensuring the Using Department has a draft contract to attach to any corresponding Council Report; and (4) ensuring contractual documents are fully executed after approval by the City Manager's Office and/or City Council.
- G. **Project Manager:** Project Managers shall be responsible for: (1) ensuring that the City promptly and accurately receives contracted-for supplies and/or services from vendor; (2) ensuring vendors receive prompt and proper compensation; (3) ensuring vendor meets all contractual obligations; (4) requesting contractual amendments as necessary; (5) reviewing vendor requests for pricing adjustments for reasonableness when compared to Department budget; (6) serving as the initial point of contact for the resolution of discrepancies and deficiencies in contract performance; (7) administering contract payments; and (8) evaluating vendor performance.
- H. **Vendor Relations and DSBE Manager:** The Vendor Relations and DSBE Manager shall be responsible for: (1) assisting using Departments with sourcing vendors during advance acquisition planning; (2) handling escalated requests from the Project Manager for the resolution of discrepancies and deficiencies in contract performance; and (3) coordinating the processes related to issuing vendor defaults and contract terminations.
- I. **Procurement and Contracting Officer:** The Procurement and Contracting Officer shall be responsible for: (1) supervising the procurement process from solicitation preparation through contract closeout, assuring best practices and value, and ensuring full and open competition; (2) ensuring that all purchasing approvals and/or denials and other procurement and contracting decisions are made in the best interest of the City; (3) approving solicitations for advertisement; (4) approving the evaluation plans and selection committees for solicitations; (5) issuing notices of award subject to final approval by Council or other designated officer; (6) authorizing procurement exceptions or emergency purchases in accordance with the Procurement Policy or state/federal law; (7) providing Citywide contract oversight, including contract drafting, negotiation, and review; and (8) overseeing vendor relations to ensure vendors are treated fairly and afforded open and transparent competition.

ARTICLE I. PURPOSE AND APPLICABILITY

- A. **Purpose.** The purpose of this Section is to establish the basis for the level of competition required for the procurement of goods and services. As set forth in the City’s Charter, it is the intent of City Council for the procurement of goods and services to be conducted in a manner that affords vendors with a fair, open, and transparent opportunity to compete. Accordingly, the procurement of goods and services for the City must, whenever possible, be accomplished through competitive bidding unless otherwise provided in this Section.
- B. **Applicability.** Selection of the procurement method to be utilized (“Source Selection”) shall depend on the nature of the purchase or project, type of funding, and value of the expenditure as set forth in this Section.

ARTICLE II. COMPETITION THRESHOLDS AND GENERAL REQUIREMENTS

- A. The City’s competitive purchasing guidelines are based on the assessment of risk to the City and are categorized by the aggregate expenditure amount for the good or service per contract term or annually if goods will be provided or services will be completed in one year or less:

AGGREGATE VALUE	METHOD OF COMPETITION REQUIRED
\$5,000 OR LESS	No Competition Required. Purchases may be made by the using Department, with or without competition. Price must be fair and reasonable. Use of local vendors is strongly encouraged.
\$5,001 TO \$15,000	Informal or Formal Competition Permitted. Purchases must be made after the solicitation of bids or quotes from no less than three (3) qualified vendors. A scope of work must be provided if services are requested. Process may be hosted by either the using Department or Procurement and Contracting Department.
\$15,001 TO \$50,000	Formal Competition Required. Purchases must be made after competitive bids or proposals are formally solicited by the Procurement and Contracting Department, unless waived in writing by the Procurement and Contracting Officer in response to an exception request submitted by the using Department or otherwise exempt from competition pursuant to this Procurement Policy.
\$50,001 OR GREATER	Formal Sealed Competition Required. Purchases must be made after competitive sealed bids or proposals are formally solicited by the Procurement and Contracting Department, unless waived in writing by the Procurement and Contracting Officer in response to an exception request submitted by the using Department, or otherwise exempt from competition pursuant to this Procurement Policy.

ARTICLE III. PURCHASES UNDER \$50,000

- A. **Purchases Valued at \$5,000 or Less.** Goods or services with an aggregate contract value of \$5,000 or less may be procured directly by using Departments without competition so long as the department has analyzed and determined that the price accepted is fair, reasonable, and affords the City best value.
1. Recurring Small Purchases. Recurring purchases for the same category of goods or services from a single vendor during any given annual or fiscal year should be tracked under a single contract number and the sum of those purchases shall constitute the aggregate contract value. Departments should consult with Procurement and Contracting staff for suggestions prior to making recurring purchases for the same good or service to ensure that said purchases will continue to qualify as small purchases for the purposes of this Section.
 2. Documentation of Pricing Determination. Departments are required to maintain documentation related to the method utilized to make a fair and reasonableness determination which may be based upon price, availability, purchase history, or the department’s familiarity with the product, service, or vendor and need not entail a detailed analysis of cost elements.
 3. Use of Local Vendors: Departments are encouraged to source local vendors for the micro-purchases, but use of local vendors is not required. In accordance with [Ordinance 2017-35](#), the Procurement Contracting Officer shall have the right to apply local vendor preference to procurement actions under \$50,000 when it is in the best interest of the City.
 4. Methods of Purchase: Purchases of goods and services equal to or less than \$5,000 should be made using the City’s purchasing card (P-Card) in accordance with the City’s Procurement Card Policy. For purchases that cannot be paid with a P-Card, using Departments shall issue requisitions for Purchase Orders which will constitute the City’s authorization for the vendor to perform the work or provide the goods.
- B. **Purchases Valued at \$5,001 to \$15,000.** Goods or services with an aggregate contract value of \$5,001 to \$15,000 may be procured after informal or formal solicitation of written quotes or proposals by either the using Department or Procurement and Contracting staff from no less than three (3) qualified vendors. Award shall be made to the low bidder or highest ranked proposer affording the City best value.
1. Three Quote Requirement: Every effort must be made to obtain quotations from no less than three (3) qualified vendors. Additional sourcing lists can be obtained by using Departments from Procurement and Contracting staff. A vendor’s non-response to a request for quotes may be documented as a no-quote and shall qualify as one attempt toward meeting the three-quote requirement unless otherwise specified herein. The three (3) quote requirement may only be waived by the Procurement and Contracting Officer in response to the using Department’s written exception request unless otherwise exempted by this Procurement Policy.

2. Documentation Required. Quotes must be requested based on equal terms and conditions and may be solicited either informally by e-mail or formally through the use of a [Request for Quote Form](#). Price quotes must be provided by an authorized representative for the quoting vendor. Documentation of all quotes requested and received must be attached to the using Department's requisition for approval. The Procurement and Contracting Officer shall have the right to verify all quotes obtained and/or to require additional quotes prior to approval of contract award.
 3. Use of Local Vendors: Departments are encouraged to source local vendors for these small value quotes, but use of local vendors is not required. In accordance with [Ordinance 2017-35](#), the Procurement Contracting Officer shall have the right to apply local vendor preference to procurement actions under \$50,000 when it is in the best interest of the City.
- C. **Purchases Valued at \$15,001 to \$50,000.** Goods or services with an aggregate contract value of \$15,001 to \$50,000 shall be procured by a publicly advertised competitive solicitation process formally hosted by the Procurement and Contracting Department unless waived by the Procurement and Contracting Officer in response to the using Department's written exception request or otherwise exempted by this Procurement Policy. Award shall be made to the low bidder or highest ranked proposer affording the City best value.
1. Solicitation Preparation. Solicitations shall be prepared by Procurement and Contracting staff. Using Departments shall be involved in the preparation of solicitations to ensure that project or product specific requirements are adequately addressed in the solicitation document. The Procurement and Contracting Officer shall have the right to modify the final solicitation document to ensure that its terms and conditions comply with local, state and federal regulations and do not unreasonably restrict competition.
 2. Use of Local Vendors: All registered vendors offering the desired good or service shall be invited to participate in the solicitation. In accordance with [Ordinance 2017-35](#), the Procurement Contracting Officer shall have the right to apply local vendor preference to procurement actions under \$50,000 when it is in the best interest of the City.

ARTICLE IV. PURCHASES OVER \$50,000

- A. **Purchases Valued at \$50,001 or Greater.** Goods or services with an aggregate contract value of \$50,001 or more shall be procured by a formal, publicly advertised, competitive solicitation process formally hosted by the Procurement and Contracting Department unless waived by the Procurement and Contracting Officer in response to the using Department's written exception request or otherwise exempted by this Procurement Policy. Vendor responses shall be sealed until opened by Procurement and Contracting staff at the publicly advertised bid opening date and time. Award shall be made to the low bidder or highest ranked proposer affording the City best value.

ARTICLE V. COMPETITIVE SOLICITATIONS GENERALLY

- A. **Purpose and Applicability.** Competitive solicitations are utilized to ensure the receipt of responsive, reasonable, and firm quotes and proposals to meet City requirements. Competitive solicitations may be either formal or informal based on aggregate contract value.
1. Informal Solicitations. Informal solicitations are used only for acquisitions where the estimated aggregate contract value will not exceed \$50,000. Competitive quotes may be solicited by either the using Department (contract values of \$5,000 to \$15,000) or Procurement and Contracting staff (contract values of \$15,001 to \$50,000). If the Procurement and Contracting Department believes that the City will have a continuing need for the commodity or service specified and the total value of those purchases will exceed \$50,000, a formal competitive solicitation process will be used.
 2. Formal Solicitations. Formal solicitations shall be prepared and issued by the Procurement and Contracting Department for the acquisition of goods or services where the estimated aggregate annual or term value will exceed \$50,001. The following source selection methods are used to conduct formal solicitations as determined by the Procurement and Contracting Department: (a) Invitation to Bid (ITB); (b) Request for Proposals (RFP); (c) Invitation to Negotiate; (d) Request for Information (RFI); or (e) Request for Letters of Interest (LOI).
- B. **Splitting of Purchases Prohibited:** Departments shall not artificially parcel, split, schedule, or otherwise divide purchases in an effort to circumvent competition requirements as set forth under this or any other Section of the Procurement Policy. Department purchasing patterns shall be periodically reviewed by both Procurement and Contracting staff and the City Auditor to ensure that inappropriate purchase splitting has not occurred.
- C. **Cone of Silence.** The Cone of Silence shall be in effect from the time of advertisement of formal or informal solicitations until such time as City Council, the City Manager or his/her designee, or the Procurement and Contracting Officer awards or approves the contract or purchase order, rejects all bids or responses, or otherwise takes action to end the selection process. (Refer to [Procurement Policy PRO-030 – Anti-Lobbying Policy](#)). For informal solicitations hosted by using Departments, vendor communication shall be limited solely to the Department staff managing the informal procurement process and Procurement and Contracting staff.
- D. **Bid Request Form and Scope of Work Required.** To initiate the competitive solicitation process, it shall be the responsibility of using Departments to submit a [Bid Request Form](#) inclusive of a complete scope of work and/or uniform specifications for the desired commodity or service. At a minimum, the solicitation request shall contain the following information for recording in the Procurement File for every solicitation performed in accordance with this Section: using Department; project manager; contract number; description of commodity(ies) or service(s) desired; quantit(ies); delivery requirements; special conditions; drawings; specifications; insurance and warranty requirements; and grant funding requirements.

POLICY TITLE

Competition Requirements and Source Selection

EFFECTIVE DATE

November 5, 2024

POLICY NO.:

PRO-060

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1. To avoid delays, the solicitation request should be submitted no less than four (4) weeks prior to needing a Purchase Order or contract.
 2. The Director of the using Department is responsible for verifying and confirming that there are sufficient funds available for the project prior to submitting the Bid Request Form
 3. Scopes of work, plans, and specifications shall be clear and concise and provide the salient characteristics required by the using Department. (Refer to [Policy PRO-050 – Acquisition Planning and Procurement Responsibilities](#)). Vendors who develop or assist with developing specifications for a project shall not be permitted to compete in the associated solicitation.
 4. If the goods or services sought are of the type requiring Additional Required Approvals then the using Department should coordinate with the applicable reviewing department prior to submitting its Bid Request Form. (Refer to [Policy PRO-050 – Acquisition Planning and Procurement Responsibilities](#)).
- E. **Responsiveness Determination.** A bidder/proposer will be deemed to be responsive where the bidder/proposer has submitted a bid or proposal that fully conforms in all material respects to the solicitation documents, including form and substance.
- F. **Responsibility Determination.** A bidder will be deemed to be responsible where documentation supports that the bidder is capable of meeting all of the requirements of the solicitation and subsequent contract and possesses the full ability, including financial and technical, to perform as contractually required in good faith as demonstrated by performance on previous contracts and/or compliance with laws and regulations relating to similar contracts.
- G. **Receipt of Only One Bid or Submission.** Where quotes, bids, or proposals have been solicited and only one bid is received, the following process shall be followed:
1. The Procurement and Contracting Officer shall:
 - (a) make a determination if the probably of receiving more than one bid existed at the time of the solicitation; if so
 - (b) make a determination whether restrictive specifications or conditions caused the sole response; if not
 - (c) make a determination, based on price or cost comparisons or analysis, that the pricing offered by the sole responsive bidder is fair and reasonable; if so
 - (d) make a determination that re-solicitation will probably fail to elicit further bids; and then
 - (e) make the notice of intent to award based on the single bid.
 2. Where the Procurement and Contracting Officer determines that the receipt of a single bid or proposal was the result of restrictive specifications or conditions, the specifications or conditions shall be rewritten and the item resolicited.

- H. **Solicitation/Award Cancellations or Rejections.** At any time prior to award and approval of the contract pursuant to this Section, the City shall have the right to cancel or rescind a solicitation, in whole or in part, and/or to reject all bids or proposals received by the City in response thereto when it is determined by the Procurement and Contracting Officer that such action is in the best interest of the City. The reasons for the cancellation or rejection shall be made a part of the Procurement file.
1. Notice in Solicitation. All solicitations issued by the City shall provide that any submittal may be rejected in whole or in part when deemed to be in the best interest of the City.
 2. Notification of Cancellation or Rejection. Written notice of cancellations and/or rejections made pursuant to this Section shall be posted on the City's eProcurement website and sent to all vendors who submitted a response to the affected solicitation. The notice of cancellation or rejection shall: (a) identify the solicitation; and (b) briefly explain the reason for the cancellation or rejection.
- I. **Selection Committees.** Selection Committees may be used to review, score, and rank proposals received in response to the City's Request for Proposals (RFPs), Request for Letters of Interest (LOIs), and Invitations to Negotiate (ITNs), and to make recommendations for award.
1. Number of Members. The Procurement and Contracting Officer shall establish a Selection Committee comprised of not less than three (3) members with relevant experience related to the type and nature of the supply or service to be obtained.
 2. Composition of Committee. Members are required to be qualified City employees and:
 - (a) shall not include direct supervisors of other members; and
 - (b) at least one (1) member shall be from outside the using Department.
 3. Conflict of Interest. No person shall serve on a Selection Committee if he/she has a conflict of interest with respect to the vendor being evaluated. All committee members shall be required to sign a conflict-of-interest statement prior to any and all meetings. (Refer to [Policy PRO-020 – Ethical Principles and Standards](#)).
 4. Selection Committee Meetings.
 - (a) All meetings, except for meetings scheduled for vendor oral presentations, shall be properly noticed and recorded.
 - (b) Meetings scheduled for the purposes of vendor oral presentations shall not be recorded and shall be handled pursuant to section 286.0113, Florida Statutes.
- J. **Technical Evaluation Committees.** For highly technical procurements, a technical evaluation team consisting of non-voting members with specific expertise in the procurement will be formed. The team will evaluate the proposals and provide recommendations to the Selection Committee. The Selection Committee may accept, modify, or reject the technical committee recommendations for justified reasons. Technical Evaluation Committee members may not serve on any other committee regarding the solicitation.

- K. **Financial Review Committee.** On certain procurements, a financial review committee consisting of non-voting members will be formed for the purposes of reviewing specific portions of a proposal and requesting specific information and documentation necessary to determine project feasibility with regard to cost, financing, and proposer’s financial resources to perform the contract and provide the services.
- L. **Public Records.** Upon opening, all sealed bids, proposals, or replies received in response to a competitive solicitation shall be come property of the City of Ocala and will become subject to public disclosure in accordance with Chapter 119, Florida Statutes, as amended (the “Public Records Act”) and section 24, Article I of the Florida Constitution as follows:
1. Sealed bids, proposals, or replies received pursuant to competitive solicitations are exempt from section 119.07(1), Florida Statutes, and section 24, Article I of the Florida Constitution until such time as the City issues notice of its intended decision or until thirty (30) days after the opening of the bids, proposals, or replies, whichever is earlier.
 2. If the City rejects all bids, proposals, or replies received pursuant to a competitive solicitation and the City concurrently provides notice of its intent to reissue the competitive solicitation, then the rejected bids, proposals, or replies shall remain exempt from section 119.07(1), Florida Statutes, and section 24, Article I of the Florida Constitution until such time as the City issues notice of its intended decision concerning the reissued solicitation or until the City withdraws the reissued solicitation. No bid, proposal, or reply shall be exempt for longer than twelve (12) months after the City’s initial notice rejecting all bids, proposals, or replies.
- M. **Intent to Award and Approval of Contract.** The intent to award and contract shall be submitted as either a standalone City Council agenda item or, for awards valued at \$50,000 or less, as part of the Under \$50,000 Report agenda item after City Manager approval. The final negotiated agreement must be determined to be fair, competitive, and reasonable. No award shall be final, and no contract shall be deemed created or existing, until such time as a written contract, formal purchase order, or other authorization has been executed by the selected vendor and the City and approval of City Council (or its designee) has been obtained.
- N. **Post-Award Termination.** Unless otherwise prohibited by law or elsewhere in this Policy, in the event that the City rescinds a contract award to a selected bidder/proposer prior to the execution of a formal contract, then the City may proceed with awarding the contract to the next lowest-priced or highest-ranked responsive and responsible bidder/proposer without commencing a new competitive procurement process.

ARTICLE V. METHODS OF COMPETITIVE SOLICITATION

A. Invitations to Bid (ITB).

1. Appropriate Use. ITBs are the preferred method of procuring goods and services over the small purchase threshold of \$5,000 and shall be appropriate for use where:
 - (a) complete, adequate, and precise technical specifications for the product or services can be clearly defined and there is little to no leeway in the interpretation of the requirements;
 - (b) the procurement will lead to a firm fixed price contract and/or cost is the only variable;
 - (c) the successful bidder can be selected on the basis of price or price related factors as identified in the ITB; and
 - (d) discussions with bidder(s) after bid closing is expected to be unnecessary; and/or
 - (e) the Procurement and Contracting Officer deems it to be in the City's best interest to do so.
2. Basis for Award. ITB awards shall be made to the lowest priced responsive and responsible bidder(s). When a bidder is unable to provide goods and services at the awarded contract pricing and terms, the City may re-award to the next lowest, qualified, responsive and responsible bidder. The City reserves the right to award to multiple vendors, to reject all submittals and re-advertise, or to cancel the solicitation altogether.

B. Requests for Proposals (RFPs).

1. Appropriate Use. RFPs shall be appropriate for use where:
 - (a) the procurement is described using performance or functional specifications or, if described in precise technical specifications, other circumstances exist (i.e., the need for discussions) which warrant basing the contract award on factors other than price alone;
 - (b) there are an uncertain number of sources available;
 - (c) the contract award need not be based on price or price-related factors alone; and/or
 - (d) discussions with the offeror are expected or necessary after the receipt of proposals.
2. Evaluation and Negotiation. When its impractical to support an award based solely on price, the City may conduct multi-step sealed bidding, whereby an initial request for proposal is issued requesting the submission of un-priced offers, or information relating to the experience and capabilities of the prospective bidders, to be followed by price proposals from those bidders whose offers or experience and capabilities have been determined to be acceptable under the pre-established evaluation criteria set forth in the solicitation. Evaluation criteria may include, but need not be limited to:
 - (a) vendor's ability to meet all contractual requirements through availability of, or ability to obtain, appropriate financial, material, equipment, facility and personnel resources and expertise;

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- (b) vendor’s record of satisfactory contractual performance and integrity;
- (c) vendor’s ability to legally contract with the City; and
- (d) vendor’s provision of all necessary information requested under the solicitation including, but not limited to, licenses, permits, insurance, or other documentation.

3. **Basis for Award.** RFPs shall indicate that award will be based upon evaluation criteria outlined in the solicitation documents. Proposals received shall be individually evaluated and scored by the City’s Selection Committee and award shall be made to the responsive and responsible offeror whose proposal conforms to the requirements set forth in the solicitation and is determined in writing to provide the best value to the City.

C. Invitations to Negotiate (ITNs) and Requests for Letters of Interest (LOIs).

1. **Appropriate Use.** ITNs and LOIs are flexible procurement methods that are appropriate for use where there are multiple methods of achieving a specific goal or solving a particular problem and the City desires to obtain multiple sealed proposals with the goal of identifying one or more vendors with which to commence negotiations to determine the best method. The solicitation documents for ITNs and LOIs shall:

- (a) clearly identify the City’s goal(s) or problem(s), the question(s) being explored, and the facts being sought; and
- (b) set forth the criteria that will be used by the City for determining the acceptability of the reply and guiding the selection of the vendors with which the agency will negotiate.

2. **Evaluation and Award.** The City’s Selection Committee shall evaluate replies against all evaluation criteria set forth in the ITN in order to establish a competitive range of replies that are reasonably susceptible of award. The City may select one or more vendors within the competitive range with which to commence negotiations. Negotiations under the ITN method are intended to be collaborative which may result in significant changes to solicitation requirements after an exchange of ideas and methods concerning how to best deliver the good or service. Negotiations may be conducted with multiple firms through either the single negotiation method or concurrent negotiation method.

- (a) *Single Negotiation Method.* City shall attempt to negotiate first with the highest-ranked vendor in an attempt to reach a satisfactory contract with terms and conditions that are fair, competitive, and reasonable. Should the City’s efforts to negotiate a satisfactory contract with the highest-ranked vendor fail, negotiations shall terminate and negotiations with the next highest-ranked vendor shall proceed. If negotiations with the next highest-ranked vendor are unsuccessful, negotiations shall terminate and the process shall continue with the next-highest ranked vendors until an agreement is reached or until the Procurement and Contracting Officer rejects all proposals and either cancels the solicitation or readvertises for new proposals.
- (b) *Concurrent Negotiation Method.* City shall negotiate simultaneously with two or more top ranked proposers. Negotiations will continue simultaneously until a “best and final offer” is reached resulting in a satisfactory contract.

ARTICLE I. EXEMPTIONS FROM COMPETITIVE PROCUREMENT REQUIREMENTS

- A. Unless otherwise required by local, state or federal law or regulation, the following goods, services, and transactions are not subject to the competitive procurement requirements set forth in this Policy and may be authorized by the Procurement and Contracting Officer up to the stated limitations:
1. Services or commodities provided by non-profit organizations, educational and health care institutions, governmental and quasi-governmental agencies.
 2. Goods and/or services given to or accepted by the City via grant, gift or bequest.
 3. All purchases of services from a utility or other entity whose rates are determined and controlled by a public services commission or governmental authority; including services such as natural gas, electricity, water, telecommunications, telephone and cellphones.
 4. Goods and services solicited by the Florida Municipal Power Association (FMPA) and reviewed by the Joint Purchase Project (JPP) or other electric co-op using a verifiable competitive bidding process approved by the Procurement and Contracting Officer.
 5. Banking and financial services.
 6. Items purchased for resale to the general public.
 7. Real property acquisitions to include land, easements, rights-of-way, buildings, structures, or improvements resulting from negotiations involving the City Attorney and approved by City Council.
 8. Leases of property required for City projects.
 9. Purchases related to security systems designed to protect City infrastructure to include security systems, wired and wireless networks and associated peripherals based upon proper justification provided by the using department and approval of the Director of Information Technology and the Procurement and Contracting Officer.
 10. Annual licenses, maintenance and support services, and upgrades to existing information technology software, hardware, or firmware, where the initial purchase was competitively sourced and continued use has been approved by the Director of Information Technology.
 11. Training, tuition, and fees for training instructors, lecturers, presenters, and/or facilitators relating to a legitimate City purpose or program.
 12. Live animals, to include police canines and horses.
 13. Groceries, food, and beverages, including concessions for City events.
 14. Postage, shipping, and express mail costs.
 15. Dues and memberships in trade or professional organizations, license fees, and sponsorships for a public purpose or job-related organizations.
 16. Subscriptions for and advertising in newspapers, periodicals, billboards, or social media.
 17. Items purchased for resale to the general public.

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18. Instructors, tutors, entertainment providers, and sports officials for programs provided by City departments.
 19. Legal services, to include attorneys, paralegals, magistrates, expert witnesses, appraisers, mediators, court reporters, and court fees.
 20. Title insurance, title commitments, title searches, and ownership and encumbrance searches and real estate appraisal services to determine the market value of real property.
 21. Political lobbying services.
 22. Works of art for public places, art design, maintenance, art consulting and conservation services.
 23. Security and law enforcement services provided by employees of the Ocala Police Department.
 24. Activities and venue admission fees for camp, recreation and after school programs.
 25. Warranty or maintenance agreement costs for services by the original vendor, manufacturer, or installer.
 26. Artistic services which, for the purposes of this section, shall include the rendering by a contractor of its time and effort to create or perform an artistic work in the fields of music, dance, drama, folk art, creative writing, painting, sculpture, photography, graphic arts, craft arts, costume design, fashion design, motion pictures, television, radio, or tape and sound recording.
 27. Employment agreements, including collective bargaining agreements.
 28. Medical services involving examination, diagnosis, treatment, prevention, medical consultation or administration provided by health professionals and health facilities or organizations that deliver or arrange for the delivery of health services.
 29. Postage, shipping, or expedited delivery services (i.e., FedEx, UPS, USPS).
 30. Goods and services exempt from competitive solicitation requirements under section 287.057(3)(e), Florida Statutes, as amended.
 31. Goods and services procured under a contract let by any state, county, or municipal government (and any other governmental agency or political subdivision), state college or university, national government agency, cooperative procurement organization or procurement association, or from a State of Florida, Federal GSA.
- B. Certain procurements for the above categories may be required to be obtained via competitive means when it is determined by the Procurement and Contracting Officer that competition is necessary: (a) to obtain competitive market rates, negotiate preferable terms and conditions, and/or negotiate service enhancements; and/or (b) to enable the City to take advantage of technology enhancements, service changes, or evolution in the market.
- C. Exemption from the competitive procurement process pursuant to this Section does not grant exemption or exception from all other procurement procedures.

ARTICLE II. NON-COMPETITIVE PROCUREMENTS GENERALLY

- A. **Justifiable Non-Competitive Procurements.** When emergency or other justifiable situations arise, it may sometimes become necessary to procure goods and services outside of competitive procurement requirements. To the extent practicable, competitive pricing shall be obtained for such procurements. Non-competitive purchasing methods may only be used as a procurement method where the desired goods or services: (1) are available from only one source (Sole Source), (2) are of a style, brand, make, or model previously determined to meet the City’s requirements for performance consistency, or compatibility (Standardization), or (3) are necessary to meet an emergency need that, if unmet, would threaten public health, safety, welfare, property, or essential operations (Emergency Purchase).
- B. **Written Exception Request and Approval Required:** Documentation justifying procurement by any method which does not allow for full and open competition (including, but not limited to, sole source, single source, standardization, and/or emergency purchases) shall be submitted to the Procurement and Contracting Department using the appropriate [Exception Request Form](#) with support material attached.
1. The using Department’s exception request shall indicate the purpose of the acquisition, the uniqueness of the item or service, why waiving the competitive process serves the best interests of the City, and what market research has been performed to support its position. It shall be the primary responsibility of the using Department to perform market research to determine if alternative sources of supply are available.
 2. The Procurement and Contracting Officer shall verify department findings and review all sole source, single source, standardization and/or emergency procurement requests to determine the appropriate acquisition approach based on policy and best practices.

ARTICLE III. EMERGENCY AND CRITICAL PROCUREMENTS

- A. **Definition of Emergency.** For the purposes of this Section, an “Emergency” sufficient to justify a non-competitive procurement shall exist where there is an unforeseen or unanticipated urgent and immediate need for goods or services where compelling the utilization of standard competitive procurement procedures would:
1. hinder the deterrence of an imminent threat to public health, safety, or welfare;
 2. hinder the protection or preservation of public property;
 3. result in the disruption of essential City operations; and/or
 4. result in the City suffering a sufficient loss.
- B. **Using Department’s Failure to Plan.** Departmental failure to adequately plan for its acquisitions **WILL NOT** constitute justification for a non-competitive procurement based on public emergency. The Procurement and Contracting Officer shall report to the City Manager any department procurement practices that reflect poor operational planning, and which have the potential effect of defeating the purpose of the competitive procurement process.

- C. **Emergency Procurement Procedure:** Emergency procurements made under a formal Declaration of a State of General Emergency shall follow [Procurement Policy PRO-160 – Declaration of State of General Emergency](#). All other emergency procurements must comply with the procedures established by this Section:
1. The using Department shall expeditiously submit an [Exception Request Form](#) for the purchase via the Procurement and Contracting Department’s Intranet Page and attach all relevant documentation, including the specific nature of the threat to public health, safety, welfare, public property, essential operations, or other sufficient loss.
 2. The Director of the using Department shall be responsible for reviewing and approving the submittal of exception requests for emergency procurements, verifying funds, and answering any City Council questions regarding the procurement that fall outside of the scope of Procurement and Contracting Department oversight.
 3. The Procurement and Contracting Officer shall verify the existence of a legitimate emergency and shall attempt to obtain competitive pricing information from at least two (2) other vendor sources unless the Procurement and Contracting Officer determines that the time required to obtain additional pricing information will increase the immediate danger to the public health, safety, or welfare or other substantial loss to the City. Any additional pricing information shall be maintained in the procurement file.
 4. The Procurement and Contracting Officer shall provide written authorization for emergency procurement of the equipment, supplies, goods, or services outside of standard or competitive procurement requirements. Determination of an emergency is in the sole discretion of the City Manager and Procurement and Contracting Officer.
 - (a) **Emergency Purchases Valued at \$50,000 or Less:** Properly documented and justified emergency procurements valued at \$50,000 or less must be authorized by the City Manager or his/her designee in writing and must be calendared as an informational item at the next available City Council meeting.
 - (b) **Emergency Purchases Valued at \$50,000 or More:** Properly documented and justified emergency procurements valued at \$50,001 or more must be authorized by the City Manager or his/her designee in writing. Emergency Purchases that exceed \$50,001 are subject to internal audit review and shall be calendared as an agenda item on the next available City Council agenda.

ARTICLE IV. STANDARDIZATION AND SOLE SOURCE PROCUREMENTS

- A. **Standardization:** Standardization is a non-competitive procurement method available where the City has determined that a particular style, brand, make or model is the only type that will meet the City’s requirements for performance, consistency, compatibility or other salient characteristics, and such determination has resulted in there being only one source available to the City.

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1. The using Department's fully completed [Standardization Request Form](#) shall be supported by the following:
 - (a) justification for the need to standardize the good or services;
 - (b) operational advantages, if any, that the desired equipment or system has over comparable models, why these capabilities are essential maintenance advantages, if any, that the desired equipment/system has over comparable models;
 - (c) the number and types of the same or similar equipment or systems currently in use at the City; and
 - (d) other factors for consideration, such as ease of maintenance, current skills of maintenance personnel, costs of additional training if another system or different equipment is procured, and/or existing parts inventory.
 2. The Procurement and Contracting Officer shall make a written determination approving the commodities and/or services as a standardization.
 3. The using Department shall not be authorized to enter into any type of negotiations with a proposed standardized supplier until such time as the Procurement and Contracting Officer has completed his or her review of the required documentation and issued a formal written approval.
 4. All standardization requests must be renewed every ten (10) years along with justification and reaffirmation that a good faith effort has been made to find available sources.
- B. Sole Source Procurement:** Sole source is a non-competitive procurement method that is available where there is only one source that is capable of providing the good or service and an equal product or service is not available from any other source.
1. The using Department shall submit a fully completed [Sole Source Justification Form](#) to the Procurement and Contracting Department supported by the following:
 - (a) specifications or a statement of work that clearly establishes the minimum performance or functional requirements of the product(s) or service(s).
 - (b) description of the using Department's unique need that precludes full and open competition.
 - (c) written evidence that the supplier either: (i) is the exclusive distributor; (ii) is the authorized repair or service center; (iii) holds exclusive proprietary rights; or (iv) holds exclusive territorial rights.
 - (d) vendor proposal and quote; and
 - (e) any other supporting documentation.
 2. Upon receipt of a completed [Sole Source Justification Form](#), Procurement and Contracting staff shall publicly post a description of the commodities or services sought on the City's eProcurement system for at least fifteen (15) business days to validate the lack of competition.

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- (a) This notice shall include a request for prospective vendors to provide information regarding their ability to supply the commodities or services described.
 - (b) If no response is received from any potential manufacturer, bidder, or business owner within the fifteen (15) business day period, the Procurement and Contracting Officer shall make a written determination that the commodities and/or services are only available from a sole source and the determination shall be posted on the City's Procurement internet page at www.bidocala.com, which is accessible to the public.
 - (c) If a sole source request is disallowed, standard procurement processes will be followed for the procurement.
 - (d) All objections to the Procurement and Contracting Officer's decision to issue a sole source award shall be handled in accordance with [Procurement Policy PRO-080 – Protested Solicitations and Awards](#).
3. The using Department shall not be authorized to enter into any type of negotiations with a proposed sole source supplier until such time as the Procurement and Contracting Officer has completed his or her review of the required documentation and issued a formal written approval.
 4. All sole source requests must be renewed every five (5) years along with justification and reaffirmation that a good faith effort has been made to find available sources.

ARTICLE V. ALTERNATIVE METHOD FOR CRITICAL INFRASTRUCTURE PROCUREMENTS

- A. **Applicability.** Where during the Acquisition Planning process a using Department identifies – after consultation with the Director of Information Technology – that the procurement of certain information technology, operational technology, or other related services, equipment or peripherals via full and open competition may pose certain risks to the City's critical infrastructure by allowing a method for unknown companies and actors to assess or otherwise exploit vulnerabilities, or otherwise compromise the configuration or methodologies supporting the security of the City's critical infrastructure, the Procurement and Contracting Officer may allow the procurement of said services, equipment or peripherals to occur via the alternative method set forth in this Section.
- B. **Alternative Procurement Process.**
 1. Only those vendors who have been pre-qualified by the City for the procurement of cyber assets, equipment, software, or services supporting the City's critical infrastructure may compete in the procurement processes for the acquisition of said commodities or services.
 - (a) Vendors seeking prequalification shall submit a completed Vendor Assessment Form via the City's KnowBe4 Compliance Manager (KCM) which will assess the vendor's organization, access control, technical controls, incident response, network security and overall security posture.

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- (b) If the City is unable to assess the Vendor's risk based on responses provided on the KCM, the City's Information Technology Department may request additional information in order.
- (c) Vendors who fail the assessment process will not be permitted to compete in the procurement process for critical infrastructure commodities or services.
2. **Limited Solicitation to Pre-Qualified Vendors.** All Invitations to Bid (ITBs) or Requests for Proposals (RFPs) for the procurement of cyber assets, equipment, software, or services supporting the City's critical infrastructure will be exclusively advertised to vendors that are on the City's Pre-Qualified List of Cyber Vendors.
3. **Related Definitions.** For the purpose of this Section, the following terms shall have the following meanings:
- (a) Critical Infrastructure. "Critical Infrastructure" shall refer to existing and proposed information technology and operational technology systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health, or public safety.
- (b) Cybersecurity Defined. Cybersecurity shall refer to the protection afforded to an automated information system in order to attain the applicable objectives of preserving the confidentiality, integrity, and availability of data, information, and information technology resources.
- (c) Information Technology. Information Technology shall refer to equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, electronically, and wirelessly collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information of any kind or form.
- (d) Operational Technology. Operational Technology shall refer to hardware and software that cause or detect a change through the direct monitoring or control of physical devices, systems, processes, or events.

ARTICLE VI. GOVERNMENT CONTRACTS AND COOPERATIVE PURCHASING

- A. **Purpose:** Cooperative Purchasing occurs when two or more public entities combine their purchase requirements to reduce administrative costs and obtain lower prices through volume buying. Through cooperative purchasing, the City receives the following benefits:
1. better prices due to larger volume sales (economy of scale);
 2. better quality due to improved competitive specifications; and
 3. savings in administrative costs and resources due to only one entity issuing the solicitation.

B. **Other Governmental Agency Contracts (“Piggybacking”).** Where reviewed and approved by the Procurement and Contracting Officer, the City may utilize active contracts of any other state, county, municipality, school district, or other governmental agency (“Piggybacking”) in lieu of soliciting bids or quotes, pursuant to the requirements set forth in this Section.

1. General Conditions:

- (a) solicitation documents and selection procedures utilized by the originating government or agency have been provided by the using Department via an [Exception Request Form](#) and reviewed and found by the Procurement and Contracting Officer to be consistent with the City’s procurement practices;
- (b) City has received written verification from the originating agency that the vendor is performing satisfactorily;
- (c) City has received written verification from the vendor offering to honor the same prices under the same terms and conditions set forth in the originating agency’s solicitation and subsequent contract; and
- (d) vendor agrees to execute a separate agreement or to accept a Purchase Order from the City confirming that the same prices, terms and conditions granted to the originating entity will be granted to the City along with agreement to the City’s established provisions providing for indemnity, insurance, controlling laws, venue, dispute resolution and other provisions as may be recommended by the Procurement and Contracting Officer and City Attorney.

2. Federal Conditions: Additional conditions will apply where federal funds will be utilized to procure all or part of the goods or services:

- (a) the original contract was procured in compliance with 44 C.F.R. § 13.36;
- (b) the original contract contains an assignability clause;
- (c) the contract price is fair and reasonable;
- (d) the contract provisions comply with all Federal requirements based on the Federal funding source (i.e., FEMA, FTA, FDOT, FHWA, etc.); and
- (e) the scope of work does not exceed the amount of goods or services required to meet the assigning party’s original, reasonably expected needs. (Refer to 44 C.F.R. § 13.36).

3. Restrictions. Piggybacking shall not be authorized when:

- (a) the action would require a substitution of goods, materials, equipment and services that were not originally proposed or bid on and not originally evaluated as part of the contract award;
- (b) the procurement is for professional services as defined in section 287.055, Florida Statutes, the Consultants’ Competitive Negotiation Act (CCNA); or
- (c) where it is prohibited by law.

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- C. **State of Florida Department of Management Services (DMS) or Alternative Source Contracts.** The State of Florida, Department of Management Services (DMS), Division of State Purchasing, administers statewide contracts and agreements for use by Florida local governments. Statewide contracts and agreements enable eligible users to pool their buying power to lower total costs and reduce administrative burden while complying with Chapter 287, Florida Statutes, governing the purchase of products and services. Additional information is available at www.dms.myflorida.com. Purchasing from the Division of State Purchasing contracts is authorized. Purchase Orders, invoices, and contractual documentation must expressly reference the applicable DMS contract.
- D. **Cooperative Purchasing Agreements.** Cooperative purchasing agreements allow the City and other local governments to take advantage of buying power offered through multi-agency competitive solicitations through various agencies, including but not limited to:
1. Sourcewell
 2. National Cooperative Purchasing Alliance (NCPA)
 3. NASPO
 4. Florida Sheriff's Association (FSA)
 5. Fire Rescue Group Purchasing Organization (FRGPO)
 6. U.S. General Services Administration (GSA)
 7. OMNIA Partners, Public Sector
 8. BuyBoard
 9. Fire Rescue Group Purchasing Organization (FRGPO)
 10. Houston-Galveston Area Council (H-GAC)
 11. MiCTA
 12. National Joint Powers Alliance (NJPA)
 13. The Purchasing Cooperative Network (TCPN)
 14. The Interlocal Purchasing System (TIPS)

ARTICLE I. GENERAL PROVISIONS

- A. **Purpose.** This Section establishes the exclusive procedures for the protest of a City award under this Procurement Policy. Failure to protest a City award in accordance with this Section shall constitute a waiver of all rights to challenge any City award.
- B. **Standing to Protest.** The right to protest shall be strictly limited to the procurement of goods and/or services solicited through Invitations to Bid (ITBs) and Requests for Proposals (RFPs), including those solicitations issued pursuant to section 287.055, Florida Statutes (the "Consultants' Competitive Negotiation Act").
1. Protests may only be brought by an "aggrieved bidder," as defined in this Section.
 2. Protests based upon an alleged defect in the specifications of a solicitation may only be brought if the aggrieved bidder: (1) attended and objected to the specifications at the first pre-bid meeting held after the specifications were published; or (2) if no pre-bid meeting was held, objected in writing at least three (3) days prior to the deadline submissions.
- C. **Aggrieved Bidder.** An actual or prospective bidder/proposer who may be eligible for award of a contract if their protest is sustained. (Example: a fourth-ranked proposer would only be considered "aggrieved" if the grounds for protest, if sustained, would disqualify each of the top three ranked proposers or would require that the solicitation be cancelled and reissued.)
- D. **Prohibited Challenges.** Notwithstanding anything contained in this Procurement Policy, no other actions taken or decisions made in connection with a solicitation may be protested. The following matters may not be protested:
1. challenges to procurements valued at \$50,000 or less (unless solicited via ITB or RFP);
 2. challenges to procurements solicited by procurement methods other than ITBs or RFPs (e.g., Requests for Quotations, Invitations to Negotiate, Requests for Qualifications);
 3. challenges to the City's decision to procure goods or services without competition and/or in compliance with the exemption and exception provisions set forth in [PRO-070 – Competitive Exemptions and Exceptions](#);
 4. challenges to the City's use of government agency contracts or other cooperative purchasing agreements pursuant to [PRO-070 – Competitive Exemptions and Exceptions](#);
 5. challenges to the City's chosen procurement method, evaluation criteria, relative weight of the evaluation criteria, or formula specified for assigning points to evaluation criteria;
 6. challenges to the City's decision to reject some, all, or parts of bids and proposals;
 7. challenges to the City's disqualification of bidders/proposers as non-responsive or non-responsible (except for allegations that: (1) definitive responsibility criteria in the solicitation were not met; or (2) Procurement and Contracting staff unreasonably failed to consider available relevant information in making its decision regarding responsiveness or responsibility); or
 8. challenges to the City's decision to award for less than the bid or proposal amount.

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- E. **Intervenor(s).** Upon timely receipt of a notice of protest and payment of a protest bond, the Procurement and Contracting Officer shall provide notice of the protest to all other bidders or proposers. Interested parties may intervene in protest proceedings at any time.
1. Interested parties may intervene by filing a Notice of Intervention with the Procurement and Contracting Officer which contains the name, street address, e-mail address, and telephone and fax numbers of the Intervenor, as well as:
 - (a) a clear statement of the grounds upon which the intervention is based;
 - (b) reference to statutes, laws, ordinances, policies, or other legal authorities that the Intervenor deems applicable to a determination of the protest; and
 - (c) specific discussion of any corrective action that the intervenor deems to be appropriate.
 2. No intervenor shall be entitled to seek a delay in any portion of the protest proceedings based upon intervenor's delay in intervening.
- F. **Protest Bond.** As a condition precedent to any consideration of the Notice of Protest, the notice must be accompanied by the payment of a protest bond made payable to the City in the form of a money order or certified (cashier's or bank) check in an amount equal to one percent (1%) of the value of the City bid, but in no case less than Five Hundred Dollars (\$500) or in excess of Five Thousand Dollars (\$5,000).
1. The protest bond must be received by the Procurement and Contracting Officer prior to the expiration of the time set forth herein for filing a protest. Failure to timely provide the protest bond shall result in the protest being dismissed.
 2. If the protest is granted and the protestor is successful, the bond shall be returned to the protestor. If the protest is denied and the protestor is unsuccessful, the bond shall be forfeited and retained by the City to cover administrative or other costs incurred by addressing the protest or appeal and deposited into the City's General Fund.
- G. **Costs.** All protest and appeal costs incurred by the aggrieved bidder, intervenors or other participants, including but not limited to attorney's fees and costs, shall be borne entirely by the bidder, intervenor or participant, regardless of whether or not the protest or appeal (if applicable) is successful.
- H. **Timeliness.** In the event the final day for the taking of any action required by this Section falls on a Saturday, Sunday, or City-observed holiday, the date for taking such action shall be extended until the next day which is neither a Saturday, Sunday, nor City-observed holiday. In computing any period of time prescribed or allowed by this Section, the day of the act or event from which the designated period of time begins to run shall not be included. Any notice, filing or other submission received by the City after the close of business (5:00 p.m. EST) shall be deemed received by the City effective the next business day.

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- I. **Available Relief.** In no event shall a contract be automatically awarded to an aggrieved bidder if a protest is upheld. Nothing herein shall prevent the City, in its sole discretion, from providing for an alternative remedy which is in the best interest of the City and in compliance with applicable law, to include:
1. Rejection of all bids/proposals and cancellation of the solicitation and/or contract award;
 2. Awarding the contract in part;
 3. Revising and re-issuing the solicitation;
 4. Removing the disqualification of a prospective bidder/proposer; or
 5. Such other action as the City deems appropriate.
- J. **Lobbying.** Protestors, intervenors, and other interested parties, and anyone acting on their behalf, are prohibited from attempts to influence, persuade, or promote protests through any other channels or means, including but not limited to, contacting any Council member, City official, employee, advisory board member, or representative to discuss any matter relating in any way to the solicitation being protested.
- K. **Communications During the Protest Period.** All Protestor communications regarding clarifications or to pose questions related to the procurement or protest process shall be made directly to Procurement and Contracting staff or the City Attorney's Office. This restriction shall begin with the filing of the protest and end upon the final disposition of the protest. Failure to adhere to the prohibitions herein shall result in the rejection of the protest without further consideration.
- L. **Stay of Procurement During Protest Proceedings.** Upon receipt of a timely filed Notice of Protest and protest bond, the Procurement and Contracting Officer shall stay the contract award until the conclusion of the protest proceedings unless the City Manager, with the advice of the City Attorney, makes a written determination that the award of the contract without delay is necessary to protect the substantial interests of the City.

ARTICLE II. PROTEST PROCEDURES

- A. **Formal Written Protest.** A protest by an aggrieved bidder shall be commenced upon the filing of a formal written Notice of Protest and protest bond with the Procurement and Contracting Officer in the manner and within the time limitations prescribed by this Section.
- B. **Service Upon Other Parties.** The Procurement and Contracting Officer shall provide copies of all papers filed to all interested parties and any decision-maker in a formal proceeding prior to the commencement of any relative hearing. At the conclusion of the protest process, the Procurement and Contracting Officer shall provide all papers to the City Clerk.

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- C. **Deadline to File Protest.** The Notice of Protest must be submitted within five (5) calendar days of the earlier of:
1. the date that the City posts on its eProcurement system its intent to make a City award;
 2. the date that the City posts on the City webpage (www.ocalafl.gov) a City Council agenda for the City Council meeting at which the award will be considered by City Council; or
 3. the date upon which the City provides other written notice to all bidders/proposers of its intent to make an award.
- D. **Contents of Notice.** Notice of Protest must be in writing and shall contain, at a minimum, the following information:
1. solicitation title and number;
 2. name, street address, e-mail address, and telephone number of the aggrieved bidder and its legal representative, if any;
 3. legal and factual grounds of protest, including copies of all relevant documents (any grounds not stated shall be deemed to have been waived unless set forth in the Notice of Protest);
 4. all necessary information, legal authority, and evidence to support the protest;
 5. statement describing the form of relief sought by the aggrieved bidder; and
 6. any and such other information as the Protestor deems to be material.
- E. **Method of Delivery.** All Notices of Protest, Notices of Appeal, or other documents filed in accordance with this Section shall be deemed filed with the City upon the date received by the Procurement and Contracting Department if delivered by hand delivery, U.S. Mail, or express mail service or, alternatively, upon the date of receipt of the protest bond by the Procurement and Contracting Department if the written Notice of Protest is e-mailed to:
1. Personal Delivery or Mail. City of Ocala – Procurement and Contracting Department – Attention: Procurement and Contracting Officer - 110 SE Watula Avenue, Third Floor, Ocala, Florida 34471;
 2. E-Mail. E-Mail: notices@ocalafl.org.

ARTICLE III. PROCUREMENT AND CONTRACTING OFFICER'S DECISION

- A. **Authority to Resolve or Settle.** The Procurement and Contracting Officer shall have the authority to settle or resolve protests – with or without a meeting or hearing – at the sole option of the Procurement and Contracting Officer.
- B. **Informal Proceeding.** The Procurement and Contracting Officer may request additional information from and/or speak individually or collectively to any person or entities having information relevant to the protest including, but not limited to, the aggrieved bidder and other respondents to a solicitation. During any such meetings, witnesses shall not be sworn or subject to cross-examination and no formal rules of evidence shall apply.

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- C. **No Amendments to Notice of Protest.** Aggrieved bidders may not provide additional evidence or otherwise amend their protest after timely filing of the Notice of Protest.
- D. **Written Determination.** Within ten (10) days of the date of filing the Notice of Protest, the Procurement and Contracting Officer shall render a written determination: (1) denying the protest; or (2) granting the protest, in whole or in part, and recommending corrective action to be the subject of a subsequent City award. The Procurement and Contracting Officer's decision shall be provided to all parties and interested bidders or proposers on the solicitation.

ARTICLE IV. APPEAL TO PROTEST COMMITTEE

- A. **Who May Appeal.** Within three (3) calendar days of the Procurement and Contracting Officer's written determination, any party aggrieved by the determination may file a Notice of Appeal, in writing, to the Protest Committee via the Method of Delivery required by this Section and request a formal hearing. Decisions not timely appealed shall be final.
- B. **Protest Committee.** The Protest Committee shall consist of the City Manager (or designee), Assistant City Manager (or designee), and Chief Financial Officer (or designee). The City Manager, or his designee, shall serve as the chairperson of the Protest Committee. The Protest Committee shall make its decisions by majority vote.
- C. **Content of Appeal.** The Notice of Appeal shall be in writing and state with specificity the grounds for the appeal and the action requested of the City Manager. Said appeal shall be based solely upon the issues, arguments, information, and evidence available to the Procurement Manager at the time of the written decision on the protest was issued. New issues, arguments, information, or evidence may not be submitted. Any grounds not stated in the Notice of Appeal shall be deemed to have been waived by the aggrieved party.
- D. **Protest Committee Hearing.** The Protest Committee shall hold a hearing within ten (10) calendar days of the receipt of the Notice of Appeal. All members of the Protest Committee shall be in attendance at the Protest Hearing.
1. At the Protest Hearing, any party may submit competent substantial evidence that it deems relevant to the issues raised on appeal.
 2. Any party may make oral presentations of such evidence and arguments, which may include direct and cross examination of witnesses. All witnesses shall be sworn and subject to cross-examination.
 3. Hearsay evidence shall be admissible, but may be provided less weight by City Council.
 4. Judicial rules of evidence and procedure shall not apply but meaningful due process and fundamental fairness shall be provided to all parties.
 5. At all times, the burden of proof shall rest with the aggrieved party.
 6. Procurement and Contracting staff shall arrange for a court reporter to attend the Protest Hearing so that a record may be obtained for consideration by City Council in the event that further formal proceedings are held.

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- E. **Written Decision.** Within fourteen (14) calendar days of the Protest Hearing, the City Manager shall issue the written decision of the Protest Committee which shall include the reasons for the decision and either: (1) deny the appeal and uphold the decision of the Procurement and Contracting Officer; or (2) grant the appeal, in whole or in part, and recommend corrective action to be the subject of a subsequent City award. The Protest Committee's decision shall be provided to all parties and interested bidders or proposers on the solicitation.

ARTICLE V. APPEAL TO CITY COUNCIL

- A. **Who May Appeal.** Within three (3) calendar days of the Protest Committee's written decision, the party whose appeal to the Protest Committee was denied or the party who is now aggrieved because of the corrective action recommended by the Protest Committee may file a Notice of Appeal, in writing, to City Council via the Method of Delivery required by this Section and request a formal hearing. Decisions not timely appealed shall be final.
- B. **Content of Appeal.** The Notice of Appeal shall be in writing and state with specificity the grounds for the appeal and the action requested of City Council. Said appeal shall be based solely upon the issues, arguments, information, transcripts and evidence presented to the Protest Committee. New issues, arguments, information, or evidence may not be submitted. Any grounds not stated in the Notice of Appeal shall be deemed to have been waived by the aggrieved party.
- C. **Council Hearing.** City Council shall hold a hearing at a regular or special City Council meeting for which at least three (3) days' advance written notice has been provided to all parties.
1. City Council shall resolve the appeal based on competent substantial evidence including the record before the Protest Committee and transcript of the Protest Committee Hearing.
 2. To expedite the proceedings, parties are encouraged to reach an agreement concerning undisputed facts and provide a writing containing such agreement to City Council.
 3. Presentations to City Council by parties shall be limited to thirty (30) minutes per party unless City Council determines a shorter or longer time.
 4. City Council members may present questions to the parties.
 5. All witnesses shall be sworn and subject to cross-examination.
 6. Hearsay evidence shall be admissible, but may be provided less weight by City Council.
 7. Judicial rules of evidence and procedure shall not apply but meaningful due process and fundamental fairness shall be provided to all parties.
- D. **Council Decision.** At the conclusion of the Council Hearing, Council shall, by majority vote: (1) deny the appeal and uphold the decision of the Protest Committee; (2) grant the appeal, in whole or in part, and either: (a) recommend corrective action to be the subject of a subsequent City award; or (b) refer the matter back to the Protest Committee for additional proceedings.

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1. City Council may, but shall not be obligated to, direct the City Attorney to prepare a written decision of the Council Decision for subsequent execution by the City Council President. If no written decision is made, the transcript or minutes of the Council Hearing shall be deemed the written decision by Council.
2. A decision by City Council is final and binding on the parties but is subject to review by certiorari in proceedings filed with the Marion County Circuit Court within three (3) calendar days of Council's decision.
3. Nothing in this section is intended to affect the powers of City Council to settle or resolve any protest proceeding pending before a court of competent jurisdiction relating to any protest.

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Vendor Relations, Suspension, and Debarment

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ARTICLE I. VENDOR RELATIONS RESPONSIBILITIES GENERALLY

- A. **Procurement and Contracting Department Responsibilities.** As set forth in the Code of Ordinances for the City of Ocala, it is the duty of the Procurement and Contracting Officer to oversee vendor relations for the City, which includes vendor registration, contract performance, ratings, disputes, and ensuring that vendors are treated fairly with open and transparent competition. (Refer to [Section 2-388\(a\)\(17\) – Code of Ordinances](#))
1. Active Vendor Lists. In addition to the database of vendors that have registered with the City's eProcurement system and indicated a desire to receive notifications of contracting opportunities with the City by commodity code, Procurement and Contracting staff shall also maintain an independent list of prospective vendors that will be sourced for opportunities.
 2. Qualification of Vendors. Full qualification of vendors shall be based upon the requirements set forth in individual solicitations. In any event, vendor qualifications shall be based on at least the following criteria:
 - (a) documented record of reputation and/or past performance;
 - (b) documented experience;
 - (c) conviction of a Public Entity Crime as described in section 287.133, Florida Statute;
 - (d) local, state, or federal debarment, suspension, and eligibility status.
 3. Vendor Relations Team. The Procurement and Contracting Department's Vendor Relations Manager and Vendor Relations Coordinator shall be responsible for assisting the Procurement and Contracting Officer in the discharging of his or her vendor relations duties and establishing relationships of mutual confidence and satisfaction between the City and vendors within the contracting community within the confines of applicable law and policy.
- B. **Using Department Responsibilities.** City staff must discharge their duties impartially to ensure that all vendors have fair and competitive access to government procurement. Employees must conduct themselves in such a manner as to foster public confidence in the integrity of the City of Ocala's procurement opportunities.
1. Role of the Project Manager. Using Departments shall assign a project manager to perform contract administrator duties in accordance with approved policies and guidelines, which shall include monitoring and documenting vendor performance as it relates to the terms and conditions of City contracts and Purchase Orders.
 2. Contract Administration and Reporting. Following contract award, the using Department shall take action to ensure vendor compliance with contract terms and conditions. Vendor non-performance is to be documented and reported by the Project Manager to the Vendor Relations Manager for appropriate action aimed at correcting vendor performance. Using Departments are expected to maintain complete records of all communications with the vendor and to fully cooperate with the Vendor Relations Team in the investigation of vendor performance issues and complaints.

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ARTICLE II. ETHICAL COMMUNICATIONS WITH VENDORS

- A. **Vendor Communications During Acquisition Planning.** Staff from using Departments are permitted to communicate with vendors to obtain informal product or service specifications and pricing information for budgetary purposes and benchmarking. During interviews or other communications with vendor representatives for these or other purposes related to acquisition planning, City employees are prohibited from: (1) providing information regarding performance or price which might in any way give one vendor an unfair advantage over another; or (2) committing themselves or otherwise obligating the City to purchase a particular product or service.
- B. **Vendor Communications During the Solicitation Period.** No bidder or proposer (actual or proposed), nor any agent or third-party acting at the request of any bidder or proposer shall contact, communicate with, or discuss any matter relating to any informal or formal solicitation, quote request, or contract award with any City Council member, appointed officer, advisory board member, elected official, actual or potential technical or selection committee member or employee other than Procurement and Contracting staff during the Cone of Silence. For informal solicitations hosted by using Departments in accordance with this Procurement Policy, bidder communication shall be limited to the City staff managing the informal procurement process and Procurement and Contracting staff. (Refer to [PRO-030 – Anti-Lobbying Policy](#))
- C. **Lobbying Strictly Prohibited.** All vendors/bidders are prohibited from lobbying City of Ocala staff, officials, and City Council members at any time during the solicitation process. (Refer to [PRO-030 – Anti-Lobbying Policy](#))
- D. **Gratuity, Gifts, and Hospitality.** The City's selection of goods and services are to be based solely on best value to the City. City employees are prohibited from engaging in any activity that may create or appear to create a conflict of interest, such as soliciting or accepting gifts, favors, hospitality, favors, or publicly endorsing suppliers or products. Questions regarding the acceptance of gratuities, gifts, hospitality, or entertainment should be channeled through the Procurement and Contracting Officer for a formal determination of compliance.
1. No officer or employee of the City shall solicit or accept, either directly or indirectly, anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, service, gratuity, or other privilege from any corporation, business, or entity based upon any understanding that the action or judgment of the officer or employee would be influenced by.
 2. No officer or employee of the City shall, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the City.
 3. No officer or employee, nor his or her spouse or minor child, shall at any time accept any compensation, payment, or thing of value when such officer or employee knows, or with the exercise of reasonable care should know, that it was given to influence a vote or other action in which the officer or employee was expected to participate in his or her official capacity.

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4. The City recognizes that food items may be received from citizens and vendors as a 'thank you' for service during holidays and other occasions. Such offerings are permissible and should be made available for the enjoyment of everyone in that department or division.
5. This policy is not intended to prohibit employees or departments from accepting discounted values when carrying out departmental (non-personal) business or accepting courtesies generally extended to businesses or governmental organizations within reason.
6. All officers and employees of the City shall abide by the provisions of Chapter 112, Florida Statutes. Violations of Chapter 112, Florida Statutes, shall also be deemed to be a violation of this Procurement Policy and violating employees shall be subject to disciplinary action, up to and including termination of employment.

ARTICLE III. CONTRACTS ADMINISTRATION BY USING DEPARTMENTS

- A. Using Departments shall be primarily responsible for ensuring vendor compliance with all terms and conditions contained within the contract documents. Ensuring payment, monitoring progress, inspection and acceptance, quality assurance, modifications, contract closeout and other activities are all action steps that ensure vendor compliance.
- B. For each contract executed with a vendor, it is the responsibility of the Director of the using Department to appoint a staff member to serve as Project Manager to oversee the project and ensure that the contract performs to the requirements, standards, and deliverables set forth in the agreement. The Project Manager shall be identified as the point of contact in the Bid Request Form issued by the using Department and shall serve as the Department's primary point of contact for information.
- C. Project Managers shall perform periodic inspections and reviews of vendor performance and provide regular feedback to the vendor performance. As much as possible, Project Managers should document such communications in writing, whether they be positive or negative, as this information will be critical in resolving disputes and completion of vendor performance reviews. Upon contract completion, Project Managers shall complete a [Vendor Evaluation Form](#) for submission to the Vendor Relations Team at vendors@ocalafl.gov.
- D. Project managers are not authorized to perform the following activities:
 1. instruct vendors to commence work prior to the full execution of the contract;
 2. modify the scope of work without requesting a formal contract amendment through the Procurement and Contracting Department;
 3. direct the vendor to perform work that is not specifically described in the contract;
 4. extend the contract term or time for performance without execution of a formal contract amendment;
 5. authorize the vendor to incur additional costs in excess of contract limits;
 6. execute contracts or other forms offered by the vendor which bind the City to terms and conditions not reviewed by the Procurement and Contracting Officer or City Attorney.

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ARTICLE IV. VENDOR NON-PERFORMANCE AND VENDOR COMPLAINTS

- A. **Purpose.** The purpose of this Section is to establish transparent, consistent, and timely procedures for recording, reviewing and responding to complaints received from using Departments regarding vendor non- or poor performance and complaints received from vendors arising from City contract awards.
- B. **Department Complaints Regarding Vendor Performance.** Using Departments shall appoint project managers, who shall be responsible for monitoring vendor performance as it relates to the terms and conditions of contracts and/or purchase orders. Vendor non-performance and poor performance actions are to be documented and promptly reported to the Vendor Relations Team for appropriate action aimed at correcting vendor performance.
1. Non-performing or poor performing vendors should first be contacted by the project manager to discuss the deficiencies present. A mutual understanding should be reached, if possible, and a timeframe for corrective action established and documented in writing.
 2. Should the vendor continue to fail to meet requirements, the using Department shall submit a formal complaint to the Vendor Relations Team at vendors@ocalafl.gov and attach any available documentation to substantiate the problem, including all communications with the vendor and photographs.
 3. After receiving the complaint from the using Department, the Vendor Relations Manager shall review the documentation, and conduct a preliminary investigation. This investigation may include speaking with the using Department, calling the vendor to initiate further discussions, or scheduling a meeting between the vendor and the using Department.
 4. The Vendor Relations Manager will review all findings with the Procurement and Contracting Officer who may, in his or her sole discretion, hold a meeting before determining the next course of action. After consideration of all information presented, the Procurement and Contracting Officer may: (a) issue a Notice to Cure and establish a period of time within which the vendor must correct all non-compliance issues; (b) terminate the contract for default; (c) terminate the contract for the City's convenience; or (d) determine that no additional action is necessary.
 5. A copy of the Procurement and Contracting Officer's decision will be provided to the vendor and the using Department, and shall be filed in the Contract File and utilized to determine vendor responsibility in future bid evaluations.
- C. **Vendor Complaints.** The City will handle vendor complaints in a fair and timely manner. Vendors shall contact the Vendor Relations Manager within seven (7) calendar days of the incident giving rise to the complaint. The Vendor Relations Manager may ask the vendor to present its complaint in writing depending upon the circumstances. The Vendor Relations Manager will investigate the complaint and review all findings with the Procurement and Contracting Officer. The Procurement and Contracting Officer will respond to the vendor complaint within seven (7) calendar days.

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ARTICLE V. LOCAL VENDOR PREFERENCE

- A. Local vendor preference shall be afforded to formal competitive solicitations valued at \$50,000 or more (except for invitations to negotiate, requests for letters of interest, or requests for proposal) pursuant to City of Ocala Ordinance 22-2 except when prohibited by federal or state law or other funding source restrictions.
- B. Any vendor seeking to be recognized as a Local Vendor for the purpose of being afforded local vendor preference in accordance with Ordinance 22-2, must complete a Local Vendor Preference Eligibility Affidavit for submission with the vendor's bid or proposal response. A "Local Vendor" is a vendor that meets all of the following criteria:
1. has its headquarters, manufacturing facility, home office, locally owned franchise, or operating branch physically located within the geographical region of Marion County, Florida;
 2. has been in operation in Marion County, Florida, for a minimum of one year prior to the issuance of the formal solicitation for which the vendor seeks preference;
 3. within one year of the date of the City's solicitation, vendor has either: (a) paid commercial real property tax, (b) paid or filed for tangible personal property tax with Marion County, (c) received a City of Ocala home occupational permit, or (d) received a City of Ocala business tax certificate.

ARTICLE VI. DIVERSE SMALL BUSINESS AND DISADVANTAGED BUSINESS ENTERPRISES

- A. All contractors are encouraged to assist minority business enterprises (MBE), women-owned business enterprises (WBE), small business enterprises (SBE) and veteran-owned business enterprises (VOB) (collectively referred to as Diverse Small Business Enterprises (DSBEs) in doing business with the City. Each prime contractor who utilizes or otherwise assists DSBEs in contracting opportunities will help to expand and develop DSBE business sectors within the City.
- B. For all contract awards, the Procurement and Contracting Department shall take affirmative steps to assure that DSBEs have access to, and notice of, City solicitations to include:
1. when economically feasible, dividing contract requirements into smaller tasks or quantities to permit maximum participations by DSBEs;
 2. providing DSBEs with adequate information about the plans, specifications, and requirements of contracts;
 3. effectively using the services and resources of available community organizations, contractor groups, local, state and federal business assistance officers, and other organizations that provide assistance in the recruitment and utilization of DSBEs; and
 4. providing written notice to a reasonable number of DSBEs that their interest in contracting with the City is being solicited in sufficient time to allow their participation.

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- C. For federally funded projects, bidders and offerors shall be required to complete a Disadvantaged Business Enterprise (DBE) Utilization Form identifying:
1. a list of the names and addresses of qualified DBEs with whom the bidder/offeror intends to contract for the performance of portions of the work under the contract;
 2. a description of the contracted for work that each DBE will perform;
 3. the agreed upon price to be paid to each DBE for the work performed and percentage of the total bid/contract amount to be supplied by DBEs under the contract;
 4. written confirmation of the bidder's/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
 5. written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment.

ARTICLE VII. VENDOR SUSPENSION, DEBARMENT, AND ELIGIBILITY

- A. **Purpose.** Maintaining the integrity of the public procurement process is vital and a matter of great public interest. Selecting and contracting with highly qualified vendors who engage in ethical and responsible business practices protects the public and supports the integrity of the public procurement process. The opportunity to contract with the City for the supply of goods and/or services is a privilege, not a right. Accordingly, this privilege should be denied to vendors that engage in activities or actions which adversely impact the delivery of goods and/or services to the City for the benefit of the public. In those instances, it is in the best interests of the public to disqualify vendors from consideration for award of contracts by suspension or debarment based upon documentation that the grounds for suspension or debarment exist, as provided herein.
- B. **Authority.** The Procurement and Contracting Officer shall have the authority to suspend, debar, or otherwise deem a vendor to be ineligible for consideration for award of contracts or participation in City solicitations based upon documented grounds. The City Manager shall have the power at any time to waive, stay, or lift a suspension or debarment imposed by the Procurement and Contracting Officer upon the application of the vendor as provided herein.
- C. **Public Entity Crime.** Notwithstanding any other provision herein, any Vendor who has been convicted of a public entity crime, as that term is defined in section 287.133, Florida Statutes, shall not be eligible to transact business with the City of Ocala to the extent specified in the statute.
- D. **Discriminatory Vendor List.** Notwithstanding any other provision herein, any entity or affiliate, as those terms are defined in section 287.134, Florida Statutes, who has been placed on the discriminatory vendor list managed by the Florida Department of Management Services shall not be eligible to transact business with the City of Ocala or eligible to submit a bid, proposal, or reply on a contract with the City or be awarded or otherwise eligible to perform work as a contractor, supplier, subcontractor, or consultant for the provision of goods or services nor engage in leases of real property with the City.

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- E. **Suspension.** A vendor may be suspended for a period not to exceed three (3) years, or until the conditions described herein have been rectified or resolved (whichever occurs first), as determined by the Procurement and Contracting Officer based on the following:
1. vendor has been formally declared to be in breach or default of a contract that has resulted in the termination of the contract by the City for failure to comply with the conditions, specifications, or terms of a contract with the City;
 2. the City has formally disqualified vendor or rejected vendor's bid, quotation, or proposal based on vendor's fraud, misrepresentation, or violation of the anti-lobbying provisions of this Policy;
 3. vendor has been charged by a court of competent jurisdiction: (a) with the commission of a criminal offense incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract; or (b) with embezzlement, theft, forgery, bribery, fraud, 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 government contractor;
 4. vendor becomes insolvent, has proceedings in bankruptcy instituted against it, or has a receiver or trustee appointed over its property;
 5. vendor and City are engaged in court proceedings, arbitration, or administrative proceedings arising from or related to vendors performance or non-performance under a contract with the City in which vendor and the City have positions adverse to each other; or
 6. any other cause determined by the Procurement and Contracting Officer to be serious and compelling enough to materially and adversely affect vendor's responsibility to do business with the City.
- F. **Debarment.** A vendor may be permanently debarred by the Procurement and Contracting Officer based on the following:
1. City obtains a judgement in an adversarial proceeding against vendor arising from the vendor's performance or non-performance under a contract with the City which remains unsatisfied for a period of thirty (30) days from the expiration of any appeal period or final resolution of any appeal;
 2. vendor has been convicted or adjudicated liable, by a court of competent jurisdiction, for the commission of the offenses set forth in Article VII(C)(3) above; or
 3. vendor has been debarred by another governmental entity.
- G. **Notification to Suspend or Debar.** The Procurement and Contracting Officer shall issue written notification to suspend or debar a vendor based on documentation of the existence of one (1) or more of the conditions described herein. The suspension or debarment shall take effect as of the date specified in the notice. The notice shall state the basis for the action taken, and either the duration of the suspension or that the vendor has been debarred. Prior

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to the issuance of the written notice, the Procurement and Contracting Officer may, but shall not be required to, schedule an informational meeting with the vendor to review the documentation supporting the suspension or debarment. The only issue that shall be considered at this informational meeting shall be whether the condition giving rise to the suspension or debarment has occurred.

H. **Appeal to City Manager.** A vendor aggrieved with the Procurement and Contracting Officer's decision to suspend or debar must, within three (3) days of receipt of the notification to suspend or debar, appeal the decision to the City Manager by filing a written Notice of Appeal to the City Manager via e-mail to notices@ocalafl.gov. The Procurement and Contracting Officer's decision shall be final and conclusive unless the suspended or debarred vendor timely files an appeal. If the City Manager overturns the decision to suspend or debar, the City Manager shall have the right to require certain corrective actions to be performed by the vendor by a prescribed date and time.

I. **Effect of Suspension and Debarment.**

1. Suspended or debarred vendors are not eligible for contract awards or for assignment of additional work on existing contracts during the suspension period or during debarment.
2. The bids, proposals, quotations or qualifications of suspended or debarred vendors may not be considered by the City in response to the City's formal or informal solicitations.
3. Suspended and debarred vendors may not conduct business with the City as a subcontractor or consultant, or as the joint venture or representative of other vendors.
4. Any business entity controlled by or affiliated with any suspended or debarred vendor may also be prohibited from contracting or doing business with the City if the relationship or affiliation is such that the person or business entity will result in the ineligible vendor directly benefiting from the contract. The relationship or affiliation will be presumed to qualify under this Section if the person or business entity shares one or more board members in common, is controlled by or controls, shares management principals with, or is owned by family members of the suspended and debarred vendor.

J. **Reinstatement.** A suspended or debarred vendor shall remain ineligible to contract or be awarded work with the City until reinstated.

1. To be considered for reinstatement, vendor must supply information and reasonable documentation indicating that the conditions leading to the suspension or debarment have been rectified or resolved.
2. Upon dismissal of the charges referenced in Article VII(C)(3), or adjudication of not guilty, the suspension shall be lifted after provision of written notification and proof of final court disposition to the Procurement and Contracting Officer by vendor.
3. Upon reversal of the conviction or judgment referenced in Article VII(D)(2) through the appellate process, the debarment shall be lifted after provision of written notification and proof of final court disposition to the Procurement and Contracting Officer by vendor.

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4. As a condition of reinstatement, the City may limit the scope of contractual undertakings that must be satisfactorily completed before seeking additional contracts from the City.
 5. Nothing herein shall preclude the City from granting reinstatement prior to the end of the suspension period or debarment where, in the Procurement and Contracting Officer's judgment, the City's interests have been addressed and the reinstated vendor is not likely to engage in similar conduct again.

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Dispute Resolution Procedure for Vendor Payments	November 5, 2024	PRO-100

ARTICLE I. LOCAL GOVERNMENT PROMPT PAYMENT ACT GENERALLY

- A. **Purpose.** It is the policy of the state of Florida that all purchases made by local governmental agencies be made in a timely manner. The purpose of this Section is to provide for prompt payment by the City, to provide for interest payments on late payments, and to provide for a dispute resolution process for payment of obligations.
- B. **Applicability.** The payment of invoices for work performed for and goods received by the City of Ocala shall be made in accordance with section 218.70, et. seq., Florida Statutes, also cited as the “Local Government Prompt Payment Act.” If a dispute should arise as a result of the non-payment of a payment request or invoice from a vendor, the Dispute Resolution Procedure set forth in this Section shall apply.

ARTICLE II. DISPUTE RESOLUTION PROCEDURE – NON-CONSTRUCTION SERVICES

- A. **Notification of Receipt of an Improper Invoice.** The City of Ocala shall notify vendors in writing within ten (10) days after the receipt of an improper invoice, that the invoice is improper. The notice shall state what steps are necessary by the vendor to correct the invoice and resubmit a proper invoice to the City.
- B. **Notice of Vendor Payment Dispute.** Should a dispute result between the vendor and the City about payment of a payment request or an invoice, the vendor shall file its Notice of Payment Dispute in writing to the Director of the using Department within five (5) business days of notice of the City’s action giving rise to the dispute. The Notice of Payment Dispute must contain the following:
 1. the name and address of the vendor;
 2. the statement of when and how the vendor received notice of the City’s decision;
 3. a statement of all disputed issues of material fact;
 4. a concise statement of the ultimate facts alleged;
 5. a demand for relief which the vendor deems itself entitled; and
 6. any other information which the vendor contends is material.
- C. **Review by Department Director.** The Director of the using Department should investigate and ascertain that the work for which the payment request or invoice was submitted was performed to the City’s satisfaction and duly accepted by the proper authority. The Director of the using Department shall perform the required investigation and arrive at a solution within five (5) business days of receipt of the vendor’s Notice of Payment Dispute. The Director of the using Department shall document the steps taken to resolve the issue in accordance with section 218.76, Florida Statutes, in writing.

POLICY TITLE	EFFECTIVE DATE	POLICY NO.:
Dispute Resolution Procedure for Vendor Payments	November 5, 2024	PRO-100

- D. **Informal Meeting.** If the solution offered by the Director of the using Department fails to resolve the payment dispute, the Procurement and Contracting Officer shall be the final arbiter in resolving the payment dispute before it becomes a legal matter. The Director of the using Department shall schedule a meeting with the Procurement and Contracting Officer to occur no more than three (3) business days after the date the Director’s solution was communicated in writing to the vendor. The Procurement and Contracting Officer shall review the written documentation prepared by the Director of the using Department and, if necessary, contact the vendor directly to obtain additional information. The Procurement and Contracting Officer’s final decision shall be issued no later than seven (7) days after the date of the Informal Meeting.
- E. **Interest.** In accordance with section 218.76, Florida Statutes, if the dispute is resolved in favor of the City, interest charges begin to accrue fifteen (15) days after the Procurement and Contracting Officer’s final decision. If the dispute is resolved in favor of the vendor, interest begins to accrue as of the original date the payment became due.

ARTICLE III. DISPUTE RESOLUTION PROCEDURE – CONSTRUCTION SERVICES

- A. Payment disputes related to the provision of all labor, services, and material provided in connection with the construction, alteration, repair, demolition, reconstruction, or other improvements to real property shall be resolved through the procedures set forth in the Standard Specifications for Construction found on the City of Ocala City Engineer’s website at: <https://www.ocalaf1.gov/government/city-departments-a-h/city-engineer-s-office>.

ARTICLE I. GENERAL

- A. **Purpose.** The purpose of this Section is to set forth policies required to ensure that stock and non-stock inventory items maintained by the Utilities Services Warehouse (the “Warehouse”) are procured in line with the established principles and requirements contained in this Procurement Policy. Procedures for the procurement and maintenance of inventory items must be followed to eliminate any potential misuse or theft and specifically ensuring that:
1. inventory is safeguarded at all times;
 2. there are accurate records of quantities on hand at all times;
 3. optimum inventory levels are maintained to meet the needs of users;
 4. issuance of inventory items to users are only made by authorized personnel; and
 5. items placed in the warehouse are secured and only used for the purposes for which they were purchased.
- B. **Procurement and Contracting Officer Responsibilities.** As set forth in the Code of Ordinances for the City of Ocala, it is the duty of the Procurement and Contracting Officer to develop policies for and manage the operations of city warehousing and inventory. (Refer to [Section 2-388\(a\)\(1\) – Code of Ordinances](#))
1. The Warehouse Manager, under the direction of the Procurement and Contracting Officer, shall be primarily responsible for identifying stock and non-stock inventory items that require ordering for using Departments. Items identified may either be items due for replenishment due to normal usage for day-to-day operations or specific requests received for special projects or tasks.
 2. Warehouse staff shall assist in locating sources of supply for stock and non-stock items ordered and maintained by the Warehouse. Warehouse staff will interview prospective suppliers to determine such factors as lead-time, present market conditions, price discounts offered, and availability of inventory items.
 3. Warehouse staff will negotiate prices and terms, verify the validity and completion of required documentation, process requisitions, and manage procurements through closure of the order.
 4. All procurements for the acquisition of stock and non-stock inventory items shall comply with the competitive requirements set forth in this Procurement Policy and resolutions issued by City Council.
 5. All day-to-day operations of the Utilities Services Warehouse not addressed in this Section shall be performed in accordance with the Standard Operating Procedures (SOPs) set forth in the [Warehouse Operations Manual](#).
- C. **Inventory/Asset Management.** Inventory stock shall be assigned a permanent stock number by the City’s enterprise resource planning (ERP) system, Munis, and Warehouse staff shall be responsible for maintaining an accurate record of current inventory levels at all times.

- D. **Annual Inventory.** Procurement and Contracting staff shall work with Finance Department staff to account for all warehouse inventory on an annual basis.

ARTICLE II. ORDERING OF INVENTORY

- A. **Inventory Levels and Reorder Points.** Using Departments shall be responsible for setting reorder levels for their own respective inventory items after consultation with the Warehouse Manager. Inventory levels must indicate the maximum and minimum inventory that can be maintained.
- B. **Determining Anticipated Annual Aggregate Expenditure.** For inventory procurements, recurring purchases for the same commodity during any given fiscal year, whether from one vendor or multiple vendors, are to be tracked under a single contract number and the sum of those purchases shall constitute the annual aggregate expenditure amount. Warehouse staff and using Departments shall analyze past purchasing trends and anticipated future projects to determine the anticipated annual aggregate expenditure.
- C. **Procurement of Inventory Items.** Warehouse staff procurements of inventory stock and non-stock items shall follow the competition requirements set forth in this Procurement Policy (Refer to [PRO-060 – Competition Requirements and Source Selection](#)) with the following exceptions:
1. Inventory Purchases Valued at \$5,000 or Less. Commodities where the anticipated annual aggregate expenditure amount will not exceed \$1,000 may be procured by Warehouse staff or using Departments without competition so long as staff has analyzed and determined that the price accepted is fair, reasonable, and affords the City best value.
 - (a) *Methods of Purchase:* Warehouse staff shall submit a requisition for purchases of inventory items so that an appropriate Purchase Order can be issued which will constitute the City's authorization for the vendor to provide the goods.
 2. Inventory Purchases Valued at \$5,001 to \$50,000. Commodities where the anticipated annual aggregate expenditure amount will be at least \$5,001 but will not exceed \$50,000 shall be posted for public competition on the Advanced Utility Resources and Supply, Inc. procurement platform (www.auris.com) with a corresponding advertisement placed on the City's standard eProcurement platform.
 - (a) *Methods of Purchase:* Typically, warehouse staff shall submit a requisition for purchases of inventory items so that an appropriate Purchase Order can be issued which will constitute the City's authorization for the vendor to provide the goods. All warehouse Purchase Orders over \$15,000 shall be approved by the Procurement Manager or Buyer assigned to manage Warehouse procurements.
 3. Inventory Purchases Valued at \$50,001 or More. Commodities where the anticipated annual aggregate expenditure amount will exceed \$50,000 shall be posted for public competition on the Advanced Utility Resources and Supply, Inc. procurement platform (www.auris.com) with a corresponding advertisement placed on the City's standard eProcurement platform.

POLICY TITLE

Procurements for Warehouse Inventory

EFFECTIVE DATE

November 5, 2024

POLICY NO.:

PRO-110

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- (a) *Methods of Purchase.* Typically, warehouse staff shall submit a requisition for purchases of inventory items so that an appropriate Purchase Order can be issued which will constitute the City's authorization for the vendor to provide the goods. All warehouse Purchase Orders over \$50,000 shall be approved by the Procurement Manager or Buyer assigned to manage Warehouse procurements.
- (b) *Council Approval Required.* These purchases must be placed on a City Council agenda for formal approval prior to contract award.

ARTICLE I. GENERAL

- A. **Purpose.** The purpose of this Section is to set forth policies required to effectuate the proper and timely sale, trade, donation, destruction, transfer, exchange or disposal of non-consumable surplus and salvage material.
- B. **Intent.** The City’s surplus functions benefit the City through avoiding costs associated with unnecessary purchases by facilitating the reuse of valuable surplus property and unnecessary storage by facilitating the disposal of surplus property with no resale value.
- C. **Authority.** The Procurement and Contracting Officer shall oversee the transfer, auction, and/or disposal of the City’s surplus property as appropriate and shall serve as the final authority regarding the disposition of surplus assets by donation, sale, auction, or other method.
- D. **Surplus Property Defined.** For the purposes of this Section, the term “surplus property” shall include all tangible personal property that has been determined to be obsolete or for which the continued use is neither economic nor efficient, or which serves no useful function to City operations.

ARTICLE II. DETERMINATION OF SURPLUS

- A. **Surplus Categories.** City-owned surplus property may fall into one of three surplus categories:
 - 1. **Surplus.** Functional items that may be needed for temporary or permanent use by other City departments.
 - 2. **Obsolete.** Items of value that are in good working order and suitable for trade in or sale to third parties.
 - 3. **Damaged.** Items found to be broken or non-functional with no resale or other value that should be tagged for trash disposal or recycling.
- B. **Using Department Surplus Responsibilities.** As part of routine operations, every department should regularly evaluate the property within its control to identify surplus items. In reaching the decision that property is surplus, due consideration must be given to future potential needs, alternate uses, and retention of property for spare parts. Once property has been determined to be useful to department operations, a [Surplus Request Form](#) shall be completed to inform Procurement and Contracting staff.
 - 1. All items with asset tags require the completion of a Capital Asset Disposition Form for submission to the City’s Finance Department.
 - 2. Procurement and Contracting staff shall inspect all property offered for surplus to verify its categorization. Upon acceptance, the using department shall coordinate with staff to deliver the item to the designated storage location.
 - 3. The Procurement and Contracting Department shall locate, designate, and maintain appropriate surplus storage facilities as needed.

- C. **Surplus of Information Technology Equipment.** No computer hardware, software, components, or related supplies will be declared surplus without consultation with the Director of Information Technology. No such items will be disposed of unless they have been “cleaned” of stored data or the data is rendered inaccessible.
- D. **Surplus of Vehicles and Heavy Equipment.** No vehicles or heavy or light trucks shall be declared surplus without consultation with the Director of Fleet Management.

ARTICLE III. DISPOSAL METHODS

- A. In accordance with section 274.05, Florida Statute, the Procurement and Contracting Officer shall have the authority, after consideration of the best interest of the City, the value and condition of the property, and the probability of the property being desired by a prospective bidder or donee, whether surplus property shall be: (1) transferred to another City department; (2) offered for sale or donation to a private charitable or non-profit organization; (3) offered for sale or donation to a governmental entity; (4) disposed of for value to any person or entity by competitive bid; (5) destroyed; or (6) abandoned.
 - 1. Property Valued at \$5,000 or Less. Property estimated to be valued at \$5,000 or less, shall be disposed of in the most efficient and cost-effective means as determined by Procurement and Contracting Officer.
 - 2. Property Valued at \$5,000 or More. Unless otherwise stated herein, property estimated to be valued at \$5,000 or more shall be sold only to the highest responsible bidder, or by public auction.
 - 3. Cost of Transferring Property. The cost of transferring property from the City to the successful bidder or donee shall be paid by the bidder or donee receiving the surplus property.
- B. **Disposal of Broken or Non-Functional Items.** Surplus property deemed by the Procurement and Contracting Officer to be broken or non-functional with no resale or other value may be disposed of by department personnel. Recycling is encouraged and any environmental hazard presented by disposal of the property must be avoided.
- C. **Transfer Within the City.** Departments are encouraged to reutilize surplus property from one department to another. After submission of the Surplus Request Form to the Procurement and Contracting Department, all departments that may be able to utilize the surplus property should be notified of its availability.
- D. **Sale or Donation to Charitable, Non-Profit, or Other Governmental Entities.**
 - 1. Property may be sold or donated to charitable or non-profit organizations that have been granted tax-exempt status under section 501(c)(3) of the Internal Revenue Code.
 - 2. Prior to public sale or auction, at the discretion of the Procurement and Contracting Officer, surplus motor vehicles may be sold or donated to local service agencies or governmental entities so long as prior to such sale or donation, City Council approves of the sale or donation.

- E. **Competitive Bids.** When surplus property is to be disposed of through sale to the general public, a competitive sale process is to be followed to ensure that the City receives maximum value for property that it no longer needs.
1. Property may be sold through competitive sealed bidding or public online auctions at the discretion of the Procurement and Contracting Officer.
 2. The City's offer of surplus property shall publicly disclose the value and condition of the property as well as the minimum acceptable bid amount ("Set Price"). The set price of an item shall be based on sales experience and/or estimated current market value.
 3. Surplus property may be offered to the public at a set.
- F. **Purchases of Surplus Property by City Employees and their Families.** City employees, including members of their immediate family, may not participate in the purchase of any City surplus property through competitive sealed bidding or public auctions unless the property being purchased is offered at a set price during an auction available to the general public.

ARTICLE I. TYPES OF SECURITY AND DEPOSITS

- A. **Bid Bonds.** A bid bond is a sum of money or bond guaranteeing that the bidder will not withdraw its bid for a specified period of time, will furnish all bonds as required by the solicitation, and will accept the contract, if awarded, or forfeit the deposit. Bid bonds of at least five percent (5%) shall be required for all public construction projects but may be required for any competitive solicitation process at the discretion of the Procurement and Contracting Officer. In the event of the withdrawal of a bid within or failure of a vendor to enter into a contract and provide the performance bond within the required time frame, the bidder may be liable to the City of Ocala for the full amount of the bid bond for damages.
1. **Substitutes.** At the discretion of the Procurement and Contracting Officer, in lieu of a bid bond, a bidder may submit a certified check or cashier's check drawn on any national or state bank in the same percentage required by the solicitation documents. Such substitutes shall be retained by the City's Finance Department until all provisions of the contract have been complied with. The City shall not accept cash security.
 2. **Return of Bond.** The bid bond may not be withdrawn until a specified time after proposals or bids are opened and award(s) made. The bid bond shall be retained by the City's Finance Department until the Procurement and Contracting Officer is satisfied that the contractor's obligations have been satisfactorily completed.
- B. **Performance Bonds** (also known as "Construction Bonds"). A performance bond is a financial guarantee executed by a surety subsequent to award to a successful bidder to protect the City from loss due to the bidder's inability to complete the contract as agreed. Performance bonds of no less than one hundred percent (100%) of the total contract price shall be required for all contracts for the construction of a public building, prosecution and completion of a public work, or for repairs upon a public building valued at \$200,000 or more. The City reserves the right to require performance bonds for projects valued at less than \$200,000 if doing so has been deemed to be in the best interest of the City.
- C. **Warranty Bonds** (also known as "Maintenance and Guarantee Bonds"). A warranty bond ensures that warranty provisions under the contract are fulfilled. Warranty bonds of no less than one hundred percent (100%) of the total contract price shall be required for all contracts for the construction of a public building, prosecution and completion of a public work, or for repairs upon a public building.
- D. **Payment Bonds** (also known as "Payment and Material Bonds"). A payment bond ensures payment to all persons supplying labor or material for the completion of work under the contract. Payment bonds of no less than one hundred percent (100%) are required for public construction projects valued at \$50,000 or more. The City reserves the right to require performance bonds for projects valued at less than \$50,000 if doing so has been deemed to be in the best interest of the City.
- E. **Irrevocable Letters of Credit.** Irrevocable letters of credit are documents issued by a bank authorizing the bearer to draw a specified amount from the bank or its agents that is held by the bearer until the fulfillment of all or specified contract requirements.

POLICY TITLE

Bid Security and Contract Performance Bonds

EFFECTIVE DATE

November 5, 2024

POLICY NO.:

PRO-130

ARTICLE II. ACCEPTABLE BONDING (SURETY) COMPANIES

- A. Surety bond insurers shall fulfill each of the following requirements:
1. licensed to do business in the State of Florida;
 2. holds a certificate of authority authorizing it to write surety bonds in the state of Florida;
 3. has twice the minimum surplus and capital required by the Florida Insurance Code at the time the solicitation is issued;
 4. is otherwise in compliance with the provisions of the Florida Insurance Code; and
 5. holds a valid certificate of authority issued by the United States Department of the Treasury under 31 U.S.C. 9304-9308; and
 6. for bids that exceed \$500,000, surety bond insurers shall have a rating of at least Excellent (A or A-), as established by A.M. Best or other recognized rating services.

ARTICLE III. PROCESSING OF BONDS AND DEPOSITS

- A. **Responsibility to Secure.** Contractor shall be responsible for securing the bond.
- B. **Bonding Company Licensure.** The company acting as surety for a bond issued shall be licensed to do business in the state of Florida.
- C. **Failure to Provide Required Bond.** In the event a contractor fails to provide an acceptable bond when required, within ten (10) days of notice of non-compliance, the City may declare the contract null and void and retain in the account for the City of Ocala any good faith deposits or guarantee which may be submitted as liquidated damages under the terms of the solicitation.

ARTICLE I. LOCAL PROGRAMS MANUAL (LPM) PROCEDURES

- A. The City of Ocala shall follow the uniform practices and procedures set forth in the [Local Programs Manual \(LPM\) Procedure No. 525-010-300](#) for subrecipients of state and federal transportation grants provided through the Florida Department of Transportation (FDOT) to local agencies for transportation project planning, development, and delivery; including design, right-of-way acquisition and construction.
- B. **Compliance.** As a municipality having the responsibility for planning, construction, operation, maintenance, and jurisdiction over a transportation facility, the City of Ocala is required to comply with the Local Agency Requirements set forth in LPM Procedure No. 525-010-300.
- C. **Department Responsibilities.** The using Department will be responsible for designating a Resident Compliance Specialist who will ensure City compliance with the requirements of LPM Procedure No. 525-010-300 and coordinate the activities of all City staff involved with the LAP Program, which include, but are not limited to:
1. Grant Agreement Preparation and Execution. Reviewing the content of draft grant agreements prepared by FDOT to ensure that it is correct and complete.
 2. Progress Invoicing Procedures. Ensuring invoice packages submitted to DOT include all required information.
 3. Compliance Monitoring. Monitor contractor’s performance to ensure it complies with all provisions of FHWA 1273, maintain records concerning contractor performance, ensure City compliance with EEO and related nondiscrimination policies, and address questions about contract compliance monitoring to the District Contract Compliance Manager.
 4. DBE Compliance Monitoring. Ensure DBE specifications are inputted into GAP. Verify consultants reporting of DBE commitments and payments in EOC database. Review and approve DBE commitments and payments entered by the prime contractor.
 5. Bid Opportunity Data Collection. Ensuring construction bid packages and RFPs provide notice to bidders of the requirement to report bidder opportunity information in the EOC database and the instructions found on FDOT Form # 275-030-11.
 6. Contract Clauses. Ensuring all required federal contract compliance provisions and forms identified on the LAP Construction Checklist and LPM Procedure No. 525-010-300 are incorporated in solicitation packages, fully executed contracts, and contract changes or amendments (as applicable).
 7. Pre-Construction Meetings. Conducting project pre-construction meetings to discuss Disadvantaged Business Enterprise (DBE), Equal Employment Opportunity (EEO), On the Job Training (OJT), and Prevailing Wage Rate Provisions for federal aid contracts with the contractor.

POLICY TITLE	EFFECTIVE DATE	POLICY NO.:
FDOT Local Agency Program (LAP) Requirements	November 5, 2024	PRO-140

8. Contractor Oversight. Ensuring contractors post and maintain required notices and posters throughout the life of the project; monitoring on-site compliance with EEO contract provisions, labor compliance provisions, and training special provisions as applicable; and ensure contractors locate, assess, and increase the skills of minority groups, women employees, and applicants for employment.
9. Contractor Training. Provide additional training and instructions upon request from the contractor.
10. Reporting. Prepare EEO reports as required.
11. FDOT Findings. Address any FDOT review findings in a timely manner and notify the appropriate administrator once all findings have been addressed.

ARTICLE II. LAP DESIGN-BUILD PROCUREMENT PROCEDURES

- A. **LAP Project Procurements Generally**. The City shall comply with the procurement and contract procedures required by the Federal Highway Administration, Department of Transportation (FHWA) as set forth in Subpart A of Title 23 C.F.R. Part 365.
- B. **Advertisement of Solicitations**. No LAP project shall be advertised prior to authorization by FDOT. The City of Ocala shall advertise LAP projects for a minimum of three (3) weeks via the City's eProcurement system unless a shorter period has been approved by FDOT. All approved plans and specifications shall be made available to bidders during the advertising period.
- C. **Approval of Addenda**. The using Department shall obtain approval from FDOT prior to issuing any addenda containing a material modification to the approved plans or specifications during the advertising period. Minor modifications need not receive prior approval but should be identified by FDOT at the time of or prior to requesting concurrence in award from the FHWA.
- D. **Bid Opening and Tabulations**. All bid openings shall be publicly opened and announced in accordance with the terms of the advertised solicitation. Negotiation with contractors, during the period following the opening of bids and before the award of the contract shall not be permitted. Procurement and Contracting staff shall prepare and forward bid tabulations to FDOT for certification by the responsible FDOT official.
- D. **Design-Build Project Requirements**. LAP design-build projects shall be solicited in compliance with Policy No. PRO-170 - Procedure for the Procurement of Design-Build Services, which complies with the procedures set forth in section 287.055(9), Florida Statutes.

ARTICLE I. INTRODUCTION

A. Purpose.

1. The City of Ocala is a recipient of funds from the Federal Transit Administration (“FTA”). FTA regulations require the City to have written procedures for procurement transactions (See 2 CFR §200.319(c) and FTA Circular 4220.1F, Chapter III, Section 3(a)).
2. In all procurement activity, it shall be the goal of the City to ensure maximum open and free competition consistent with federal regulations, the laws of the state of Florida, and City policy. The procedures set forth in this Section are intended to conform to applicable federal law, including:
 - (a) Federal Transit Act, as amended, through June 1992, 49 U.S.C. Sec. 1601, et. seq.;
 - (b) Department of Transportation, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 49 C.F.R. Part 18;
 - (c) FTA Master Agreement (most recent edition);
 - (d) 2 C.F.R. §§ 200.317 through 200.327, and Appendix II;
 - (e) FTA Circular 5200.1A, “Full Funding Grant Agreements Guidance,” (latest version);
 - (f) FTA Circular 4220.1F, “Third Party Contracting Guidance,” (latest version);
 - (g) FTA Circular 5010.1C, “Grant Management Guidelines,” (latest version); and
 - (h) Participation by Disadvantaged Business in Department of Transportation Programs, 49 CFR Part 26.
3. The City has established this Section to not only conform to the provision of federal procurement regulations that govern the City’s use of FTA funds, but to ensure that materials, supplies, services, and equipment required for efficient and effective operation of any transit programs are procured with regard to an analysis of price, quality, quantity, terms, and delivery specifications.

B. Applicability.

1. Notwithstanding anything contained in this Section to the contrary, this Section pertains only to those procurements undertaken and financed, in whole or in part, with FTA funds for transit programs. Purchases made with local funds and for purposes other than transit programs will follow applicable federal, state, and local laws, regulations, and ordinances, including, without limitation, the City’s Procurement Policy, as amended.
2. Where acquisition thresholds differ between City and Federal procurement policies, procurements funded by Federal grants shall follow the most restrictive rule.
3. When City undertakes any purchase utilizing FTA funds, and any other conflict exists between this Section and existing City policies, the procedures in this Section will prevail.

C. Bid Protest and Dispute Resolutions Procedures.

1. The City shall follow the bid protest procedures and dispute resolution procedures set forth in [PRO-080, Protest Policy](#) and [PRO-100, Dispute Resolution Procedures for Vendor Payments](#) to resolve protests and contract disputes related to procurements made with FTA funds. These procedures are publicly available and shall be included, by reference, in all solicitations for procurements made with FTA funds.

D. Coordination with Finance Department

1. It is the utilizing department's responsibility to read federal grant documents and communicate any special requirements impacting procurement or contracting to the Procurement Department.
2. The utilizing department shall be responsible for ensuring all grant funded procurements have been reviewed by the Finance Department's Grant Coordinator.

ARTICLE II. GENERAL FTA PROCUREMENT STANDARDS

A. Avoidance of Unnecessary or Duplicative Items. City will limit the acquisition of federally assisted property and services to the amount it needs to support its operations and avoid contracting for anything other than its current and reasonably expected public transportation needs.

1. The City is prohibited from adding quantities or options to FTA-funded contracts solely to permit assignment to another party at a later date.
2. City shall consider whether to consolidate or break out procurements to obtain the most economical purchase. However, the City shall not split a larger procurement merely to gain the advantage of micro- or small-purchase procedures.

B. Maintenance of Adequate Procurement Records.

1. City staff shall maintain adequate records sufficient enough to detail the history of each procurement which shall include, at a minimum, the following information:
 - (a) rationale for the procurement method chosen (i.e., RFP, ITB, sole source);
 - (b) selection of contract type (i.e., fixed price, cost reimbursement);
 - (c) reason for contractor selection or rejection; and
 - (d) basis for the contract price (i.e., cost/price analysis conducted prior to solicitation).

C. Cost and Price Analysis

1. Required for All Procurement Actions. An independent cost estimate and shall be performed in connection with every procurement action, including contract modifications and change orders, to ensure that the price offered is fair and reasonable (See [Independent Cost Estimate Form](#)). Additionally, either a cost analysis or price analysis must be performed for every procurement action in excess of \$15,000. (See [Cost Analysis Worksheet](#) and [Price Analysis Form](#)).

- (a) *Independent Cost Estimate.* City staff will make a written independent estimate of costs prior to receiving price quotes, bids, or proposals for every procurement.
 - (b) *Cost Analysis.* A cost analysis must be used:
 - 1. when a price analysis will not provide sufficient information to determine the reasonableness of the contract cost;
 - 2. when offerors are required to submit elements of direct and indirect costs (e.g., labor hours, overhead, materials, etc.);
 - 3. where adequate price competition is lacking; and/or
 - 4. when procurement is via sole source.
 - (c) *Price Analysis.* A price analysis may be used in all other procurements (i.e., using catalog, market prices, or comparison of bidders).
2. Negotiation of Profit. Where there is no price competition and/or in all cases where a cost analysis is performed, the City shall negotiate profit as a separate element of the price. To determine the fairness and reasonableness of profit, the City staff shall consider:
- (a) complexity of the work to be performed;
 - (b) risk borne by the contractor;
 - (c) contractor's investment;
 - (d) amount of subcontracting;
 - (e) quality of contractor's record of past performance; and
 - (f) industry profit rates in the surrounding geographical area for similar work.
- D. **Prohibited and/or Restricted Contract Types.** The following contract types are prohibited or restricted:
- 1. Time and Materials Contracts. The time and materials method of contracting may only be used after a written determination is made that no other contract type is suitable. Time and materials contracts must specify a ceiling price that contractor may not exceed except at its own risk.
 - (a) Time and materials contracts are those where the cost to the City will be the sum of (i) the actual cost of materials; and (ii) direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.
 - (b) Time and materials contracts require the City to assert a higher degree of oversight in order to obtain reasonable assurance that contractor is using efficient methods and effective cost controls.
 - 2. Prohibition Regarding Cost Plus Contracts. Cost plus percentage of cost and percentage of construction cost methods of contracting may not be utilized.

- E. **Award to Responsible Contractors.** City shall award contracts only to responsible contractors possessing the ability to successfully perform under the terms and conditions set forth in an FTA-funded procurement. Procurement staff shall verify that contractors are not listed as debarred or suspended on the System for Award Management (SAM) prior to award. Entities that are listed as debarred or suspended contractors on SAM shall not be determined to be responsible contractors by City.
- F. **Disadvantaged Business Enterprise (DBE) Participation.** As a recipient of Federal transit funds, the City has signed an assurance that it will comply with the provisions of 49 CFR Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.
1. The City shall take all necessary and reasonable steps to ensure that small and minority businesses, women’s business enterprises, and labor surplus area firms have maximum opportunity to compete for FTA-funded procurement opportunities. Affirmative steps shall include:
 - (a) placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - (b) assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - (c) dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - (d) establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
 - (e) using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
 - (f) requiring prime contractors, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this Section above.
- G. **Pre-Qualification.** City may prequalify bidders, offerors, and products for FTA-funded procurements; however, the City is not required to do so. The determination of whether to require prequalification for eligibility to participate in an FTA-funded procurement shall be made on a case-by-case basis and in the City’s sole discretion, whether or not to prequalify bidders, firms, and/or property for FTA-funded procurements. Should the City opt to prequalify bidders, offerors, or products for procurement purposes, the following standards shall apply:
1. City must ensure that all prequalification lists it uses are current;
 2. City must ensure that all prequalification lists it uses include enough qualified sources to provide maximum full and open competition; and

3. City must permit potential bidders or offerors to qualify during the solicitation period (from the issuance of the solicitation to its closing date). City is not required to hold a particular solicitation open to accommodate a potential supplier that submits products for approval before or during that solicitation nor must City expedite or shorten prequalification evaluations of bidders, offerors, or products presented for review during the solicitation period.

H. Contract Administration and Oversight

1. City must maintain adequate technical capacity to carry out its FTA-assisted projects and comply with federal rules. City's third-party contracting capability must be adequate to undertake its procurements effectively and efficiently in compliance with applicable federal, state, and local laws, regulations, and ordinances.
2. The using Department shall be responsible for selecting qualified personnel to provide competent oversight of third-party contractors to ensure performance in accordance with the terms, conditions, and specifications of their contract and for maintaining documentation evidencing same.
3. Prior to execution of third-party contracts, City will designate a Project Manager to serve as City's principal contact with the contractor and as the primary administrator of the contract. The Project Manager will have responsibility for directing and overseeing the work performed by the contractor; reviewing and approving deliverables and invoices from the contractor; determining percentage of contract completion for progress payments (if applicable); making recommendations on the exercise of contract options (if applicable); recommending contract changes; preparing justifications for contract changes; performing independent cost estimates and cost or price analyses for contract changes; making recommendations on approval or rejection of subcontractors; assisting with the resolution of contract disputes; making recommendations on contract termination or other contractor disciplinary actions; maintaining complete contract files; and other contract administration duties that may be necessary.

ARTICLE III. COMPETITION AND SOLICITATION REQUIREMENTS

A. Full and Open Competition.

1. The goal of this Section is to provide an atmosphere in which all procurement transactions will be conducted in a manner providing full and open competition.
2. City will avoid the following situations considered to be restrictive of competition:
 - (a) placing unreasonable requirements on firms to qualify to do business;
 - (b) imposition of unnecessary experience and excessive bonding requirements;
 - (c) use of brand name specifications without listing its salient characteristics and not allowing an equal product to be offered;
 - (d) use of noncompetitive pricing practices between firms or affiliated companies;

- (e) employment of noncompetitive awards to any person or firm on retainer contracts;
 - (f) imposition of geographic preference standards in the selection of vendors;
 - (g) failure to recognize organizational conflicts of interest, which means that because of other activities, relationships, or contracts, a contractor is unable, or potentially unable, to render impartial assistance or advice to the grantee; a contractor's objectivity in performing the contract work is or might be otherwise impaired; or a contractor has an unfair competitive advantage; and/or
 - (h) any arbitrary action in the procurement process.
3. Geographic Preference. Recipients of FTA funds are prohibited from imposing in-state or local geographic preferences, or evaluating bids or proposals in light of in-state or local geographic preferences, for FTA-funded procurements even if those preferences are imposed by state or local laws or regulations. Exceptions to this requirement include:
- (a) Licensing. Nothing in this section preempts state licensing laws.
 - (b) Contracts for Architectural and Engineering Services. Geographic location may be a selection criterion so long as its application leaves an appropriate number of qualified firms to compete for the contract, given the nature and size of the project.
- B. **Solicitation Requirements**. Every procurement solicitation that city issues above the micro-purchase level must include, at a minimum, the following information and be advertised in a manner that ensures full and open competition in accordance with this Section:
- 1. Technical Requirements. The solicitation and the contract awarded thereunder shall include a clear and accurate description of City's technical requirements for the products or services to be acquired. The description may include a statement of the qualitative nature of the material, product or service and, when necessary, must set forth the minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible.
 - 2. Quantities. Only those quantities representative of the City's needs at the time of the acquisition may be advertised. No additional quantities or options may be added solely to permit assignment to another party at a later date.
 - 3. Brand Name or Equal. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated. Specifying only a brand name product without allowing offers of an equal product, or allowing an equal product without listing the salient characteristics that the equal product must meet to be acceptable for award is prohibited.
 - 4. Evaluation Factors. Solicitations shall identify all factors to be used in evaluating bids or proposals. The relative order of importance and/or weight of said criteria shall be specified in the solicitation. City will consider all evaluation factors specified in the solicitation documents and will evaluate the bids or proposals only on the evaluation factors included

in those solicitation documents. City may not modify its evaluation factors after bids or proposals have been received without reopening the solicitation.

5. Permissible Contract Type. City will state the type of contract that will be awarded in all solicitation documents.
6. Other Federal Requirements Affecting the Property or Services to Be Acquired. The solicitation and resulting contract shall identify those federal requirements that will affect contract scope and performance.
7. Other Federal Requirements Affecting the Bidder or Offeror and Contractor. The solicitation and resulting contract shall identify all federal requirements that a bidder or offeror must fulfill before and during contract performance.
8. Reservation of Right to Award to Other than the Low Bidder or Offeror. Solicitations shall specifically reserve the City's right to award a contract to other than the low bidder or offeror. If the solicitation documents do not specify this right, City will be obligated to award the contract to the low bidder.
9. Reservation of Right to Reject All Bids or Offers. Solicitations shall specifically reserve City's right to reject all bids or offers.

C. Methods of Procurement.

1. Use of Formal vs. Informal Procurement Methods. The City's formal procurement procedures must be followed when the dollar value of FTA-funded acquisitions exceed \$15,001. Federal funding rules state that informal procurement methods (p-card or single quotations) can be utilized where the acquisition will not exceed the micro-purchase threshold of \$10,000 or the simplified acquisition threshold of \$250,000 (request for quotations). However, the City of Ocala's rules are more restrictive and state that formal procurement methods (invitation to bid or request for proposals) shall be used when purchases exceed \$15,001 (See [Policy No. PRO-050, Competition Requirements and Source Selection](#)).
2. Micro-Purchases. Micro-Purchases are acquisitions of products and services that cost \$10,000 or less, as established by the current threshold set forth by the Federal Acquisition Regulations. For the purposes of this Section, City shall use \$5,000 as the threshold for relatively simple purchases as a means to expedite the completion of its lowest dollar small purchase transactions and minimize the associated administrative burden and cost.
 - (a) *Approval Authority*. Micro-purchases must be approved by the City Manager or his/her designee.
 - (b) *Competition*. Micro-purchases may be acquired without obtaining competitive quotations. Micro-purchases should be distributed equitably among qualified suppliers. Micro-purchases are exempt from FTA's Buy America requirements. Davis-Bacon prevailing wage requirements, however, will apply to construction contracts exceeding \$2,000, even though the recipient uses micro-purchase procurement procedures.

- (c) *Prohibited Divisions.* Procurements may not be divided or reduced merely to fall within the micro-purchase limit. The only allowable exception to this restriction is for the express purpose of fostering greater participation of DBEs, small and minority firms and women’s business enterprises in city’s federally assisted procurements.
 - (d) *Documentation.* Every micro-purchase must be accompanied by a written determination that the price is fair and reasonable and a description of how that determination was made.
3. Small Purchases. Small purchases are the purchase of products and services, including construction services, that cost greater than \$10,000 but not more than \$250,000. For purposes of this Section, City will those purchases that cost greater than \$5,000 but not more than \$15,000 to be small purchases for the purposes of determining the appropriate procurement method.
- (a) *Approval Authority.* Small purchases must be approved by the City Manager or his/her designee.
 - (b) *Competition.* Price or rate quotations must be obtained from at least three (3) qualified sources. Small purchases are exempt from FTA’s Buy America requirements.
 - (c) *Prohibited Divisions.* Procurements may not be divided or reduced merely to fall within the small purchase limit. The only allowable exception to this restriction is for the express purpose of fostering greater participation of DBEs, small and minority firms and women’s business enterprises in city’s federally assisted procurements.
 - (d) *Documentation.* Every small purchase must contain the following documentation in the procurement file: (i) procurement method used; (ii) contract type used; (iii) reasons for contractor selection or rejection (including evaluation documents); (iv) written determination of responsibility for the successful contractor; (v) justification for contract price, including independent cost estimate and cost or price analysis; (vi) solicitation documents, receipt and evaluation of offers, and contract award, negotiation, and execution.
 - (e) *Special Considerations.* City may acquire products and services directly from qualifying state contracts in lieu of competitive procurement under the small purchase method of procurement. City reserves the right to use formal purchase methods, even if small purchase thresholds are met, if the City Manager believes it is in the best interests of the City to do so.
4. Formal Purchases. Formal purchases are those that cost more than \$250,000, as established by the simplified acquisition threshold set forth by the Federal Acquisition Regulations. For the purposes of this Section, those purchases that cost more than \$15,000 shall be deemed formal purchases which require the use of formal procedures.
- (a) *Approval Authority.* Small purchases valued at \$15,001 to \$50,000 may be approved by the City Manager or his/her designee. Those valued at \$50,001 or more must be approved by City Council.

- (b) *Competition.* Formal purchases must be obtained through the public advertisement of a solicitation for sealed bids or competitive proposals. There must be two (2) or more responsible bidders. Award shall be made to the lowest (best price), responsive (meets all specifications), and responsible (qualified to perform the work) bidder.
- (c) *Documentation.* Formal purchases must contain the following documentation in the procurement file: (i) procurement method used; (ii) contract type used; (iii) reasons for contractor selection or rejection (including evaluation documents); (iv) written determination of responsibility for the successful contractor; (v) justification for contract price, including independent cost estimate and cost or price analysis; (vi) solicitation documents, receipt and evaluation of offers, and contract award, negotiation, and execution.
- (d) *Special Considerations.* City may acquire products and services directly from qualifying state contracts in lieu of competitive procurement.

D. Non-Competitive Procurements. City must undertake every effort to procure goods and services through the use of full and open competition. Noncompetitive procurements will not be justified or allowed based on a department's failure to plan and must be documented using the [Sole Source Justification Form](#). Noncompetitive procurements may only be utilized under the following specific circumstances:

1. Micro-Purchases. The aggregate dollar amount of the acquisition does not exceed the micro-purchase threshold set forth in this Section.
2. Lack of Competition. After multiple attempts by the City to solicit an adequate number of sources, competition was determined to be inadequate.
3. Agency Authorization. The FTA or pass-through entity expressly authorizes a noncompetitive response in response to a written request.
4. Sole Source. The product or service is available from only one source and no other product or service will satisfy its requirement **and** one of the following conditions is also present:
 - (a) *Unique or Innovative Concept.* Vendor demonstrates a unique or innovative concept or capability not available from another source. "Unique or innovative concept" shall mean a new, novel, or changed, concept, approach or method that is the product of original thinking, the details of which are kept confidential or are patented or copyrighted, and is available to the City only from one source and in the past has not been available from another source.
 - (b) *Patents or Restricted data Rights.* Patent or data rights restrictions preclude competition.
 - (c) *Substantial Duplication Costs.* In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in substantial duplication of costs that are not expected to be recovered through competition.

(d) *Unacceptable Delay.* In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components, when it is likely that award to another contractor would result in unacceptable delays in fulfilling the recipient’s needs.

E. Terms and Conditions for FTA-Funded Solicitations and Contract Awards. In addition to the City of Ocala’s general terms conditions, all solicitations and contract awards shall be governed by the provisions set forth in [Special Terms and Conditions for FTA-Funded Solicitations and Contract Awards](#). These terms and conditions shall have precedence over the City of Ocala’s general terms and conditions and any terms or conditions set forth in the solicitation or contract that may be in variance or conflict therewith.

ARTICLE IV. BONDING REQUIREMENTS

- A. For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, FTA may accept the City’s bonding policy and requirements provided that FTA has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the following minimum requirements shall apply.
1. A bid guarantee from each bidder equivalent to five percent (5%) of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
 2. A performance bond on the part of the contractor for 100 percent (100%) of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s requirements under such contract.
 3. A payment bond on the part of the contractor for 100 percent (100%) of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

ARTICLE V. FEDERAL CLAUSES FOR FTA-FUNDED PROCUREMENTS AND CONTRACTS

- A. In addition to terms and conditions required by City policy (the “City of Ocala’s General Terms and Conditions”), the City shall include specific required clauses in all FTA-funded procurements, intergovernmental agreements, and contractual agreements. ([See Special Terms and Conditions for FTA-Funded Solicitations and Contract Awards](#)).
- B. Not all clauses will apply to every contract. Staff and contractors must assess each procurement and determine the applicable FTA third-party terms and conditions that should be included in the solicitation and contract documents.

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ARTICLE I. PURPOSE, AUTHORITY, AND APPLICABILITY

- A. **Authority.** The State Emergency Management Act, Fla. Stat. §§ 252.31-252.60, encourages and authorizes municipalities to declare a State of Emergency and to waive the procedures and formalities otherwise required of a municipality by law to take whatever action is necessary to ensure the safety, health, and welfare of its citizens, including:
1. entering into contracts;
 2. incurring obligations;
 3. employing permanent and/or temporary workers;
 4. utilizing volunteer workers;
 5. renting equipment;
 6. acquisition and distribution of supplies, materials, and facilities, with or without compensation; and the
 7. appropriation and expenditure of public funds.
- B. **“Emergency” Defined.** For the purpose of this Section, the term “Emergency” shall be defined as any natural or man-made incident that disrupts or damages the social or economic systems or infrastructure of the community, and which is so severe that a local state of emergency has been declared by City Council, the State of Florida, or the federal government which requires immediate action to protect public life and the health, safety, and welfare of the community, and where regular procurement procedures are impractical and not advantageous to the City.
- C. **Purpose.** The purpose of this Section is to establish a policy and procedures to be employed during a State of Emergency for the acquisition of goods and services where it is neither advantageous nor practicable for the City to utilize competitive bidding methods.
- D. **Applicability.** This policy shall apply to all City departments. The scope of this policy shall be limited only to the procurement of goods and services which exceed \$15,000 in value during a declared State of Emergency.

ARTICLE II. PROCUREMENT AND CONTRACTING DEPARTMENT OPERATIONS

- A. **Marion County Emergency Operations Center.** In the event of an Emergency, Procurement and Contracting staff may be relocated to the Marion County Emergency Operations Center (“EOC”). If required, Procurement and Contracting staff shall be provided workspace and staff at the EOC. Designated Procurement and Contracting staff will be contacted by telephone and instructions will be provided for operation and for placement at the EOC, if necessary, or remotely.
- B. **Procurement and Contracting Emergency Staffing.** The Procurement and Contracting Department shall establish an emergency staffing roster which will provide for a member of management (Procurement and Contracting Officer, Procurement Manager, Vendor Relations

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Manager, or Warehouse Manager), a Buyer, and one other employee to rotate shifts during the duration of the Emergency event. Emergency Procurement and Contracting staff shall be authorized to review and approve emergency purchases, in consultation with the City Manager or his/her designee, and will maintain and distribute the City's Emergency Procurement Kit which contains the necessary forms and reference materials for Emergency procurement operations.

ARTICLE III. PROCEDURES

- A. **Competition Required Where Practicable.** For all emergency purchases made under this Section, whether during or outside of a formally declared State of Emergency, competitive solicitations shall be considered to the extent practicable under the circumstances.
 - 1. Using Departments should endeavor to obtain at least three (3) written quotes from prospective vendors. "No quotes" will not qualify as quotes.
 - 2. Prior to seeking quotes, the using Department is strongly encouraged to contact Procurement and Contracting staff to determine if a governmental contract exists that can meet the emergency need.
 - 3. To the extent possible, using Departments are encouraged to solicit proposals/quotations from local and minority/women/veteran-owned businesses.
 - 4. Using Departments may contact Procurement and Contracting staff for assistance in identifying prospective vendors to obtain quotes.
- B. **Normal Working Hours.** For emergency purchases made during regular business hours, the using Department must forward its request to the Procurement and Contracting Department for approval and acquisition along with a written account of the circumstances giving rise to the emergency and the probable consequences if an emergency purchase is not instituted. Upon receipt of approval from the City Manager or his/her designee, Procurement and Contracting Staff shall promptly issue a standard Purchase Order for the emergency purchase of the commodity and/or service. If the City is not operational (i.e., power outage, loss of internet service or connectivity, etc.), an Emergency Purchase Order Form will be utilized.
- C. **After Normal Working Hours.** For emergency purchases made outside of regular business hours, and *prior to* acquisition by the using Department, the Department must request authorization from the City Manager or Procurement and Contracting Officer, or their designee(s), to make the purchase and advise of the circumstances giving rise to the emergency and the probable consequences if an emergency purchase is not instituted. Upon receipt of approval, the using Department may proceed with making the emergency purchase of the commodity and/or service using the Emergency Purchase Order Form.
- D. **Documentation.** The using Department's written account of the circumstances giving rise to the emergency, the probable consequences if an emergency purchase is not instituted, and justification for the selection of the supplier must be provided in writing and maintained in the Procurement File for auditing purposes.

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- E. **Insurance, Licensure, and Payment Information.** If the emergency vendor will be providing services or delivering goods, the using Department shall be responsible for obtaining a copy of the vendor’s commercial general liability, automobile liability, worker’s compensation, and other applicable insurance certificates, licensure, and Form W-9 (if not currently on file) *prior to* the provision of services or delivery.
- F. **Use of Purchase Cards.** P-Cards may be used for payment up to the cardholder’s authorized card limit for emergency purchases meeting the above requirements.
- G. **Funds Availability.** The Director of the using Department shall be responsible for ensuring that no emergency purchase is requested or made unless sufficient funds are available in the appropriate line-item account to cover the associated expenditure.
- H. **Ratification and Approval by Council.** The Director of the using Department shall be responsible for presenting any emergency purchases made in excess of \$50,000 to City Council for ratification at the next scheduled Council meeting.

ARTICLE IV. EMERGENCY PURCHASES ANTICIPATED TO BE REIMBURSED BY FEMA

- A. Following the declaration of an emergency or disaster area, Federal Disaster Assistance may be made available to the City of Ocala through the Federal Emergency Management Agency. FEMA is the federal agency charged with the responsibility of administering all Federal disaster assistance to state and local governments.
- B. FEMA grant programs are subject to the federal procurement rules found in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. §§ 200.317 – 200-327.
- C. **Failure of using Departments to follow Federal contracting and procurement requirements puts the City at risk of not receiving reimbursement or not being able to use FEMA grant funds for otherwise eligible costs if the City intends to seek FEMA reimbursement for those costs.**
- D. Where the City is using non-competitive methods to procure goods and services under the emergency or exigency exception under federal regulations, the City is still required to: (i) document its justification for doing so; (ii) comply with other procurement requirements; and (iii) ensure that costs are reasonable. Use of the emergency or exigent exception to competition is only allowed during the period of the actual exigent or emergency circumstance exists.
 - 1. Exigent Circumstance. An exigent circumstance is defined by FEMA as one where there is a need to avoid, prevent, or alleviate serious harm or injury, financial or otherwise, to the City and use of competitive procurement would prevent the urgent action required to address the situation. These circumstances can exist for a period of weeks or months.
 - 2. Emergency Circumstance. An emergency circumstance is defined by FEMA as a threat to life, public health or safety, or improved property requiring immediate action to alleviate the threat. These circumstances are generally short lived.

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- E. Using Departments shall be responsible for monitoring contractor and subrecipient compliance with all applicable federal laws, regulations, executive orders, and terms and conditions of the funding award. Using Departments must maintain adequate oversight to ensure that contractors are performing in accordance with the terms, conditions and specifications of their respective contracts.
- F. All records and reports required to support the City’s request for reimbursement of funds expended as a direct result of a disaster must be original for audit purposes. **Keep all original documentation.**
- G. Departments utilizing mutual aid agreements are required to request, obtain, and maintain all documentation necessary to support associated costs incurred by the entity providing mutual aid (e.g., labor, equipment, supplies, and material).
- H. FEMA will not reimburse the City for commodities or services procured under blanket agreements. Each Purchase Order or other contractual document must be specific.
- I. Renting and leasing equipment and materials shall be preferable over outright procurement. FEMA strongly prefers requests for reimbursement on rented items.
- J. Oral contracts severely jeopardize the City’s ability to receive FEMA reimbursement. Quantities, prices and contract items must be specified in writing.
- K. Vendors who have been debarred, suspended or considered otherwise ineligible by FEMA or the State of Florida are prohibited from engaging in disaster recovery work.
- L. It is the policy of the City to utilize pre-positioned or standby contracts for debris removal activities that are based on fixed price or unit price (e.g., cubic yard).
- M. Contracting for construction work should be based, whenever possible, on competitive bids.
- N. To the extent feasible and practicable, contractors residing or doing business primarily within City of Ocala should be engaged in disaster recovery work.
- O. FEMA encourages contractors to support the local economy. All contracts entered into which will involve FEMA claims must state the contractors will use materials and supplies and hire laborers to the extent possible within the disaster area.

POLICY TITLE

Procedure for the Procurement of Design-Build Services

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ARTICLE I. RELEVANT DEFINITIONS

- A. **Design-Build Delivery Method.** A method of project delivery where one single entity will be responsible for providing both design and construction services under a single contract where architectural and engineering services are performed by a registered architect or professional engineer and construction services are performed by a certified or registered contractor.
- B. **Design-Build Firm.** A partnership, corporation, joint venture, or other legal entity which:
1. is certified under section 489.119, Florida Statutes, to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or
 2. is certified under section 471.023, Florida Statutes, to practice or to offer to practice engineering;
 3. is qualified or certified under section 481.219, Florida Statutes, to practice or to offer to practice architecture; or
 4. is qualified or certified under section 481.319, Florida Statutes, to practice or to offer to practice landscape architecture; or who
 5. has among the principal parties to the partnership, corporation, joint venture or other legal entity a principal party who is certified or qualified to engage in the work described in Article I, Section B(1), B(2), B(3), or B(4) above.
- C. **Design Criteria Package.** The concise, performance-oriented drawings or specifications of the public construction project which set forth the design and construction requirements. The purpose of the design criteria package is to furnish sufficient information to permit design-build firms to prepare a competitive response to the City's Request for Proposal (RFP) and permit the City to enter into a negotiated design-build contract. The design criteria package must include, but shall not be limited to, the following performance-based criteria for the public construction project:
1. legal description of the site;
 2. survey information concerning the site;
 3. interior space requirements;
 4. material quality standards;
 5. schematic layouts and conceptual design criteria of the project;
 6. cost or budget estimates;
 7. design and construction schedules;
 8. site development requirements;
 9. provisions for utilities, stormwater retention and disposal; and
 10. parking requirements applicable to the project.

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- D. **Design Criteria Professional.** A firm that is qualified under chapter 481 to practice architecture or landscape architecture or a firm who holds a current certificate as a registered engineer under chapter 471 to practice engineering; and who is either employed by or under contract to the City for the provision of professional architect services, landscape architect services, or engineering services in connection with the preparation of the design criteria package. *The design criteria professional shall not be eligible to render services under a design-build contract on a project for which the design criteria professional has prepared the design criteria package.* However, at the discretion of the City, the design criteria professional may be consulted:
1. during the evaluation process as part of the Technical Review Committee to review and evaluate the design-build firms' performance qualifications, technical, and price proposals;
 2. during the review and evaluation of the detailed design and construction plans and specifications; and
 3. during the construction work performed by the design-build firm for compliance and conformance with the requirements and provisions of the design criteria package and the design-build contract documents.
- E. **Professional Services.** For the purposes of this Section, the term "Professional Services" shall include those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping; or services performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.

ARTICLE II. DESIGN-BUILD PROCUREMENT PROCEDURES

- A. **Purpose and Applicability.** The City is empowered and required to award design-build contracts in accordance with the procedures set forth in its Procurement Policy, any applicable laws, rules and ordinances, and section 287.055(9), Florida Statutes. Accordingly, all contracts for the provision of professional services, as that term is defined above, shall be solicited and awarded in accordance with this Section.
- B. **Use of the Design-Build Delivery Method.** The Procurement and Contracting Officer, after consultation with the City Manager and/or his designee and the City Engineer, will determine whether the design-build method or other method is appropriate for a particular project. In making the decision, the Procurement and Contracting Officer will determine whether design-build or contracting separately for professional design and construction services in in the best interest of the City by considering the following factors:
1. the potential for project cost savings and/or cost reduction;
 2. the need or potential for reducing the time to complete the project;
 3. the need or potential to expedite the completion activation and operational use of the project due to: (a) enhancing revenue production; (b) public service consideration; or (c) using Department operational needs and requirements;

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4. the potential for collaboration to develop designs and construction methodology that could provide a project with enhanced qualities of aesthetics, innovative use of materials, economy of construction, operational efficiency, and/or functional effectiveness; or
 5. the need or potential for protecting, preserving, and enhancing the health, safety, and welfare of the public.
- C. **Competitive Proposal Selection Process (Preferred Method).** This is the preferred method for soliciting and awarding design-build contracts by the City and shall be used unless there are compelling reasons for use of an alternate approach.
1. Preparation of Design Criteria Package. The City Engineer or other Design Criteria Professional employed or contracted by the City shall prepare, produce, and seal a Design Criteria Package for use by the City in: (a) soliciting design-build firms; (b) providing a basis for determining and selecting the most highly qualified design-build firms; (c) soliciting competitive technical and price proposals from design-build firms; and (d) providing a basis for awarding a design-build contract.
 2. Preparation of the Request for Proposals. Procurement and Contracting staff, in conjunction with the using Department, will prepare a Request for Proposals (RFP) which shall contain, but be not limited to, the following information:
 - (a) a copy of the Design Criteria Package prepared by the Design Criteria Professional employed or contracted by the City;
 - (b) the scope of services to be provided by the design-build firm to include the time within which the services are to be completed;
 - (c) the City's minimum goals for Diverse Business Enterprise participation;
 - (d) insurance and bonding requirements;
 - (e) instructions regarding the required form, content, and manner within which the qualifications statement, technical proposal, and price proposal are to be submitted to the City;
 - (f) the evaluation criteria and proportional weight to be used to evaluate the proposals;
 - (g) general terms and conditions effecting the design-build contract; and
 - (h) any other information the City deems to be appropriate to the selection process.
 3. Public Advertisement of the Solicitation. The City shall publicly advertise notice of its intent to solicit design-build services via its Request for Proposals in accordance with its standard procedures for the advertisement of competitive solicitations.

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4. Step One - Evaluation of Qualifications, Availability and Experience. Procurement and Contracting staff will appoint and convene a Selection Committee pursuant to [Policy PRO-060 – Competition Requirements and Source Selection](#) for the purpose of reviewing and evaluating all proposals. During Step One of the evaluation process, the Selection Committee will attempt to qualify no less than three (3) responsive and responsible design-build teams using the standard criteria established by the City in the RFP and will shortlist those firms to advance to Step Two review.
 5. Step Two - Evaluation of Technical and Price Proposals. The RFP will require responding firms to submit information regarding their design and construction approach and price proposals separately from other required documents. During Step Two of the evaluation process, the Selection Committee will evaluate and weigh the technical and price components against the criteria established by the City in the RFP. If oral interviews are determined to be necessary, Step Two scoring will be determined after the interview session.
 6. Negotiation and Award. After the shortlisted firms have been evaluated and ranked based upon the Step Two review process, Procurement and Contracting staff shall generate a list of the firms for selection starting with the highest-ranked proposer and issue its Intent to Award. The City will engage in negotiations for the development of a professional services contract starting with the highest ranked proposer upon conclusion of the protest period. In the event that the City is unable to successfully negotiate a contract with the highest-ranked proposer, such negotiations will be terminated and negotiations will commence with the next-highest-ranked proposer, and so forth, until a contract is negotiated or the City rejects all proposals and terminates the solicitation.
- D. **Qualifications-Based Selection Process (Alternate Method).** This process is not preferred and shall be used only when compelling reasons exist for utilizing this alternate method. This process is intended to comply with section 287.055(9)(c), Florida Statutes which permits the use of a qualifications-based process for the selection of design-build firms. Here, firms will be solicited via Request for Letters of Interest (LOI), approved based solely on demonstration of qualifications, and then the design-build services will be advertised to those approved firms in the same manner set forth in the Competitive Proposal Selection Process above.
1. Preparation of the LOI. Procurement and Contracting staff, in conjunction with the using Department, will prepare a LOI which shall contain, but be not limited to, the following:
 - (a) a general description of the project and design requirements;
 - (b) the experience and competence required by the City in the kind of design-build project to be undertaken;
 - (c) instructions regarding the required form, content, and manner within which the qualifications statement is to be submitted to the City;
 - (d) any other information deemed to be important in the process of pre-qualifying design-build firms as determined by the City.

POLICY TITLE

Procedure for the Procurement of Design-Build Services

EFFECTIVE DATE POLICY NO.:

November 5, 2024 PRO-170

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2. Public Advertisement of the Solicitation. The City shall publicly advertise notice of its intent to solicit statements of qualifications for design-build services via a LOI where such services are needed for projects where the basic construction cost is estimated by the City to exceed the Category Five threshold established by section 287.017, Florida Statutes (currently \$325,000). Firms engaged in the lawful practice of their respective professions that desire to provide professional services to the City shall be encouraged to submit statements of qualifications and performance data. Responses shall be due no more than ten(10) business days after the date upon which the LOI is publicly advertised.
 3. Evaluation of Firm Qualifications. Procurement and Contracting staff will appoint and convene an Evaluation Committee pursuant to [Policy PRO-060 – Competition Requirements and Source Selection](#) for the purpose of reviewing and evaluating the qualifications proposals for the purpose of certifying that the proposer is fully qualified to render the design-build services. Qualifications will be evaluated using the evaluation criteria set forth by the City in the LOI which must include, but shall not be limited to, the following:
 - (a) experience and competence in the kind of design-build project to be undertaken;
 - (b) availability and adequacy of professional personnel;
 - (c) equipment and facilities;
 - (d) past record of performance and professional accomplishments;
 - (e) financial responsibility;
 - (f) whether the firm is a certified minority business enterprise; and
 - (g) any other qualifications that the City deems to be applicable to the project.
 4. Selection of Most Qualified Firms. The Selection Committee will attempt to qualify and shortlist no less than three (3) responsive and responsible design-build teams using the evaluation criteria set forth by the City. Only those design-build firms shortlisted (pre-qualified) will be afforded an opportunity to submit a proposal in response to the Request for Technical and Price Proposals below.
 5. Competitive Negotiation Process. Only those design-Build firms that have been pre-qualified in accordance with Section (D)(1) through D(4) above, will be engaged during the Competitive Negotiation Process.
 - (a) *Preparation of Design Criteria Package.* The City Engineer or other Design Criteria Professional employed or contracted by the City shall prepare, produce, and seal a Design Criteria Package for use by the City in: (a) obtaining a technical and price proposal from the selected design-build firm; and (b) negotiating with the selected design-build firm.

POLICY TITLE

Procedure for the Procurement of Design-Build Services

EFFECTIVE DATE POLICY NO.:

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- (b) *Request for Technical and Price Proposals.* Pre-qualified firms will be asked to submit a technical and price proposals which will serve as the basis of contract negotiation and award of the design-build contract. Request for Technical and Price Proposals shall contain, but be not limited to, the following information:
- (1) a copy of the Design Criteria Package prepared by the Design Criteria Professional;
 - (2) the scope of services to be provided by the design-build firm to include the time within which the services are to be completed;
 - (3) the City's minimum goals for Diverse Business Enterprise participation;
 - (4) insurance and bonding requirements;
 - (5) instructions regarding the required form, content, and manner within which the technical proposal and price proposal are to be submitted to the City;
 - (6) the weighted evaluation criteria to be used to evaluate the proposals;
 - (7) general terms and conditions effecting the design-build contract; and
 - (8) any other information the City deems to be appropriate to the selection process.
- (c) *Evaluation of Technical and Price Proposals.* The Selection Committee shall review and evaluate all technical and price proposals using the established evaluation criteria. The Selection Committee may conduct oral presentations with no fewer than three (3) qualified firms regarding their qualifications, approach to the project and ability to furnish the required services. If oral presentations are conducted, evaluation and ranking will occur after the oral presentation sessions.
- (d) *Negotiation and Design-Build Contract Award.* The City shall negotiate a contract with the most qualified design-build firm at a rate of compensation that the agency determines is fair, competitive and reasonable based upon the cost of the design-build services required in relation to their scope and complexity.
- (1) For any design-build professional service contract over the Category Four threshold established under section 287.017 (currently \$195,000), the awarded contractor shall execute a truth-in-negotiation certificate stating that: wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting; and that should the City determine that either the original contract price or amended contract was increased due to inaccurate, incomplete, or noncurrent wage rates, the City shall have the right to adjust the contract price to exclude any such sums within one (1) year following the end of the contract.
 - (2) Should the City be unable to negotiate a satisfactory contract with the highest-ranked proposer, such negotiations will be terminated and negotiations will commence with the next-highest-ranked proposer, and so forth, until a contract is negotiated or the City rejects all proposals and terminates the solicitation.

POLICY TITLE

Federally Funded Procurement and Contracting

EFFECTIVE DATE

November 5, 2024

POLICY NO.:

PRO-180

ARTICLE I. PURPOSE, APPLICABILITY, AND COMPLIANCE

- A. **Purpose.** The purpose of this Section is to set forth general guidelines for the procurement of commodities and services when federal funds will be utilized to pay for the cost of a contract, whether in whole or in part.
- B. **Applicability.** This Section shall apply to contracts that are funded in whole or in part by federal funds paid directly or reimbursed, including contracts under grants where the City is a subgrantee or subrecipient of federal funds (all collectively referred to herein as "Federal Contracts"), except to the extent that the federal funding agency or state passthrough agency expressly state that such contract is not subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal awards (the "Uniform Guidance") codified at 2 C.F.R Part 200.
- C. **Compliance.** The policies and procedures set forth in this Section are intended to serve as general guidelines for procurements that are funded federal agencies and grants. Because grants have their own individual terms, conditions, and contingencies, these guidelines are not inclusive of all requirements and procedures to be undertaken for regulatory compliance and using Departments are referred to the applicable grant agreements and federal awarding agency regulations for other grant requirements.
1. The City and its officers, employees, and agents are responsible for complying with all requirements of a federal award and required to ensure that all procurement activities for contracts to be funded with federal funds are conducted in compliance with the Procurement Standards set forth in 2 C.F.R. §§ 200.318 through 200.327 unless otherwise directed in writing by the federal agency or state passthrough agency.
 2. The City shall also follow all applicable local and state requirements when expending federal funds. **Should the City have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law.**
- D. **Notice.** The City shall provide notice in all solicitations for contracts funded in whole or in part by federal funding. Solicitation requests submitted by using Departments must advise that the contract will be grant funded and include as an attachment copies of any procurement and contracting related terms and conditions. All interested bidders and proposers will be required to acknowledge that funding will be contingent upon compliance with all terms and conditions of the funding award.

ARTICLE II. GENERAL REQUIREMENTS FOR FEDERAL PROCUREMENTS

- A. **Necessity.** Using departments must avoid utilizing federal funds to purchase unnecessary or duplicative items.
- B. **Responsibility.** The City shall award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

POLICY TITLE

Federally Funded Procurement and Contracting

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- C. **Most Economic Approach and Cost Reduction.** Where appropriate, Departments should consider the following options to ensure the most economic acquisition approach is being utilized:
1. conducting an analysis of lease vs. purchase alternatives;
 2. consolidating or breaking out procurements into smaller segments;
 3. strategic sourcing and shared services options such as entering into intergovernmental contracts or consolidating procurements across departments to obtain better pricing;
 4. utilizing federal surplus property in lieu of purchasing new equipment whenever feasible; and
 5. including value engineering clauses in construction contracts to offer reasonable opportunities for cost reductions.
- D. **Clear Specifications and Scopes of Work.** Specifications and scopes prepared by using Departments must clearly and accurately set forth the technical requirements for the material, products, or services to be procured and shall include all other requirements required to be fulfilled by bidders or proposers. Specifications and scopes of work may not unduly restrict competition by:
1. placing unreasonable requirements on firms in order to qualify them to do business;
 2. requiring unnecessary experience and excessive bonding;
 3. specifying only a "brand name" product instead of allowing an equal product to be offered.
- E. **Geographic Preference.** Geographic preferences are prohibited except for where federal statutes expressly mandate or encourage such preferences or restrictions. This does not include restrictions imposed by state licensing requirements.
- F. **Contractor Monitoring and Oversight.** Using Departments shall be responsible for monitoring contractor and subrecipient compliance with all applicable federal laws, regulations, executive orders, and terms and conditions of the funding award. Using Departments must maintain adequate oversight to ensure that contractors are performing in accordance with the terms, conditions and specifications of their respective contracts.
- G. **Documentation.** Using Departments must maintain records documenting the procurement history of the federally funded contract, to include the rationale for the method of procurement, contract type, basis for contractor selection, price, cost analysis, sources solicited, public notices, bid documents, addenda, amendments, notice of award, bond documents, notices to proceed, purchase orders, and the federal contract. These documents must be made available to the granting agency upon request.
- H. **Use of Pre-Qualified Vendors.** Any lists of prequalified persons, firms, or products that are utilized in the procurement of goods and/or services must be current and include enough qualified sources to ensure maximum and open competition. The City is prohibited from precluding potential bidders from qualifying during the solicitation period.

POLICY TITLE

Federally Funded Procurement and Contracting

EFFECTIVE DATE

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POLICY NO.:PRO-180

I. Conflicts of Interest.

1. Officers, employees, and agents of the City that are engaged in the selection, award, and administration of federally funded contracts are required to comply with the City's standards of conduct covering conflicts of interest (See [PRO-020 Ethical Principles and Standards](#)) and will be subject to disciplinary action for violations of said standards.
2. Contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals shall be excluded from competing for such procurements in order to ensure objective contractor performance and eliminate unfair competitive advantage.

J. Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms. The City shall take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used whenever possible in federally funded contracting. These affirmative steps shall include:

1. placing qualified small, minority, and women's business enterprises on solicitation lists;
2. assuring that small, minority, and women's business enterprises are solicited whenever they are potential sources;
3. dividing total requirements, when economically feasible, into smaller tasks or quantities to encourage maximum participation by small, minority, and women's business enterprises;
4. using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
5. requiring prime contractors, if subcontracts are to be let, to take the affirmative steps listed above.

K. Sole Source/Standardization. Procurement transactions must be conducted in a manner providing full and open competition and the City is required to utilize the methods of procurement described in 2 C.F.R. 200.320 unless the goods and/or services are truly only available from one source. Sole source and standardization procurements are allowable only subject to the validation and/or approval of the external funding source. The City must maintain records documenting the rationale for why sole source/standardization was used.**L. Time and Materials Contracts.** Time and material contracts shall only be allowed: (1) after determining that no other contract type is suitable; or (2) if the contract specifies a ceiling price that the contractor may not exceed except at its own risk.**M. Settlement of Contractual and Administrative Issues.** The City shall be responsible, in accordance with good administrative practice and sound business judgment for the settlement of all contractual and administrative issues arising out of federally funded procurements including, but not limited to, source evaluation, protests, disputes, and claims.

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Federally Funded Procurement and Contracting

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- N. **Contract Provisions for Contracts Under Federal Awards.** In addition to the City's required Terms and Conditions, all contracts awarded by the City under federal award shall contain the provisions required by Appendix II to 2 C.F.R. Part 200 which are attached hereto as [Special Terms and Conditions for Federally Funded Contract Awards](#).

ARTICLE III. METHODS OF PROCUREMENT TO BE FOLLOWED FOR FEDERAL CONTRACTS

- A. **Competitive Thresholds.** The competitive thresholds established by the City are distinct and lower than the thresholds established for federal procurements (See PRO-060 Competition Requirements and Source Selection) due to the City's internal controls and evaluation of risk. Accordingly, the procurement method required by the Uniform Guidance (2 C.F.R. § 200.320) will be utilized based upon the City's more restrictive value threshold.

City's Small Purchase Threshold \$5,000 or Less (Most Restrictive)	Federal Micro Purchase Threshold \$10,000 or Less
	Procurement Method to Be Followed: Competition not required if the non-federal agency considers the price to be reasonable based on research, experience, purchase history or other information. Purchase cards may be used (in compliance with the City's P-Card Policy). Purchases should be distributed equitably among qualified suppliers.

City's Informal Quoting Threshold \$5,001 to \$15,000 (Most Restrictive)	Federal Simplified Acquisition Threshold \$10,001 to \$250,000
	Procurement Method to Be Followed: Use of informal procurement methods is required. Price or rate quotes must be solicited from an adequate number of qualified sources as determined appropriate by the non-federal agency (City requires no less than three (3)).

City's Formal Solicitation Threshold \$15,001 or Greater (Most Restrictive)	Federal Formal Solicitation Threshold \$250,001 or Greater
	Procurement Method to Be Followed: Purchases can only be made through publicly advertised formal procurement methods (solicitation of formal sealed bids or proposals (ITBs or RFPs)) or a non-competitive method authorized by 2 C.F.R. § 200.320(c).

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- B. **Procurement Procedures.** 2 C.F.R. § 200.320 requires the City to have and follow documented procurement procedures consistent with the standards set forth in the Uniform Guidance for each of the methods of procurement set forth above. The procurement procedures set forth in [PRO-060 Competitive Requirements and Source Selection](#) for small purchases and formal and informal procurements shall be followed in compliance with this requirement.

ARTICLE IV. ADDITIONAL REQUIREMENTS BY AGENCY

- A. **Federal Transit Administration (FTA) Funded Procurements.** Purchases made using funds paid or reimbursed by the FTA must comply with all requirements set forth in Title 2 of the Code of Federal Regulations, FTA Circular C 4220.1F, as amended, and [PRO-150 FTA-Funded Procurements](#), and shall include all federal contract clauses as applicable.
- B. **Community Development Block Grant (CDBG) Procurements.** Purchases made using CDBG funds must comply with the procurement standards set forth in 2 C.F.R. §§ 200.318 through 200.327 and all contracts must include the provisions described in Appendix II to Part 200. The following additional requirements also apply:
1. **Independent Price or Cost Estimate.** The Using Department is required to perform price or cost analyses in connection with every procurement action exceeding the simplified acquisition threshold (\$250,000) prior to receiving bids or proposals.
 2. **Bonding Requirements.** Bid guarantees, performance bonds, and payment bonds are required for all construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold (\$250,000), including contract modifications and change orders.
 - (a) *Bid Bond.* A bid bond from each bidder equal to five percent (5%) of the bid is required at the time of the bid as assurance that the bidder is prepared to execute a contract within the time specified in the solicitation.
 - (b) *Performance Bond.* A performance Bond equal to one hundred percent (100%) of the contract price is required at contract execution to secure the contractor's fulfillment of all obligations under the contract.
 - (c) *Payment Bond.* A payment bond equal to one hundred percent (100%) of the contract price is required at contract execution to assure payment of all persons supplying labor and material under the contract.
 3. **Use of Local, Small, Minority and/or Women-Owned Businesses (Section 3 Requirements).** In addition to the affirmative steps described in Article II, Section J, above, the City is required to make reasonable efforts to award contracts for construction-related work to be performed by eligible business concerns located in or owned by residents of the target area. The desire to award contracts to local firms is not a legitimate excuse for avoiding an open and competitive procurement process. The Flow Chart below should be consulted to determine if the City's project is subject to the requirements of Section 3 of the housing and Urban Development Act of 1968, as amended:

Exhibit 3-1: Section 3 Flow Chart

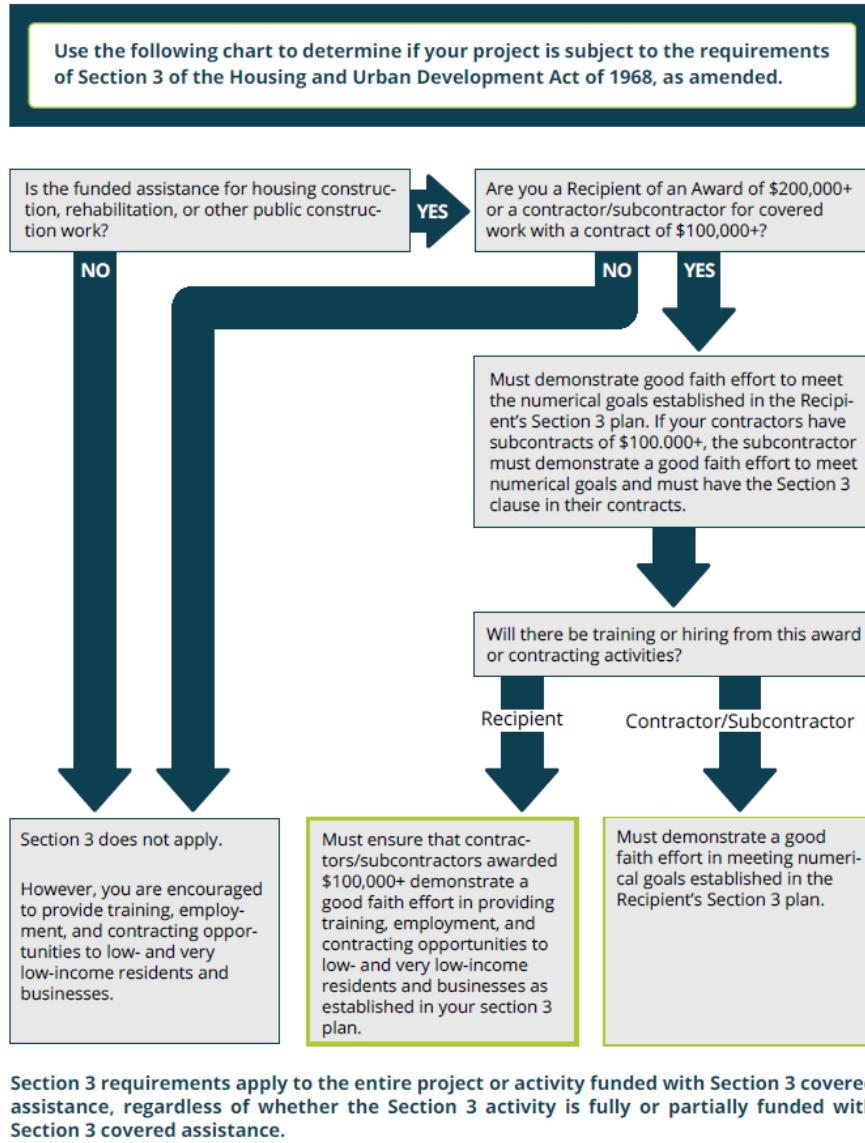


Figure 1 - U.S. Dept. of Housing and Urban Development CDBG Program Handbook for Subrecipients on Administrative Systems

APPENDIX A
**Federal Transit
Administration (FTA)
Procurement Forms**


Procurement Policy – Federal Transit Administration (FTA) Exhibits

- **Exhibit A:** Procurement Checklists
- **Exhibit B:** Internal Analysis and Worksheets
- **Exhibit C:** Third-Party Contract Provisions
- **Exhibit D:** Bid Forms
- **Exhibit E:** Special Terms and Conditions for FTA-Funded Solicitations and Contract Awards

Exhibit A:

Procurement Checklists

Exhibit A - Procurement Checklists

 FTA-funded Procurement History Checklist							
CONTRACT/BID NUMBER:		VENDOR NAME:				CONTRACT AWARD DATE:	
DESCRIPTION OF BID:					AMOUNT:		
ACCT. STRING:					CONTRACT START DATE:		
NO.	DESCRIPTION	In File	N/A	NO.	DESCRIPTION	In File	N/A
1.	Solicitation Request Form	<input type="checkbox"/>	<input type="checkbox"/>	17.	Negotiation Memorandum <i>(if applicable)</i>	<input type="checkbox"/>	<input type="checkbox"/>
2.	ICE (Independent Cost Estimate)	<input type="checkbox"/>	<input type="checkbox"/>	18.	Bonds <i>(if needed)</i>	<input type="checkbox"/>	<input type="checkbox"/>
3.	Scope of Work	<input type="checkbox"/>	<input type="checkbox"/>	19.	Source Selection Report and Related Documents	<input type="checkbox"/>	<input type="checkbox"/>
4.	Grant Requirements Review	<input type="checkbox"/>	<input type="checkbox"/>	20.	Contractor Responsibility Determination	<input type="checkbox"/>	<input type="checkbox"/>
5.	Single-Source Justification <i>(if applicable)</i>	<input type="checkbox"/>	<input type="checkbox"/>	21.	Required Award Approvals	<input type="checkbox"/>	<input type="checkbox"/>
6.	Market Research Documents	<input type="checkbox"/>	<input type="checkbox"/>	22.	Notice of Intent to Award	<input type="checkbox"/>	<input type="checkbox"/>
7.	Bidders List	<input type="checkbox"/>	<input type="checkbox"/>	23.	Protests <i>(if applicable)</i>	<input type="checkbox"/>	<input type="checkbox"/>
8.	Source Selection Plan and Documents	<input type="checkbox"/>	<input type="checkbox"/>	24.	Signed Agreement	<input type="checkbox"/>	<input type="checkbox"/>
9.	Solicitation & Amendments, and Advertisement (if needed)	<input type="checkbox"/>	<input type="checkbox"/>	25.	Contract Modifications/Data	<input type="checkbox"/>	<input type="checkbox"/>
10.	Pre-Solicitation Approvals from Granting Agency	<input type="checkbox"/>	<input type="checkbox"/>	26.	Complaint and Performance Reports	<input type="checkbox"/>	<input type="checkbox"/>
11.	Pre-bid or Proposal Meeting Notes and Questions & Answers	<input type="checkbox"/>	<input type="checkbox"/>	27.	Documentation Concerning Pre- or Post-Award Mistakes in Bid	<input type="checkbox"/>	<input type="checkbox"/>
12.	Bids/Proposals, Grant Forms & Pre-Award Buy-America	<input type="checkbox"/>	<input type="checkbox"/>	28.	Invoices/Vouchers	<input type="checkbox"/>	<input type="checkbox"/>
13.	"No Bid" Letters or Offeror Disqualification Correspondence	<input type="checkbox"/>	<input type="checkbox"/>	29.	Post-Delivery Buy America	<input type="checkbox"/>	<input type="checkbox"/>
14.	Bid Tabulation	<input type="checkbox"/>	<input type="checkbox"/>	30.	Other Correspondence	<input type="checkbox"/>	<input type="checkbox"/>
15.	Cost/Price Analysis	<input type="checkbox"/>	<input type="checkbox"/>	31.	General Contract Correspondence	<input type="checkbox"/>	<input type="checkbox"/>
16.	SAM (System for Award Management) - excluded parties	<input type="checkbox"/>	<input type="checkbox"/>	32.	Contract Close-Out	<input type="checkbox"/>	<input type="checkbox"/>
Comments:							
Buyers Signature:					Date:		



Procurement File Checklist

CONTRACT/BID NUMBER:	DESCRIPTION OF BID:
-----------------------------	----------------------------

	Description of Item	Date	Buyer Initials
<input type="checkbox"/>	Solicitation Request Form		
<input type="checkbox"/>	ICE (Independent Cost Estimate)		
<input type="checkbox"/>	Bidders List		
<input type="checkbox"/>	Federal Clauses		
<input type="checkbox"/>	Bid Released		
<input type="checkbox"/>	Advertised <i>(if required)</i>		
<input type="checkbox"/>	Bid Tabulation		
<input type="checkbox"/>	Bid Price Analysis		
<input type="checkbox"/>	Bonds <i>(if needed)</i> :		
<input type="checkbox"/>	<i>Bid Bond</i>		
<input type="checkbox"/>	<i>Performance & Payment</i>		
<input type="checkbox"/>	<i>Construction</i>		
<input type="checkbox"/>	Insurance <i>(if needed)</i>		
<input type="checkbox"/>	Licensing <i>(if needed)</i>		
<input type="checkbox"/>	Responsibility Determination		
<input type="checkbox"/>	Fair & Reasonable Determination		
<input type="checkbox"/>	SAM (System for Award Management) - excluded parties		
<input type="checkbox"/>	Buy America [in bid] <i>(if needed)</i> :		
<input type="checkbox"/>	<i>Pre-Award</i>		
<input type="checkbox"/>	<i>Post Delivery</i>		
<input type="checkbox"/>	Federal forms <i>(as required)</i>		
<input type="checkbox"/>	Federal clauses/forms sent to contract staff to incorporate into the agreement		


		<h2 style="margin: 0;">Procurement Memorandum</h2>					
CONTRACT/PO NUMBER: _____		VENDOR NAME: _____		DATE: _____			
FUNDING SOURCES: _____			COMPLETED BY: _____				
Method of Procurement:							
<input type="checkbox"/>	Micro Purchase	<input type="checkbox"/>	Small Purchase	<input type="checkbox"/>	Competitive/Sealed Bid		
<input type="checkbox"/>	Sole Source	<input type="checkbox"/>	Competitive RFP	<input type="checkbox"/>	Standardization		
Justification if Non-Competitive:							
Reason for Procurement:							
Contract Type <i>Rationale for contract type:</i> _____							
<input type="checkbox"/>	Capital	<input type="checkbox"/>	Operations	<input type="checkbox"/>	Revenue	<input type="checkbox"/>	Preventative Maintenance
Reason for Vendor Selection or Rejection:							
<input type="checkbox"/>	Lowest responsive, responsible bidder		<input type="checkbox"/>	Highest score by evaluation committee			
<input type="checkbox"/>	Other _____		<input type="checkbox"/>	Non-responsive, non-conforming bid			
<i>Results were:</i> _____							
Basis for Contract Price:							
<input type="checkbox"/>	Accepted vendor's proposed pricing:			\$	_____		
<input type="checkbox"/>	Negotiated Price: <i>(memorandum attached)</i>			\$	_____		
<input type="checkbox"/>	Other: _____			\$	_____		
Price Analysis:							
The price offered by the supplier was within ____% of the independent estimate, and variance the offerors constituted a range of _____. The competitive range was determined to be from \$_____ to \$_____. Pricing discrepancies between the offers was attributed to _____. Other sources/data used to affirm price reasonableness were _____.							
Summary of Responsibility and Responsiveness Checks							
Award <i>Date of contract Award/City Council Approval (attach minutes):</i> _____							
Change Orders (Identify each and summarize reason for change, dates, cost analysis, time impact, and C/O #)							

Exhibit B:

Internal Analysis and Worksheets



Independent Cost Estimate*

CONTRACT/BID NUMBER:

DESCRIPTION OF BID:

Method of Obtaining the Estimate:

- Published price list *(attach source and date)*
- Historical pricing *(attach copy of documentation from previous contract/PO)*
- Comparable purchases from other agencies *(attach emails and documents)*
- Engineering or technical estimate *(attach)*
- Independent third-party estimate *(attach)*
- Other (specify) _____ *(attach documentation)*

Cost Estimate Details: Through the method stated above it has been determined that the total cost of the goods/services is expected to be: \$ _____.
Details are shown below.

Cost of Standard Items

Product	Cost (\$/ea)	Cost (\$/ea)	Notes/Data Source
	Delivered	No Freight	

Cost of Services, Repairs, or Non-Standard Items

Materials	Labor	Overhead	Total	Notes/Data Source

The cost estimate was obtained or prepared by: _____.

Signature of Preparer:

Date:

**Attach all documentation. For complex items/tasks, include a detailed spreadsheet explaining rationale.*



**Lease vs Purchase Analysis
for Federal Transit Administration (FTA) Funded
Procurements**

FTA Background: Since equipment leases are considered "third-party contracts" within the meaning of FTA Circular 4220.1F, the requirements of that Circular applies to such procurements. FTA Circular 4220.1F requires a lease versus purchase analysis to determine the most economical approach to any given procurement.

Lease vs. purchase alternatives: It is usually less economical to lease equipment than to purchase it. However, there are some instances where this is not true. For example, short-term leases of equipment which is required for a short time or for a unique task may be reasonable and economically sound. It may also be advisable to lease equipment that undergoes rapid technological change such as personal computers and other IT related equipment. In some cases, it is easier to have equipment maintained if it is leased. But long-term leases and leases for items that should be purchased and capitalized but cannot be because of budget constraints are not economically prudent. If a decision is made to lease equipment, a lease vs. purchase analysis should be made. The analysis should be appropriate to the size and complexity of the procurement. In determining whether the lease of equipment is feasible, the following factors must be considered:

1. Estimated length of the period the equipment is required and the amount of time of actual equipment usage:

--

2. Technological obsolescence of the equipment:

--

3. Financial and operating advantages of alternative types and makes of equipment:

--

4. Total rental cost for the estimated period of use:

--

5. Net purchase price, if acquired by purchase:	
6. Transportation and installation cost:	
7. Maintenance, storage and other service costs:	
8. Trade-in or salvage value:	
9. Imputed interest costs:	
10. Availability of a servicing facility especially for highly complex equipment (can the City service equipment if it is purchased?):	
Based on this review, it is recommended to:	
	Purchase <input type="checkbox"/> Lease <input type="checkbox"/>
Procurement Title/Description:	
Submitted by: (Print Name)	
Signature:	
Date:	

	<h2 style="margin: 0;">Fair and Reasonable Price Determination</h2>	
CONTRACT NUMBER:	VENDOR NAME:	GOOD/SERVICE:
<p>I hereby determine the price to be fair and reasonable based on at least one of the following:</p>		
Description:	Select one or more applicable reasons:	
Found reasonable on recent purchase.	<input type="checkbox"/>	
Obtained from current price list.	<input type="checkbox"/>	
Commercial market sales price from advertisements.	<input type="checkbox"/>	
Obtained from current catalog.	<input type="checkbox"/>	
Similar in related industry.	<input type="checkbox"/>	
Personal/professional knowledge of item procured.	<input type="checkbox"/>	
Other: _____	<input type="checkbox"/>	
REQUIRED SUPPORTING DOCUMENTS: Copy of purchase order, quotes, catalog page, price list, etc. is attached:		<input type="checkbox"/>
Comments:		
Signature of Preparer:		Date:
Contracting Officer Signature:		Date:



	<h2>Responsibility Determination Form</h2>		
<p>For each of the areas described below, check that the appropriate research has been accomplished and provide a short description of the research and the results.</p>			
CONTRACT NUMBER:	VENDOR NAME:		
Category	Acceptable <i>(Yes or No)</i>		Research/Results
1. Appropriate financial, equipment, facility, and personnel	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
2. Ability to meet the delivery schedule	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
3. Satisfactory period of performance	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
4. Satisfactory record of integrity, not on debarred or suspended listings	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
5. Receipt of all necessary forms and data from vendor	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
6. <i>Additional comments, if any</i>			
Signature of Preparer:			Date:

Exhibit B: Internal Analysis and Worksheets

	<h2 align="center">Vendor Bid Checklist/Cost Factors</h2>		
CONTRACT/BID NUMBER:		VENDOR NAME:	
DESCRIPTION		YES	NO
1. Bid is <u>responsive</u> to requirements of the solicitation		<input type="checkbox"/>	<input type="checkbox"/>
2. Price is firm, fixed and definite		<input type="checkbox"/>	<input type="checkbox"/>
3. Exceptions taken to any material term or condition of the solicitation		<input type="checkbox"/>	<input type="checkbox"/>
4. Required forms submitted		<input type="checkbox"/>	<input type="checkbox"/>
5. Forms/certifications complete		<input type="checkbox"/>	<input type="checkbox"/>
6. Bid is defective		<input type="checkbox"/>	<input type="checkbox"/>
Bid Cost Factors		N/A	Cost (\$)
7. Purchase price		<input type="checkbox"/>	\$
8. Payment discount terms		<input type="checkbox"/>	\$
9. Transportation costs		<input type="checkbox"/>	\$
10. Warranty		<input type="checkbox"/>	\$
11. Installation		<input type="checkbox"/>	\$
12. Training		<input type="checkbox"/>	\$
13. Technical assistance		<input type="checkbox"/>	\$
Total Bid:			\$



Price Analysis*

CONTRACT/PO NUMBER:

GOOD/SERVICE:

The evidence compiled by a price analysis includes:

- Developing and examining data from multiple sources whenever possible that prove or strongly suggest the proposed price is fair.
- Determining when multiple data consistently indicate that a given price represents a good value for the money.
- Documenting data sufficiently to convince a third party that the analyst's conclusions are valid.

The pricing quoted on the attached sheet(s) is deemed to be fair and reasonable based on the following type of analysis:

- Comparison with competing suppliers' prices or catalog pricing for the same item. *(Complete comparison matrix and attach supporting quotes or catalog pages.)*
- Comparison of proposed pricing with in-house estimate for the same item. *(Attach signed in-house estimate and explain factors influencing any differences found. Complete summary matrix.)*
- Comparison of proposed pricing with historical pricing from previous purchases of the same item, coupled with market data such as Producer Price Index or Inflation Rate over the corresponding time period. *(Attach data and historical price record).*
- Analysis of price components against current published standards, such as labor rates, dollars per pound etc. to justify the price reasonableness of the whole. *(Attach analysis to support conclusions drawn.)*

Cost of Services, Repairs, or Non-Standard Items


Item	Proposed Pricing	Average Market Price	Competitor A	Competitor B	In-House Estimate	Other

The price analysis or prepared by: _____.

Signature of Preparer:

Date:

**Attach all documentation. For complex items/tasks, include a detailed spreadsheet explaining rationale.*

 Piggyback Checklist	
CONTRACT/BID NUMBER:	DESCRIPTION OF BID:
OTHER AGENCY BID NUMBER:	NAME OF OTHER AGENCY:
<p>Definition: Piggybacking is the post-award use of a contractual document/process that allows someone who was not contemplated in the original procurement to purchase the same supplies/equipment through that original document/process.</p> <p><i>In order to assist in the performance of your review, to determine if a situation exists where you may be able to participate in the piggybacking of an existing agreement, the following considerations are provided. Ensure that your final file includes documentation substantiating your determination.</i></p>	
Piggyback Worksheet*	YES NO
1. Have you obtained a copy of the contract and the solicitation document, including the specifications and any Buy America Pre-award or Post- Delivery audits?	<input type="checkbox"/> <input type="checkbox"/>
2. Does the solicitation and contract contain an express "assignability" clause that provides for the assignment of all or part of the specified deliverables?	<input type="checkbox"/> <input type="checkbox"/>
3. Did the Contractor submit the "certifications" required by Federal regulations? <i>See BPPM Section 4.3.3.2.</i>	<input type="checkbox"/> <input type="checkbox"/>
4. Does the contract contain the clauses required by Federal regulations? <i>See BPPM Appendix A1.</i>	<input type="checkbox"/> <input type="checkbox"/>
5. Were the piggybacking quantities included in the original solicitation; i.e., were they in the original bid and were they evaluated as part of the contract award decision?	<input type="checkbox"/> <input type="checkbox"/>
6. If this is an indefinite quantity contract, did the original solicitation and resultant contract contain both a minimum and maximum quantity, and did these represent the reasonably foreseeable needs of the parties to the contract?	<input type="checkbox"/> <input type="checkbox"/>
7. If this piggybacking action represents the exercise of an option in the contract, is the option provision still valid or has it expired?	<input type="checkbox"/> <input type="checkbox"/>
8. Does your State law allow for the procedures used by the original contracting agency: e.g., negotiations vs. sealed bids?	<input type="checkbox"/> <input type="checkbox"/>
9. Was a cost or price analysis performed by the original contracting agency documenting the reasonableness of the price? Obtain a copy for your files. Have you performed a market analysis of the prices to be paid and have you determined the price to be fair and reasonable and in the best interests of the Agency?	<input type="checkbox"/> <input type="checkbox"/>
10. If the contract is for rolling stock or replacement parts, does the contract term comply with the five-year term limit established by FTA? <i>See FTA Circular 4220.1F, Chapter IV, 2 (14) (i).</i>	<input type="checkbox"/> <input type="checkbox"/>
11. Was there a proper evaluation of the bids or proposals? <i>Include a copy of the analysis in your files.</i>	<input type="checkbox"/> <input type="checkbox"/>
12. If you will require changes to the vehicles (deliverables), are they "within the scope" of the contract or are they "cardinal changes"? <i>See BPPM Section 9.2.1.</i>	<input type="checkbox"/> <input type="checkbox"/>

*Piggybacked contracts must be fully complaint with all FTA clauses and **CANNOT** be altered to comply.

Exhibit B: Internal Analysis and Worksheets

DESCRIPTION OF COST ELEMENTS (Continued)	Vendor A	Vendor B	Independent Estimate	Variance
C. INDIVIDUAL CONSULTANT SERVICES				
D. OTHER				
<i>E. SUBTOTAL DIRECT COST AND OVERHEAD</i>				
6. GENERAL AND ADMINISTRATIVE (G&A) RATE % X \$ BASE (Use 5.E above)				
7. ROYALTIES (if any)				
8. <i>SUBTOTAL ESTIMATED COST</i>				
9. CONTRACT FACILITIES CAPITAL AND COST OF MONEY				
10. <i>SUBTOTAL ESTIMATED COST</i>				
11. FEE OR PROFIT				
12. <i>TOTAL ESTIMATED COST AND FEE OR PROFIT</i>				
13. DISCOUNTS				
14. OPTION COSTS (specify)				
15. ADJUSTED COST				

COST ANALYSIS WORKSHEET GUIDELINES

1. DIRECT MATERIAL

- A. Analyze Purchased Parts: Provide a consolidated price analysis of material quantities included in the various tasks, orders, or contract line items being proposed and the basis for pricing (vendor quotes, invoice prices, etc.).
- B. Subcontracted Items: Analyze the total cost of subcontract effort and supporting written quotations from the prospective subcontractors
- C. Other:
 - (1) Raw Material: Review any materials in a form or state that requires further processing. Analyze priced quantities of items required for the proposal. Consider alternatives and total cost impact.
 - (2) Standard Commercial Items: Analyze proposed items that the offeror will provide, in whole or in part, and review the basis for pricing. Consider whether these could be provided at lower cost from another source.

2. MATERIAL OVERHEAD

Verify that this cost is not computed as part of labor overhead (item 4) or General and Administrative (G&A) (Item 6).

3. DIRECT LABOR

Analyze the hourly rate and the total hours for each individual (if known) and discipline of direct labor proposed. Determine whether actual rates or escalated rates are used . If escalation is included, analyze the degree (percent) and rationale used. Compare percentage of total that labor represents for each bid.

4. LABOR OVERHEAD

Analyze comparative rates and ensure these costs are not computed as part of G&A. Determine if Government Audited rates are available.

5. OTHER DIRECT COSTS

- A. Special Equipment: Analyze price and necessity of specific equipment and unit prices.
- B. Travel: Analyze each trip proposed and the persons (or disciplines) designated to make each trip. Compare and check costs.
- C. Individual Consultant Services: Analyze the proposed contemplated consulting. Compare to independent estimate of the amount of services estimated to be required and match the consultants' quoted daily or hourly rate to known benchmarks.
- D. Other Costs: Review all other direct charge costs not otherwise included in the categories described above (e.g., services of specialized trades, computer services, preservation, packaging & packing, leasing of equipment and provide bases for pricing. Scan for duplication or omissions.

6. GENERAL AND ADMINISTRATIVE EXPENSE

See notes on labor overhead above and check whether the base has been approved by a Government audit agency for use in proposals.

7. ROYALTIES

If more than \$250, analyze the following information for each separate royalty or license fee; name and address of licensor; date of license agreement; patent numbers, patent application serial numbers, or other basis on which the royalty is payable; brief description (including any part of model numbers or each contract item or component on which the royalty is payable); percentage or dollar rate of royalty per unit; unit price of contract item; number of units; and total dollar amount of royalties,

8. SUBTOTAL ESTIMATED COST

Compare the total of all direct and indirect costs excluding Cost of Money and Fee or Profit. Note reasons for differences.

9. CONTRACT FACILITIES CAPITAL AND COST OF MONEY

Analyze the offerors' supporting calculations and compare to known standards.

10. SUBTOTAL ESTIMATED COST

This is the total of all proposed costs excluding Fee or Profit. Determine the competitive range. Question outliers.

11. FEE OR PROFIT

Review the total of all proposed Fees or Profit.


12. TOTAL ESTIMATED COST AND FEE OR PROFIT

Analyze the range of total estimated costs including Fee or Profit and explain variance to independent estimate. Identify areas for negotiation or areas to be challenged. Explain your conclusions regarding fair and reasonable pricing.

13. DISCOUNTS

Review basis for Discounts and range between offers.

ATTACH NARRATIVE COST ANALYSIS MEMO ADDRESSING ITEMS AS INSTRUCTED ABOVE.

		<h2 style="margin: 0;">Change Order Review Checklist</h2>	
CONTRACT/BID NUMBER:		VENDOR NAME:	
		DATE:	
CONTRACT DESCRIPTION:		CHANGE ORDER NUMBER:	
<i>NEW CONTRACT TOTAL:</i>		<i>DOLLAR VALUE CHANGE:</i>	
<i>LENGTH OF TIME EXTENSION GRANTED:</i>		<i>NEW PERFORMANCE PERIOD END DATE:</i>	
CHANGE ORDER CHECKLIST	Included	N/A	COMMENT
1. In-House Estimate Prepared	<input type="checkbox"/>	<input type="checkbox"/>	
2. Project Manager Approval	<input type="checkbox"/>	<input type="checkbox"/>	
3. Scope Meeting Held	<input type="checkbox"/>	<input type="checkbox"/>	
4. Scope of Change Adequate for Bidding	<input type="checkbox"/>	<input type="checkbox"/>	
5. Contractor Proposal Includes Impact Costs, Price	<input type="checkbox"/>	<input type="checkbox"/>	
6. If Price is > 10% of ICE, Evidence of Director's/CM's/City Council approval <i>(based on amount)</i>	<input type="checkbox"/>	<input type="checkbox"/>	
7. Negotiation Memorandum	<input type="checkbox"/>	<input type="checkbox"/>	
8. Written Record of Change	<input type="checkbox"/>	<input type="checkbox"/>	
9. Signed Change Order on File	<input type="checkbox"/>	<input type="checkbox"/>	
10. Evidence of Director/CM/City Council Approval Prior to Initiation of Work	<input type="checkbox"/>	<input type="checkbox"/>	
11. Notice to Proceed on File	<input type="checkbox"/>	<input type="checkbox"/>	
12. Work Authorized within Contract Scope	<input type="checkbox"/>	<input type="checkbox"/>	
13. No Evidence of Arbitrary Action	<input type="checkbox"/>	<input type="checkbox"/>	
14. Other Comments			



Sole Source Justification Form

CONTRACT NUMBER:	VENDOR NAME:	GOOD/SERVICE:
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Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances applies:

Description:	Select one (1) reason below:
The item is available only from a single source (sole source justification is <u>attached</u>).	<input type="checkbox"/>
The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation (documented emergency condition is <u>attached</u>).	<input type="checkbox"/>
FTA authorizes noncompetitive negotiations (letter of authorization is <u>attached</u>).	<input type="checkbox"/>
After solicitation of a number of sources, competition is determined inadequate (record of source contacts is <u>attached</u>).	<input type="checkbox"/>
The item is an associated capital maintenance item as defined in 49 U.S.C. §5307(a)(1) that is procured directly from the original manufacturer or supplier of the time to be replaced (price certification <u>attached</u>).	<input type="checkbox"/>
REQUIRED: Independent Estimate & Cost Analysis are <u>attached</u> .	<input type="checkbox"/>

Comments:

Signature of Preparer:	Date:
Contracting Officer Signature:	Date:

Exhibit C:

Third-Party Contract Provisions

Exhibit C: Third-Party Contract Provisions


 <div style="text-align: center;">Third-Party Contract Provisions</div>		
<i>(excluding micro-purchases, except Davis-Bacon requirements apply to contracts exceeding \$10,000)</i>		
PROVISION	COMMENTS/ <i>New MA Provision Name</i>	MASTER AGREEMENT REFERENCE (based on FA MA(26) 10-1-2019)
All FTA Assisted Third Party Contracts and Subcontracts		
No Federal Government Obligations to Third Parties (Use of Disclaimer)	<i>No Federal Government Commitment or Liability to Third Parties</i>	§ 3(l)
False or Fraudulent Statements or Claims (<i>Civil and Criminal Fraud</i>)		§ 4(e)
Access to Third Party Contract Records		§ 16(s)
Changes to Federal Requirements	<i>Changed Circumstances</i>	§ 3(j)
Civil Rights (<i>Title VI, ADA, EEO, DBE (except special DOL construction clause)</i>)	<i>Remove DBE if not needed</i>	§ 12
Disadvantaged Business Enterprises (DBEs)	Contract awarded on the basis of a bid/proposal offering to use DBEs	§ 12(e)
Incorporation of FTA Terms	<i>Federal Laws, Regulations, Requirements, and Guidance</i>	§ 16(a)
Termination [16(d)(2)]	<i>Right of the Federal Government to Terminate [11]</i>	§ 11 and § 16(d)(2) [<i>Contract must address term for convenience</i>]
Special EEO provision for construction contracts	If 49 CFR Part 18 or Part 19 indicate that the DOL EEOC regulations at 41 CFR Chapter 60 apply	§ 12(d)(3) and § 16(a) [<i>included in Incorporation of FTA Terms</i>]
Awards Exceeding \$25,000		
Debarment and Suspension		§ 16(d)(8)
Awards Exceeding \$100,000		
Lobbying	<i>Restrictions on Lobbying</i>	§ 16(d)(9)
Awards Exceeding \$150,000		
Buy America (<i>includes rolling stock</i>)	When tangible property & <i>Rolling Stock</i> or construction will be acquired	§ 15(a) and § 16(m)
Clean Air/Clean Water	<i>Clean Air Act and the Federal Water Pollution Control Act (as amended)</i>	§ 16(d)(7)

Exhibit C: Third-Party Contract Provisions

Third-Party Contract Provisions <i>(continued – page 2)</i>		
PROVISION	COMMENTS/ <i>New MA Provision Name</i>	MASTER AGREEMENT REFERENCE (based on FA MA(26) 10-1-2019)
Transport of Property or Persons		
Cargo Preference - <i>Use of United States-Flag Vessels</i>	When acquiring property suitable for shipment by ocean vessel.	§ 15(b)
Fly America	When property or persons are transported by air between U.S. and foreign destinations, or between foreign locations.	§ 15(c)
Construction Activities		
Construction Employee Protections –Davis-Bacon Act, as amended [§ 16(d)(4)]	For contracts exceeding \$2,000 <i>Prevailing Wage Requirements [§ 24(a)(1)]</i>	§ 16(d)(4) and § 24(a)(1)
Construction Employee Protections –Contract Work Hours and Safety Standards Act [§ 16(d)(5)]	For contracts exceeding \$100,000 <i>Wage and Hour Requirements [§ 24(a)(2)]</i>	§ 16(d)(5) and § 24(a)(2)
Construction Employee Protections – Sec. 1 Copeland Anti-Kickback Act – Sec. 2 Copeland Anti-Kickback Act	Sec 1: All contracts Sec 2: All const. contracts >\$2,000 <i>Copeland [within Davis-Bacon Act] “Anti-Kickback” Prohibitions [§ 24(a)(3)]</i>	§ 16(d)(4) <i>[within Davis-Bacon Act clause]</i> and § 24(a)(3)
Bonding <i>(for Construction Activities Exceeding \$100,000)</i>	5% bid guarantee bond 100% performance bond Payment bond equal to: <ul style="list-style-type: none"> • 50% for contracts <\$1M • 40% for contracts >\$1M<\$5M • \$2.5M for contracts>\$5M 	§16(n)(1)
Seismic Safety	Construction contracts for new buildings, existing & additions	§ 23(b)
Non-construction Activities		
Non-construction Employee Protection – Contract Work Hours and Safety Standards Act	<i>Awards Not Involving Construction</i> For all turnkey, rolling stock, & operational contracts (except transportation services & open market contracts) >\$100,000	§ 24(b)
Transit Operations		
Transit Employee Protective Arrangements	<i>Public Transportation Employee Protective Arrangements</i>	§ 24(d)
Charter Service		§ 28
School Bus Operations		§ 29
Alcohol Misuse and Testing & Drug Use and Testing	<i>Alcohol Misuse and Prohibited Drug Use</i> Safety sensitive functions	§ 35(b)

Exhibit C: Third-Party Contract Provisions

Third-Party Contract Provisions <i>(continued – page 3)</i>		
PROVISION	COMMENTS/ <i>New MA Provision Name</i>	MASTER AGREEMENT REFERENCE (based on FA MA(26) 10-1-2019)
Planning, Research, Development, and Demonstration Projects		
Patent Rights		§ 17
Rights in Data and Copyrights		§ 18
Special Notification Requirements for States		
Special Notification Requirement for States		§ 37
Miscellaneous Special Requirements		
Energy Conservation	All contracts	§ 26 (j)
Recycled Products	<i>Solid Wastes</i> Contracts when procuring \$10,000 or more per year of items designated by EPA	§ 16(d)(10)
ADA Access	<i>Nondiscrimination on the Basis of Disability</i> Contracts for rolling stock or facilities construction/renovation	§ 12(h)
Assignability Clause	<i>Federal Laws, Regulations, Requirements, and Guidance</i> Procurements through assignments	§ 16(a)
Conformance with National ITS Architecture	<i>National Intelligent Transportation Systems Architecture & Standards</i> Contracts and solicitations for ITS projects	§ 16(l)

Exhibit C: Third-Party Contract Provisions


	<h2 align="center">Applicability of Third-Party <i>Bid/Contract</i> Provisions</h2>				
<p align="center"><i>(Excluding micro-purchases, except Davis-Bacon requirements apply to contracts exceeding \$2,000) Current Simplified Acquisition Threshold (SAT) is \$250,000.</i></p>					
PROVISION	Professional Services/A&E	Operations/ Management	Rolling Stock Purchases	Construction	Materials & Supplies
No Federal Government Obligations to Third Parties	All	All	All	All	All
Program Fraud and False or Fraudulent Statements and Related Acts	All	All	All	All	All
Access to Third Party Contract Records	All	All	All	All	All
Changes to Federal Requirements	All	All	All	All	All
Termination	>\$10,000	>\$10,000	>\$10,000	>\$10,000	>\$10,000
Civil Rights (<i>Title VI, ADA, EEO for construction projects</i>)	All	All	All	All	All
Disadvantaged Business Enterprises (DBEs)	All	All	All	All	All
Incorporation of FTA Terms	All	All	All	All	All
Government-Wide Debarment & Suspension (SAM)	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000
Buy America			>\$150,000	>\$150,000	>\$150,000
Resolution of Disputes, Breaches, or Other Litigation	\$250,000 (SAT)	\$250,000 (SAT)	\$250,000 (SAT)	\$250,000 (SAT)	\$250,000 (SAT)
Lobbying	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Air	>\$150,000	>\$150,000	>\$150,000	>\$150,000	>\$150,000
Clean Water	>\$150,000	>\$150,000	>\$150,000	>\$150,000	>\$150,000
Cargo Preference			Transport by ocean vessel	Transport by ocean vessel	Transport by ocean vessel
Fly America	Foreign air transport or travel	Foreign air transport or travel	Foreign air transport or travel	Foreign air transport or travel	Foreign air transport or travel
Davis-Bacon Act				>\$2,000	
Contract Work Hours and Safety Standards Act		>\$100,000 (transportation services exception)	>\$100,000	>\$100,000	

Exhibit C: Third-Party Contract Provisions

Applicability of Third-Party <i>Bid/Contract</i> Provisions (continued)					
PROVISION	Professional Services/A&E	Operations/ Management	Rolling Stock Purchases	Construction	Materials & Supplies
Copeland Anti-Kickback Act Section 1 Section 2				All >\$2,000	
Bonding				\$250,000 (SAT)	
Seismic Safety	A&E for New Buildings & Additions			New Buildings & Additions	
Public Transportation Employee Protective Arrangements		Transit Operations			
Charter Service		Operating Public Transportation Service			
Safe Operation of Motor Vehicles (incl. Seat Belt Use)	All	All	All	All	All
School Bus Operations		Operating Public Transportation Service			
Substance Abuse (Drug Use and Testing)		Transit Operations			
Alcohol Misuse and Testing		Transit Operations			
Patent Rights and Rights in Data	Research & Development				
Energy Conservation	All	All	All	All	All
Recycled Products		EPA designated items >\$10,000 annually		EPA designated items >\$10,000 annually	EPA designated items >\$10,000 annually
Conformance with ITS National Architecture	ITS Projects	ITS Projects	ITS Projects	ITS Projects	ITS Projects
ADA Access	A&E	All	All	All	All
Notification of Federal Participation for States	Limited to States	Limited to States	Limited to States	Limited to States	Limited to States
Bus Testing	Purchase/lease of any new bus model, or any bus model with a major change in configuration or components to be acquired or leased with FTA funds.				

Exhibit D:
Bid Forms



Certification for Disclosure of Lobbying Activities on Federal-Aid Contracts

Certification for Contracts, Grants, and Cooperative Agreements

The undersigned certifies, to the best of their knowledge and belief, that:


(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and *submit Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with its instructions.*

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Name of Vendor/ Company:		Title:	
Signature:		Date:	

 <p>CITY OF OCALA HARTON COUNTY, FLORIDA GOD BE WITH US</p>	<h2>Buy America Certificate (Procurement of Buses, Other Rolling Stock and Associated Equipment)</h2>		
<p><i>If buses or other rolling stock (including train control, communication, and traction power equipment) are being procured, the Appropriate Certificate as set forth below shall be completed and submitted by bidder or offeror in accordance with the requirement contained in 49 CFR §661.13(b).</i></p>			
<p><i>Complete ONE certificate below</i></p>			
<h3><i>Certificate of Compliance with Buy America Rolling Stock Requirements</i></h3>			
<p>The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j), and the applicable regulations of 49 CFR 661.11.</p>			
<p>Company:</p>			
<p>Name:</p>		<p>Title:</p>	
<p>Signature:</p>		<p>Date:</p>	
<h3><i>Certificate of Non-Compliance with Buy America Rolling Stock Requirements</i></h3>			
<p>The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but may qualify for an exception to the requirement consistent with 49 U.S.C. 5323(j)(2)(C), and the applicable regulations in 49 CFR 661.7.</p>			
<p>Company:</p>			
<p>Name:</p>		<p>Title:</p>	
<p>Signature:</p>		<p>Date:</p>	

[71 FR 14117, Mar. 21, 2006, as amended at 72 FR 53698, Sept. 20, 2007; 74 FR 30239, June 25, 2009]

Exhibit D: Bid Forms

	<h2 style="margin: 0;">Buy America Certificate (Steel, Iron or Manufactured Products)</h2>		
<p><i>If steel, iron, or manufactured products (as defined in 49 CFR §§661.3 and 661.5) are being procured, the Appropriate Certificate as set forth below shall be completed and submitted by bidder or offeror.</i></p>			
<p><i>Complete ONE certificate below</i></p>			
<h3 style="margin: 0;">Certificate of Compliance with Buy America Requirements</h3>			
<p align="center">The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 CFR part 661.</p>			
<p>Company:</p>			
<p>Name:</p>		<p>Title:</p>	
<p>Signature:</p>		<p>Date:</p>	
<h3 style="margin: 0;">Certificate of Non-Compliance with Buy America Requirements</h3>			
<p align="center">The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 CFR 661.7.</p>			
<p>Company:</p>			
<p>Name:</p>		<p>Title:</p>	
<p>Signature:</p>		<p>Date:</p>	

[71 FR 14117, Mar. 21, 2006, as amended at 72 FR 53696, Sept. 20, 2007]



Buy America Certifications: Pre-Award Compliance

(In compliance with the federal requirements of 49 U.S.C. section 5323(m))

CONTRACT/BID NUMBER:

VENDOR NAME:

PRE-AWARD BUY AMERICA COMPLIANCE CERTIFICATION

As required by 49 CFR 663(b), the **City of Ocala** (the recipient) is satisfied that the buses to be purchased, _____ (number and description of buses) from _____ (the manufacturer), meet the requirements of Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended. The **City of Ocala** (the recipient) has reviewed the documentation provided by the manufacturer, which lists: (1) proposed component and subcomponent parts of the buses identified by manufacturer, country of origin, and cost as a percentage; and (2) the proposed location of the final assembly point for the buses, including a description of the activities that will take place at the final assembly point and cost of final assembly.

PRE-AWARD PURCHASER'S REQUIREMENTS CERTIFICATION

As required by 49 CFR 663(b), the **City of Ocala** (the recipient) certifies that the buses to be purchased, _____ (number and description of buses) from _____ (the manufacturer), are the same product described in the recipient's solicitation specification and that the proposed manufacturer is a responsible manufacturer with the capability to produce a bus that meets the specifications.

PRE-AWARD FMVSS COMPLIANCE CERTIFICATION

As required by 49 CFR 663(d), the **City of Ocala** (the recipient) certifies that it received, at the pre-award stage, a copy of _____ (the manufacturer's) self-certification information stating that the buses, _____ (number and description of buses), will comply with the relevant Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in 49 CFR 571.

Recipient/City of Ocala employee name:

Title:

Date of Signature:

Signature:



**Buy America Certifications:
Post-Delivery Compliance**

(In compliance with the federal requirements of 49 U.S.C. section 5323(m))

CONTRACT/BID NUMBER:

VENDOR NAME:

POST-DELIVERY BUY AMERICA COMPLIANCE CERTIFICATION

As required by 49 CFR 663(c), the **City of Ocala** (the recipient) certifies that it is satisfied that the buses received, _____ (description of buses) from _____ (the manufacturer), meet the requirements of Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended. The **City of Ocala** (the recipient) has reviewed the documentation provided by the manufacturer, which lists (1) the actual component and subcomponent parts of the buses identified by manufacturer, country of origin, and cost; and (2) the actual location of the final assembly point for the buses, including a description of the activities that took place at the final assembly point and the cost of final assembly.

POST-DELIVERY FMVSS COMPLIANCE CERTIFICATION

As required by 49 CFR 663(d), the **City of Ocala** (the recipient) certifies that it received, at the post-delivery stage, a copy of _____ (the manufacturer's) self-certification information stating that the buses, _____ (description of buses), comply with the relevant Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in 49 CFR 571.

Recipient/City of Ocala employee name:		Title:	
Date of Signature:		Signature:	



**Buy America Certification:
Post-Delivery Purchaser's Requirement
(On-Site Inspection Report)**

(In compliance with the federal requirements of 49 U.S.C. section 5323(m))

CONTRACT/BID NUMBER:

VENDOR NAME:

ON-SITE MANUFACTURER INSPECTION COMPLIANCE CERTIFICATION
(Rolling Stock Procurements for more than 10 vehicles for areas >200,000 in population)

As required by 49 CFR 663(c), the **City of Ocala** (the recipient) certifies that a resident inspector, _____(name of inspector not an agent or employee of the manufacturer), was at _____(the manufacturer's) manufacturing site during the period of manufacture of the buses, _____(description of buses). The inspector visually inspecting the buses, the **City of Ocala** (the recipient) has reviewed the inspection documentation, maintains a copy of this report, and certifies that the buses meet the contract specifications.

ON-SITE MANUFACTURER INSPECTION COMPLIANCE CERTIFICATION
(Rolling Stock Procurements for more than 20 vehicles for areas <200,000 in population)

As required by 49 CFR 663(c), the **City of Ocala** (the recipient) certifies that a resident inspector, _____(name of inspector not an agent or employee of the manufacturer), was at _____(the manufacturer's) manufacturing site during the period of manufacture of the buses, _____(description of buses). The inspector visually inspecting the buses, the **City of Ocala** (the recipient) has reviewed the inspection documentation, maintains a copy of this report, and certifies that the buses meet the contract specifications.

Name of Vendor/ Company:		Signature of Rep:	
Date of Signature:		Title:	

Signature of Notary & Seal

Exhibit E:
Special Terms and Conditions for FTA-
Funded Solicitations and Contract
Awards

SPECIAL TERMS AND CONDITIONS – FEDERAL TRANSIT ADMINISTRATION (FTA) PROGRAM REQUIREMENTS

In addition to the City of Ocala’s General Terms and Conditions, the following Special Terms and Conditions are required by the Federal Transit Administration (“FTA”) when federal funds are expended to make purchase under this solicitation by the City or for any contracts resulting from this procurement process. These Special Terms and Conditions shall have precedence over the City’s General Terms and Conditions and any terms and conditions set forth in the solicitation or any sample agreement document that may be in variance or conflict with these Special Terms and Conditions.

1. **REMEDIES FOR VIOLATION OR BREACH OF CONTRACT.** Remedies for violation or breach are addressed under Paragraph 67 of the City’s General Terms and Conditions.
2. **TERMINATION FOR CAUSE OR CONVENIENCE.** Termination for cause and convenience are addressed under Paragraph 67 of the City’s General Terms and Conditions.
3. **INCORPORATION OF FTA TERMS.** (Applies to all contract awards.) Specific provisions in this Contract include, in part, certain Standard Terms and Conditions required by USDOT, whether or not expressly set forth in the contract provisions. All contractual provisions required by USDOT, as set forth in the most recent addition and any revisions of FTA Circular 4220.1 “Third Party Contracting Guidance,” to the extend consistent with applicable federal laws, and in Appendix II of 2 C.F.R. part 200 are hereby incorporated by reference. Notwithstanding anything to the contrary in this contract, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this contract. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any requests which would cause City to be in violation of the FTA terms and conditions. The incorporation of FTA terms has unlimited flow down.
4. **FEDERAL CHANGES.** (Applies to all contract awards.) Contractor shall comply with the required FTA clauses set forth in this contract and with all applicable FTA regulations, policies, procedures and directives including, without limitation, those listed directly or by reference in the agreement between City and FTA. Contractor's failure to comply with applicable FTA regulations, policies, procedures, and directives, as they may be amended or promulgated from time to time during the term of this contract, shall constitute a material breach of this Contract.
5. **CIVIL RIGHTS.** (Applies to all contract awards.) During the performance of this contract, Contractor agrees to at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part hereof:
 - (a) **Nondiscrimination.**
 - (1) *In Employment.* Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
 - (2) *In Contracting.* Contractor will abide by the following conditions, and that it will include the following assurance in every subagreement and third-party contract it signs: (i) Contractor must not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted subagreement, third party contract, or third party subcontract, as applicable, and the administration of its DBE program or the requirements of 49 C.F.R. part 26; and (ii) Contractor must take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted subagreements, third party contracts, and third party subcontracts, as applicable.

SPECIAL TERMS AND CONDITIONS – FEDERAL TRANSIT ADMINISTRATION (FTA) PROGRAM REQUIREMENTS

(b) **Equal Employment Opportunity.**

- (1) *Race, Color, Religion, National Origin, Sex.* Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 C.F.R. chapter 60, and Executive Order No. 11246, “Equal Employment Opportunity in Federal Employment,” September 24, 1965, 42 U.S.C. section 2000e note, as further amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. section 2000e note. Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- (2) *Age.* In accordance with the Age Discrimination in Employment Act, 29 U.S.C. sections 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, “Age Discrimination in Employment Act,” 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. section 6101 et seq., U.S. Health and Human Services regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 C.F.R. part 90 and Federal transit law at 49 U.S.C. section 5332, Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.
- (3) *Disabilities.* In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. section 794, the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. section 4151 et seq., and Federal transit law at 49 U.S.C. section 5332, Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, Contractor agrees to comply with the requirements of U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. part 1630, and any implementing requirements FTA may issue. The Contractor will also ensure that accessible facilities (including vehicles and buildings) and services are made available to individuals with disabilities in accordance with the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. section 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. section 4151 et seq., and any applicable implementing regulations.
- (4) *Inclusion in Subcontracts.* Contractor agrees to include the requirements of this section in each subcontract under this contract, modified only to identify the subcontractor that will be subject to the provisions.

6. **DISADVANTAGED BUSINESS ENTERPRISE (DBE).** (Applies to all contract awards.)

- (a) This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.
- (b) Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. Contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of this contract. Failure by Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as City deems appropriate, which may include, but is not limited to: withholding monthly progress

SPECIAL TERMS AND CONDITIONS – FEDERAL TRANSIT ADMINISTRATION (FTA) PROGRAM REQUIREMENTS

payments; assessing sanctions; liquidated damages; and/or disqualifying the contractor from future bidding as non-responsible.

- (c) Offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. Award of this contract is conditioned on submission of the following information concurrent with and accompanying offeror's sealed bid:
 - (1) The names and addresses of DBE firms that will participate in this contract;
 - (2) A description of the work each DBE will perform;
 - (3) The dollar amount of the participation of each DBE firm participating;
 - (4) Written documentation of the Offerors commitment to use a DBE Subcontractor whose participation it submits to meet the contract goal;
 - (5) Written confirmation from the DBE that it is participating in the contract as provided in the prime Contractor's commitment; and
 - (6) If the contract goal is not met, evidence of good faith efforts to do so.
 - (7) Offerors must present the information required above as a matter of responsiveness with initial proposals.
 - (d) Contractor is required to pay subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after Contractor's receipt of payment for said work from the City. Contractor is required to return any retainage payments to those subcontractors within 30 days of the date that subcontractor's work related to this contract is satisfactorily completed.
 - (e) Contractor must promptly notify City whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. Contractor may not terminate any DBE subcontractor and self-perform the DBE subcontractor's assigned work.
7. **NO OBLIGATION BY THE FEDERAL GOVERNMENT.** (Applies to all contract awards.) Absent express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the City, Vendor, or any other party (whether or not a party to the Contract) pertaining to any matter resulting from this contract.
8. **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS.** (Applies to all contract awards.) Vendor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the vendor's actions pertaining to this contract.
- (a) Upon execution of this Contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to this Contract or the FTA-assisted project for which this work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.
 - (b) Contractor agrees to include the above language in each subcontract under this contract, modified only to identify the subcontractor that will be subject to the provisions.
9. **PROMPT PAYMENT.** (Applies to all contract awards.) The Prime Contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days

SPECIAL TERMS AND CONDITIONS – FEDERAL TRANSIT ADMINISTRATION (FTA) PROGRAM REQUIREMENTS

from the receipt of each payment the Prime Contractor receives from the City. Prime Contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City. This clause applies to both DBE and non-DBE subcontractors. If the Prime Contractor determines the work to be unsatisfactory, they must notify the City's Project Manager immediately, in writing, and state the reason(s) of unsatisfactory work performance. Failure to satisfy prompt payment to DBE's no later than 30 days from the Receipt of payment from the CITY will be cause to terminate the contract.

- (a) Contractor shall submit with each invoice a report of DBE expenditures. The report shall show each DBE, the amount of their subcontract, the amount earned to date, the amount earned for that respective invoice, and the amount remaining to be earned. The report shall also have each DBE subcontractor to certify relative to the amounts earned and paid to date.
- (b) As a recipient of federal funding, the City is required to mandate and enforce prompt payment of subcontractor, including the payment of "retainage" from the prime contractor to the subcontractor, as soon as the subcontractor's work has been satisfactorily completed.
- (c) **Flow Down.** These requirements extend to all third-party contractors and their contracts at every tier.

10. **ACCESS TO RECORDS AND REPORTS.** (Applies to all contract awards.) The following access to records requirements apply to this Contract:

- (a) In accordance with 49 U.S.C. section 5325(g), all vendors, contractors and subcontractors shall provide City, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- (b) All vendors, contractors and subcontractors also agree, pursuant to 49 C.F.R. section 633.15, to provide the FTA Administrator or the Administrator's authorized representatives, including any project management oversight ("PMO") contractor, access to vendor, contractor, or subcontractor records and construction sites pertaining to a major capital project, defined at 49 U.S.C. section 5302(a)(1), which is receiving federal financial assistance through the programs described at 49 U.S.C. sections 5307, 5309, or 5311.
- (c) **Access to Sites of Performance.** Vendors, contractors, and subcontractors agree to permit FTA and its subcontractors access to the sites of performance under this contract as reasonably may be required.
- (d) **Reproduction of Documents.** Vendors, contractors, and subcontractors will retain and will require their subcontractors at all tiers to retain, complete and readily accessible records related in whole or in part to this contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.
- (e) **Retention Period.** Vendors, contractors, and subcontractors agree to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. Vendors, contractors, and subcontractors shall maintain all books, records, accounts and reports required under this contract for a period of at not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims

SPECIAL TERMS AND CONDITIONS – FEDERAL TRANSIT ADMINISTRATION (FTA) PROGRAM REQUIREMENTS

or exceptions related thereto. The expiration or termination of this contract does not alter the record retention or access requirements of this section.

11. **ENERGY CONSERVATION.** (Applies to all contract awards.) Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6321 et seq.).
12. **SAFE OPERATION OF MOTOR VEHICLES.** (Applies to all contract awards.)
 - (a) **Seat Belt Use.** Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or City.
 - (b) **Distracted Driving.** Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this contract.
13. **NOTIFICATION TO FTA/FLOW DOWN REQUIREMENT.** (Applies to contract awards valued at >\$25,000.) If a current or prospective legal matter that may affect the Federal Government emerges, Contractor must promptly notify the City and FTA’s Regional Office’s FTA Chief Counsel and Regional Counsel. Contractor must include these requirements as a flow down clause in any subcontract related to this Contract. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
14. **BUY AMERICA.** (Applies to contract awards, including amendments, valued at >\$150,000.)
 - (a) Domestic preferences for procurements, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7.
 - (b) Construction materials used in the Project are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget, the U.S. Department of Transportation, and FTA. Contractor acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).
 - (c) Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C), 49 U.S.C. § 5323(u) and 49 C.F.R. § 661.11. Domestic preferences for procurements.
 - (d) The bidder or offeror must submit to the City an appropriate Buy America Certification. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive. For more information, please see the FTA’s Buy America webpage at: <https://www.transit.dot.gov/buyamerica>.
15. **BONDING REQUIREMENTS.** (Applies only to awards for construction or facility improvement contracts in excess of \$100,000) Bonds are required for all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold. FTA may accept the bonding policy and requirements of the recipient if FTA has determined that the Federal interest is adequately protected. If such a determination has not been made, the following minimum requirements apply:

SPECIAL TERMS AND CONDITIONS – FEDERAL TRANSIT ADMINISTRATION (FTA) PROGRAM REQUIREMENTS

- (a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
 - (b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s obligations under such contract.
 - (c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.
 - (d) These requirements extend to all third-party contractors and their contracts that exceed the simplified acquisition threshold.
16. **SEISMIC SAFETY.** [Applies only to contracts for construction of new buildings or additions to existing buildings]. Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations, 49 C.F.R. Part 41, and will certify to compliance to the extent required by the Regulation. Contractor also agrees to ensure that all work performed under this contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.
17. **SPECIAL EQUAL EMPLOYMENT OPPORTUNITY PROVISION FOR CONSTRUCTION PROJECTS.**
(Applies only to construction contracts in excess of \$10,000.)
- (a) Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by City setting forth the provisions of this nondiscrimination clause.
 - (b) Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of Contractor state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex, or national origin.
 - (c) Contractor shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by City, advising the labor union or workers’ representative of Contractor commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - (d) Contractor shall comply with all provisions of Executive Order No. 11246 of September 24, 1965, and all of the rules, regulations, and relevant orders of the Secretary of Labor.
 - (e) Contractor shall furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and shall permit access to its books, records, and accounts by City and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

SPECIAL TERMS AND CONDITIONS – FEDERAL TRANSIT ADMINISTRATION (FTA) PROGRAM REQUIREMENTS

- (f) In the event of Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any such rules, regulations, or orders, this Contract may be cancelled, terminated, or suspended in whole or in part and Contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (g) Contractor shall include the provisions of this Section 16 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions shall be binding upon each subcontractor or vendor. Contractor shall take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance. If Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, Contractor may request the United States to enter into such litigation to protect the interests of the United States.
18. **VETERANS EMPLOYMENT.** As a recipient of Federal financial assistance, the City is obligated to ensure that contractors working on capital projects funded with such assistance give a hiring preference, to the extent practicable, to veterans (as defined in Section 2108 of Title 5, C.F.R.) who have the requisite skills and abilities to perform the construction work required under this Contract. This subsection shall not be understood, construed, or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.
19. **TRANSIT EMPLOYEE PROTECTIVE AGREEMENTS.** (Applies to all contracts for transit operations to be performed by employees of Contractor recognized by FTA to be a transit operator)
- (a) **Flow Down.** These requirements extend to all third-party contractors and their contracts at every tier. Contractor agrees to include any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.
- (b) Contractor agrees to comply with applicable transit employee protective requirements as follows:
- (1) ***General Transit Employee Requirements.*** To the extent that FTA determines that transit operations are involved, Contractor agrees to carry out transit operations work on the underlying Contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this Contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying Contract. Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause, Federal transit laws, specifically 49 U.S.C. section 5333(a), ("FTA's Davis-Bacon Related Act");
- (2) ***Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities.*** If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate

SPECIAL TERMS AND CONDITIONS – FEDERAL TRANSIT ADMINISTRATION (FTA) PROGRAM REQUIREMENTS

for the state and the public body subrecipient for which work is performed on the underlying Contract, Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying Contract in compliance with the conditions stated in that U.S. DOL letter.

- (3) ***Transit Employee Protective Requirements for Projects – [Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas]***. If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

20. **CHARTER BUS AND SCHOOL BUS OPERATIONS.** (Applies to operational service contracts funded in whole or in part by the FTA). If this is an operational service contract:
- (a) Contractor agrees to comply with 49 U.S.C. § 5323(d) and 49 C.F.R. Part 604. Contractor is prohibited from providing charter service using federally funded equipment or facilities if there is at least one (1) private charter operator willing and able to provide the service, except under one of the exceptions at 49 C.F.R. § 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation; and
 - (b) Pursuant to 49 U.S.C. § 5323(f) and 49 C.F.R. Part 605, the Contractor may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, the Contractor may not use federally funded equipment, vehicles, or facilities.
21. **DRUG FREE WORKPLACE PROGRAM.** (Applies to contracts involving safety sensitive tasks.)
- (a) **Flow Down.** These requirements extend to all third-party contractors and their contracts at every tier who perform a safety-sensitive function.
 - (b) **Alcohol Misuse and Substance Abuse Testing.** Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. parts 655, to produce any documentation necessary to establish its compliance with part 655, and to permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of the State of Florida, or the City of Ocala, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. Contractor agrees further to certify annually its compliance with parts 655 before January 1st of each year and to submit the Management Information System (MIS) reports before March 1st of each year to the City's Project Manager under the contractor. To certify compliance, the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.
22. **CARGO PREFERENCE REQUIREMENTS.** (Applies only to contracts where equipment, material, or commodities will be transported by ocean vessel.)
- (a) Contractor agrees to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers)

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involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;

- (b) Contractor agrees to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.); and
- (c) Contractor agrees to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

23. **FLY AMERICA REQUIREMENTS.** (Applies only to contracts where the FTA will participate in the cost of air transportation of persons or property by air between the U.S. and foreign destinations, or between foreign destinations.)

- (a) Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America Act") in accordance with the General Services Administration's regulations at 41 C.F.R part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag Air Carriers for U.S. Government-finance international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act.
- (b) Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. Flag Air Carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation,

24. **PATENT RIGHTS AND RIGHTS IN DATA.** (Applies only to FTA-funded research projects where the purpose of the grant is to finance the development of a product or information. These provisions do not apply to capital projects or operating projects, even though a small portion of the sales price may cover the cost of product development or writing the user's manual.)

- (a) **Flow Down.** These requirements extend to all third-party contractors and their contracts at every tier.
- (b) **Rights in Data.** The following requirements apply to each contract involving experimental, developmental or research work:
 - (1) The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

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- (2) The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:
- (i). Except for its own internal use, Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.
 - (ii). In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.
 - (iii). When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (i) of this clause and shall be delivered as the Federal Government may direct. This subsection (iii), however, does not apply to adaptations of automatic data processing equipment or programs for Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.
 - (iv). Unless prohibited by state law, upon request by the Federal Government, City and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by City or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither City nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.
 - (v). Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
 - (vi). Data developed by City or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (ii), (iii), and (iv) of this clause, provided that City or Contractor identifies that data in writing at the time of delivery of the contract work.

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- (vii). Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.
 - (3) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), City and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Consultants under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.
 - (4) The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.
 - (c) **Patent Rights.** The following requirements apply to each contract involving experimental, developmental or research work:
 - (1) **General.** If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, City and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.
 - (2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), City and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Consultants Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.
 - (3) The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.
25. **RECYCLED PRODUCTS.** (Applies to all contracts for items designated by the EPA, when the purchaser or Contractor procures \$10,000 or more of one of these items during the fiscal year or has procured \$10,000 or more of such items in the previous fiscal year, using Federal funds].
- (a) **Flow Down.** These requirements extend to all third-party contractors and their contracts at every tier.
 - (b) **Recovered Materials.** Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with all the requirements of Section 6002 of the Resource Conservation and Recovery Act ("RCRA") as amended (42 U.S.C. section 6962) and U.S. Environmental Protection Agency, "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. part 247.

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26. **NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS (ITS) ARCHITECTURE AND STANDARDS.** (Applies to contracts for intelligent transportation systems projects only.) Intelligent transportation system (ITS) property and services must comply with the National ITS Architecture and Standards to the extent required by 23 U.S.C. Section 517(d) and FTA Notice, “FTA National ITS Architecture Policy on Transit Projects,” 66 FR 1455 et seq., January 8, 2001, and later published policies or implementing directives FTA may issue. Consequently, third party contracts involving ITS are likely to require provisions to ensure compliance with Federal requirements. These requirements extend to all third-party contractors and their contracts at every tier who perform functions related to intelligent transportation systems.
27. **PRE-AWARD & POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES.** (These requirements apply to contracts for the purchase of rolling stock.)
- (a) Contractor shall comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 CFR part 663. Contractor shall comply with the Buy America certification(s) submitted with its offer. Contractor shall participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 CFR part 663 and related FTA guidance.
- (b) Contractor and its subcontractors must comply with the limitation on certain rolling stock procurements at 49 U.S.C. § 5323(u), prohibiting the procurement of rolling stock from specified manufacturers for public transportation use.
28. **BUS TESTING.** (Applies only to contracts for the purchase or lease of new bus models acquired or leased with FTA-obligated funds.)
- (a) Contractor agrees to comply with the Bus Testing requirements under 49 U.S.C. 5318(e) and FTA's implementing regulation at 49 C.F.R. part 665 to ensure that the requisite testing is performed for all new bus models or any bus model with a major change in configuration or components, and that the bus model has achieved a passing score.
- (b) Upon completion of the testing, the contractor shall obtain a copy of the bus testing reports from the operator of the testing facility and make that report(s) publicly available prior to final acceptance of the first vehicle by the recipient.
29. **AIR POLLUTION & FUEL ECONOMY.** (These requirements apply to contracts for the purchase of rolling stock.) The Contractor agrees to comply with applicable Federal air pollution control and fuel economy regulations, such as: EPA regulations, “Control of Air Pollution from Mobile Sources,” 40 CFR Part 85; EPA regulations, “Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines,” 40 CFR Part 86; and EPA regulations, “Fuel Economy of Motor Vehicles,” 40 CFR Part 600.
30. **TRANSIT MANUFACTURER DISADVANTAGED BUSINESS ENTERPRISE CERTIFICATION.** (These requirements apply to contracts for the purchase of rolling stock.) If Contractor is a Transit Vehicle Manufacturer, Contractor must certify that that it has complied with the requirements of 49 CFR § 26.49 by submitting an annual DBE goal to the FTA. The goal has either been approved or is pending approval by FTA.
31. **DAVIS-BACON ACT AND COPELAND “ANTI-KICKBACK” ACT.** (Applies to all prime construction contracts in excess of \$2,000 for the actual construction, alteration, and/or repair of a public building or public work, or building or work financed in whole or in part from Federal funds, in accordance with guarantees of a Federal agency, or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant, or annual contribution.)
- (a) **Davis Bacon Act.** All vendors, contractors, and subcontractors must comply with the provisions of the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of

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Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). Contractor is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determinate made by the Secretary of Labor. In addition, Contractor shall pay wages not less than once a week. Current prevailing wage determinations issued by the Department of Labor are available at www.dol.gov. Contractor agrees that, for any purchase to which this requirement applies, the award of the purchase to the Contractor is conditioned upon Contractor’s acceptance of the wage determination. The City shall report all suspected or reported violations to the Federal awarding agency.

- (b) **Copeland “Anti-Kickback” Act.** Contractor further agrees that it shall also comply with the Copeland “Anti-Kickback” Act (40 USC 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractor and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each Contractor or sub-recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The City shall report all suspected or reported violations to the Federal awarding agency.

32. **CONTRACT WORK HOURS & SAFETY STANDARDS ACT.** (Applies to all contract awards in excess of \$100,000 that involve the employment of mechanics, laborers, and construction work. These requirements do not apply to the purchase of supplies or materials ordinarily available on the open market, or contracts for transportation or transmission of intelligence.) All vendors, contractors, and subcontractors must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor Regulations (20 CFR Part 5).

(a) Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.

(b) The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous.

33. **RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT.** If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or sub recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or sub recipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

34. **CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT.** (Applies all contract awards and subcontracts in excess of \$150,000.) All vendors, contractors, and subcontractors must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401-7671q, and the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251-1387. Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

35. **DEBARMENT AND SUSPENSION.** (Applies all contract awards.) No contract award shall be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part

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1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

36. **BYRD ANTI-LOBBYING AMENDMENT.** (Applies all contract awards and subcontracts in excess of \$100,000.) Contractors who apply or bid for an award of more than \$100,000 shall file a Byrd Anti-Lobbying Certification. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.
37. **PROCUREMENT OF RECOVERED MATERIALS.** (Applies all contract awards where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000.) As a non-Federal entity that is a political subdivision of the state of Florida, the City of Ocala and all vendors, contractors, and subcontractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
38. **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.** (Applies all contract awards.) As a recipient and subrecipient of federal funds, the City of Ocala and its vendors, contractors and subcontractors:
- (a) As a recipient and subrecipient of federal funds, the City of Ocala and all vendors, contractors and subcontractors are prohibited from obligating or spending loan or grant funds to (1) procure or obtain; (2) extend or renew a contract to procure or obtain; or (3) enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - (1) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - (2) Telecommunications or video surveillance services provided by such entities or using such equipment.
 - (3) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence

SPECIAL TERMS AND CONDITIONS – FEDERAL TRANSIT ADMINISTRATION (FTA) PROGRAM REQUIREMENTS

or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

- (b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.
- (c) By submitting the electronic response to this solicitation, Vendors are certifying that they have carefully read the solicitation documents, including any addenda, exhibits, attachments, and/or appendices in their entirety and agrees that to the best of his/her knowledge, no pages or parts of the documents appear to have been omitted and that Vendor fully understands, accepts, and agrees to fully comply with the requirements and conditions set forth therein.
- (d) See Public Law 115-232, section 889 for additional information.
- (e) See also, § 200.471.

39. **DOMESTIC PREFERENCES FOR PROCUREMENTS.** (Applies all contract awards.) As appropriate and to the extent consistent with law, the City of Ocala should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all contracts and purchase orders for work or products under this award.

(a) For the purposes of this section:

- (1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- (2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

APPENDIX B
**Special Terms and
Conditions for Federally
Funded Contracts**
(Appendix II to 2 CFR Part 200)

SPECIAL TERMS AND CONDITIONS – ALL FEDERALLY FUNDED CONTRACT AWARDS

In addition to the City of Ocala's General Terms and Conditions and other provisions required by the funding agency, all contract awards made by the City of Ocala, a non-Federal entity, shall be governed by the following provisions required under Appendix II to 2 CFR, Part 200, as applicable. These Special Terms and Conditions shall have precedence over the City's General Terms and Conditions and any terms and conditions set forth in the solicitation that may be in variance or conflict with these Special Terms and Conditions.

1. **REMEDIES FOR VIOLATION OR BREACH OF CONTRACT.** Remedies for violation or breach are addressed under Paragraph 67 of the City's General Terms and Conditions.
2. **TERMINATION FOR CAUSE OR CONVENIENCE.** Termination for cause and convenience are addressed under Paragraph 67 of the City's General Terms and Conditions.
3. **EQUAL EMPLOYMENT OPPORTUNITY.** (Applies to agreements between the City and any Vendor for construction work which is paid for in whole or in part with federal funds.) During the performance of this Contract, Contractor agrees as follows:
 - (a) Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 - (b) Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
 - (c) Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceedings, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
 - (d) Contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - (e) Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
 - (f) Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its/his/her books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

SPECIAL TERMS AND CONDITIONS – ALL FEDERALLY FUNDED CONTRACT AWARDS

- (g) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (h) Contractor will include the portion of the sentence immediately preceding paragraph (a) herein and the provisions of the subparagraphs contained within this entire section in every subcontract or contract unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or Contractor. The Contractor will take such action concerning any subcontract or contract as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:
 - (1) Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or Contractor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

4. **DAVIS-BACON ACT AND COPELAND "ANTI-KICKBACK" ACT.** (Applies to all prime construction contracts in excess of \$2,000 for the actual construction, alteration, and/or repair of a public building or public work, or building or work financed in whole or in part from Federal funds, in accordance with guarantees of a Federal agency, or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant, or annual contribution.)

- (a) **Davis Bacon Act.** All vendors, contractors, and subcontractors must comply with the provisions of the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). Contractor is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determinate made by the Secretary of Labor. In addition, Contractor shall pay wages not less than once a week. Current prevailing wage determinations issued by the Department of Labor are available at www.dol.gov. Contractor agrees that, for any purchase to which this requirement applies, the award of the purchase to the Contractor is conditioned upon Contractor's acceptance of the wage determination. The City shall report all suspected or reported violations to the Federal awarding agency.
- (b) **Copeland "Anti-Kickback" Act.** Contractor further agrees that it shall also comply with the Copeland "Anti-Kickback" Act (40 USC 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractor and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each Contractor or sub-recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The City shall report all suspected or reported violations to the Federal awarding agency.

5. **CONTRACT WORK HOURS & SAFETY STANDARDS ACT.** (Applies to all contract awards in excess of \$100,000 that involve the employment of mechanics, laborers, and construction work. These requirements do not apply to the purchase of supplies or materials ordinarily available on the open market, or contracts for transportation or transmission of intelligence.) All vendors, contractors, and subcontractors must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor Regulations (20 CFR Part 5).

SPECIAL TERMS AND CONDITIONS – ALL FEDERALLY FUNDED CONTRACT AWARDS

- (a) Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- (b) The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous.
6. **RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT.** If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or sub recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or sub recipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
7. **CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT.** (Applies all contract awards and subcontracts in excess of \$150,000.) All vendors, contractors, and subcontractors must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. 7401-7671q, and the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251-1387. Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
8. **DEBARMENT AND SUSPENSION.** (Applies all contract awards.) No contract award shall be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
9. **BYRD ANTI-LOBBYING AMENDMENT.** (Applies all contract awards and subcontracts in excess of \$100,000.) Contractors who apply or bid for an award of more than \$100,000 shall file a Byrd Anti-Lobbying Certification. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.
10. **PROCUREMENT OF RECOVERED MATERIALS.** (Applies all contract awards where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000.) As a non-Federal entity that is a political subdivision of the state of Florida, the City of Ocala and all vendors, contractors, and subcontractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery;

and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

11. **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.** (Applies all contract awards.) As a recipient and subrecipient of federal funds, the City of Ocala and its vendors, contractors and subcontractors:
- (a) As a recipient and subrecipient of federal funds, the City of Ocala and all vendors, contractors and subcontractors are prohibited from obligating or spending loan or grant funds to (1) procure or obtain; (2) extend or renew a contract to procure or obtain; or (3) enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - (1) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - (2) Telecommunications or video surveillance services provided by such entities or using such equipment.
 - (3) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
 - (b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.
 - (c) By submitting the electronic response to this solicitation, Vendors are certifying that they have carefully read the solicitation documents, including any addenda, exhibits, attachments, and/or appendices in their entirety and agrees that to the best of his/her knowledge, no pages or parts of the documents appear to have been omitted and that Vendor fully understands, accepts, and agrees to fully comply with the requirements and conditions set forth therein.
 - (d) See Public Law 115-232, section 889 for additional information.
 - (e) See also, § 200.471.
12. **DOMESTIC PREFERENCES FOR PROCUREMENTS.** (Applies all contract awards.) As appropriate and to the extent consistent with law, the City of Ocala should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all contracts and purchase orders for work or products under this award.
- (a) For the purposes of this section:

SPECIAL TERMS AND CONDITIONS – ALL FEDERALLY FUNDED CONTRACT AWARDS

- (1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- (2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.