

ORDINANCE NO. C-17-26

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, REPEALING DIVISION 2, – PURCHASING, OF ARTICLE V. - FINANCE, OF CHAPTER 2 – ADMINISTRATION, OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, AND CREATING A NEW DIVISION 2. – PROCUREMENT, OF ARTICLE V. - FINANCE, OF CHAPTER 2 – ADMINISTRATION, OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, REPEALING SECTION 2-125.1. – DESIGN/BUILD CONTRACTS, AND SECTION 2-127. – APPROVAL OF CHANGE ORDERS AND TASK ORDERS, OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, AND PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCE PROVISIONS, AND AN EFFECTIVE DATE.

WHEREAS, a fundamental purpose of local government is to use its resources when making purchases in the most efficient and cost-effective manner possible while complying with all local, state and federal regulations; and

WHEREAS, the City Commission finds that it is necessary to modify the Code of Ordinances of the City of Fort Lauderdale, Florida, to allow city staff to better serve the City by repealing Division 2. – Purchasing, to remove ambiguous or unnecessary, time-consuming, inconsistent, and burdensome procedures and replacing with a new Division 2.- Purchasing, to provide revised procurement policies; and

WHEREAS, the City Commission finds that the procurement process of the City will be improved by adopting this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That Chapter 2 - Administration, of Article V. – Finance, of Division 2. – Purchasing, of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby repealed as follows:

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~~DIVISION 2. - PURCHASING~~

~~Sec. 2-171. - Purpose.~~

~~For the city to function well, it is necessary that commodities and contractual services of suitable standards and in sufficient quantities be available as needed and that such items be purchased at the best prices available, consistent with city standards of service and quality. When purchasing commodities and contractual services, the city will not only attempt to follow sound and prudent business practices, but will also seek to promote the full and equitable economic participation of all segments of the community. With these objectives in mind, the city will use its best efforts to ensure that minority-owned and women-owned business enterprises have an equitable opportunity to participate in the procurement system. It is, therefore, the purpose of this division to provide for the fair and equitable treatment of all persons involved in public purchasing by the city, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.~~

~~Sec. 2-172. - Applicability.~~

- ~~(a) This division shall not apply to:~~
 - ~~(1) Procurement of dues and memberships in trade or professional organizations;~~
 - ~~(2) Subscriptions to periodicals;~~
 - ~~(3) Advertisements;~~
 - ~~(4) Postage;~~
 - ~~(5) Water, sewer, gas, electrical, and other utility services;~~
 - ~~(6) Copyrighted materials;~~
 - ~~(7) Items for resale;~~
 - ~~(8) Professional medical services;~~
 - ~~(9) Recreational program instructors;~~

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- ~~(10) On-going payments of fees for maintenance and support of existing software/technology which has been purchased via a competitive process in accordance with this division;~~
- ~~(11) Veterinarian services;~~
- ~~(12) Purchases of goods or services for which the provisions of this division are waived by the city commission by resolution;~~
- ~~(13) Purchases of materials, equipment, prefabricated elements and components, appliances, fixtures, and other goods, pursuant to a program contained in a construction contract that has been awarded in accordance with any provision of this Code, whereby the city makes such purchases directly.~~

Sec. 2-173. - Definitions.

~~The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Best interest of the city* means a judgmental assessment of what will result in a maximum benefit being conferred upon the city.~~

~~*Brand name or equal specification* means a specification limited to one (1) or more items by manufacturers' names or catalogue numbers to describe the standard of quality, performance, and other salient characteristics needed to meet the city's requirements and which provides for the submission of equivalent products.~~

~~*Contractual services* means and includes, but shall not be limited to, all gas, water, electric light and power service; towel and cleaning service; and the purchase, rental, repair or maintenance of equipment, supplies and machinery and other city-owned personal property. The term shall not include professional or other contractual services which are in their nature unique and not subject to competition and insurance and such insurance-related services as consulting, self-funding and claims administration.~~

~~*Invitation for bids* means all documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.~~

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~~Professional services means services, the value of which is substantially measured by the professional competence of the person performing them, and which are not susceptible to realistic competition by cost of services alone. Professional services shall include, but not be limited to, services customarily rendered by architects, engineers, surveyors, certified public accountants and financial, personnel, systems, planning and management consultants.~~

~~Proprietary item or service means any item or service essential to the day-to-day operation of the city government and when time is of the essence. Proprietary item or service also means any other item or service which, in the judgment of the city manager, is not readily available from more than one (1) supplier, manufacturer or person. Proprietary may, when so determined by the city manager, be applied to any other material and services that are in their nature unique and/or not readily subject to competition or whereby specifications cannot clearly be drawn or when time is of the essence.~~

~~Purchasing manager means the city's director of finance.~~

~~Request for proposal means all documents, whether attached or incorporated by reference, utilized for soliciting proposals.~~

~~Responsible bidder means a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance.~~

~~Responsive bidder means a person who has submitted a bid which conforms in all material respects to the invitation to bid.~~

~~Sole source means one (1) vendor, supplier, or contractor that possesses a unique and singular ability to meet the city's requirements for equipment, supplies, or services.~~

~~Specifications means any description of the physical or functional characteristics or of the nature of a supply or service. It may include a description of any requirement for inspecting, testing, or preparing a supply or service for delivery.~~

~~Supplies means and includes all supplies, materials and equipment.~~

~~Surplus property means surplus, obsolete, or scrap supplies. "Surplus supplies" means supplies which are capable of being used but are in excess of the normal~~

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~~operating requirements of the city. "Obsolete supplies" means those which may no longer be used for their intended purpose when their use has become economically impractical. "Scrap supplies" are those that can no longer be used either safely or economically for any purpose except for their possible salvage value.~~

~~Using agency is any department, agency, commission, bureau or other authorized unit in the city government using supplies or procuring contractual services as provided for in this division.~~

~~Sec. 2-174. -- Central purchasing organization; purchasing manager; jurisdiction; operational procedures.~~

- ~~(a) *Establishment.* The city manager shall establish a centralized organization to perform the city's purchasing functions and to carry out the provisions of this division. This organizational unit will be headed by the purchasing manager.~~
- ~~(b) *Authority; duties.* Authority and duties of the purchasing manager include, but are not limited to, actions necessary to enforce this division, as well as the following:~~
- ~~(1) To purchase or supervise the purchasing of all supplies and services needed by the city.~~
 - ~~(2) To exercise general supervision over all inventories of supplies belonging to the city.~~
 - ~~(3) To have the authority to declare vendors who default their quotations irresponsible bidders and to disqualify them from receiving any business from the city for a stated period of time, subject to approval of the city manager.~~
- ~~(c) *Exceptions prohibited.* The authority of the purchasing manager or the purchasing manager's designee to negotiate all purchases for all using agencies shall not be abridged by excepting any particular using agency, except as restricted by charter.~~
- ~~(d) *No jurisdiction over certain contracts, purchases and proper disposition.* The purchase of medical service, medically prescribed equipment or apparatus, professional services such as private investigators, expert witnesses and~~

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~~claim adjusting services, when utilized by the city in the settlement and administration of workers' compensation and liability claims, shall be exempt from the provisions and requirements of this division. Additionally, property recovered by the city in the settlement and administration of workers' compensation and liability claims shall be exempt from the provisions and requirements of this division.~~

~~(e) *Operational procedures.* Consistent with this division, and with the approval of the city manager, operational procedures relating to the execution of this division may be set forth in the city's purchasing manual.~~

~~Sec. 2-175. - Unauthorized purchases.~~

~~Except as provided in this division, it shall be unlawful for any city officer or employee under the supervision of the city manager to order the purchase of any materials or supplies or make any contract for municipal materials or supplies or services within the purview of this division other than through the central purchasing organization, and the city shall not be bound by any purchase order or contract made contrary to the provisions of this division.~~

~~Sec. 2-176. - Encumbrance of funds.~~

~~(a) *Purchase orders.* No officer of the city shall, except in cases of emergency, issue any purchase order for delivery on a contract or open market purchase if it has been determined by the city's finance function that there is an insufficient unencumbered appropriation balance, in excess of all unpaid obligations, to defray the amount of such order in the accounts of the using agencies concerned.~~

~~(b) *Requisition purchase authorization.* Except in cases of emergency, no request and process of any requisition purchase authorization (RPA) for any order shall be made if there is insufficient unencumbered funds in the appropriate account to be charged, and the city's finance function shall not pay any RPA when there are insufficient unencumbered appropriation balances, in excess of all unpaid obligations, to defray the amount of such order in the accounts of the using agencies concerned.~~

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~~Sec. 2-177. - Conflict of interest.~~

- ~~(a) *Purchases.* Any purchase order or contract within the purview of this division in which any officer or employee of the city is financially interested, directly or indirectly, shall be void unless such purchases are:~~
- ~~(1) Made from the lowest responsible, responsive bidder under sealed bids following a solicitation pursuant to section 2-180 or 2-182;~~
 - ~~(2) Made at current market prices under a rotation system, by which purchases are rotated among different suppliers;~~
 - ~~(3) Emergency purchases made at current market prices and for an aggregate amount of not more than one hundred dollars (\$100.00); or~~
 - ~~(4) For utility services, newspaper advertising, telephone or telegraph services, or similar services.~~
- ~~(b) *Gifts.* No officer or employee of the city or his 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 official capacity.~~

~~Sec. 2-178. - Competitive bidding.~~

~~All contracts of the city shall be awarded by competitive bidding except as otherwise provided for in this division.~~

~~Sec. 2-179. - Contracts for public works.~~

~~For the city to function well, it is necessary that contractual services for the construction of public improvements of suitable standards be retained as needed and that such services be retained at the best prices available, consistent with city standards of service and quality. When retaining such services, the city will not only attempt to follow sound and prudent business practices, but will also seek to promote the full and equitable economic participation of all segments of the community. With these objectives in mind, the city will use its best efforts to ensure that minority-owned and women-owned business enterprises have an equitable opportunity to participate in the procurement system applicable to public~~

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~~improvements. Whenever the expenditure of public funds is involved, no public improvements shall be authorized or commenced except as follows:~~

- ~~(1) Whenever the cost of the proposed public improvement is to be paid or repaid in whole or in part by special assessments levied against the property specially benefited, the proceedings shall be in accordance with the provisions of law.~~
- ~~(2) Whenever emergency public improvements are necessitated by destruction or damage to existing public works, and it is deemed necessary to make emergency repairs or improvements quickly, such public improvements or repairs may be authorized by the city manager or the city manager's designee whenever the estimated immediate expenditure does not exceed twenty five thousand dollars (\$25,000.00), and by the city commission when the estimated immediate expenditure exceeds twenty five thousand dollars (\$25,000.00), without the necessity of public notice, public competitive bid, and formal contract as provided in paragraph (5) of this section. When the cost exceeds twenty five thousand dollars (\$25,000.00), a full report of each such purchase shall be made to the city commission at the earliest available commission meeting.~~
- ~~(3) Whenever the professional services of architects, engineers, surveyors, attorneys and the like are required in connection with a public improvement, contracts of employment may be entered into by the city commission with such persons, without the necessity of public competitive bids.~~
- ~~(4) Whenever material, equipment and supplies are needed in connection with the usual and customary operation of the city, the procedure for obtaining same shall be governed by this Code.~~
- ~~(5) In all other cases not specifically covered by paragraphs (1), (2), (3) or (4) of this section, public improvements exceeding twenty five thousand dollars (\$25,000.00) are not authorized except after public notice for formal bids in accordance with section 2-180. The city shall award the contract to the lowest and best responsible bidder, and enter into formal contract with such bidder in duplicate for the performance of the work in accordance with the plans and specifications for such improvements. For those public improvements not exceeding five thousand dollars~~

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~~(\$5,000.00), the purchasing manager shall have the authority to approve the lowest and best responsible bid; for those public improvements not exceeding fifty thousand dollars (\$50,000.00), the city manager or the city manager's authorized designee shall have the authority to approve the lowest and best responsible bid; for those public improvements exceeding fifty thousand dollars (\$50,000.00), the city commission shall approve the lowest and best responsible bid by motion. A faithful performance bond, written by a corporate surety company holding a certificate of authority from the Secretary of the Treasury of the United States as acceptable sureties on federal bonds and executed and issued by a resident agent licensed by and having an office in the state representing such corporate surety, shall be required from the successful bidder in an amount equal to the contract price; provided, however, that at the discretion of the city commission, any person entering into a public works contract with the city which is for fifty thousand dollars (\$50,000.00) or less may be exempted from executing the aforementioned faithful performance bond. The faithful performance bond, contract, contract documents, qualifications of bidders, and plans and specifications shall be prepared and executed in accordance with requirements of the engineering division, approved by the city attorney.~~

- ~~(6) Notwithstanding any provision in this division to the contrary, the city manager shall, upon securing specific approval of the city commission for each transaction, have the power on behalf of the city to purchase any personal property from any governmental agency, national or state, including any federal or state agency or branch of the federal or state government, or from any other municipal government, without public bidding, provided the city manager certifies to the city commission that the item or items of personal property are needed by this city and that the price or prices being paid, paid, or to be paid such other government or governmental agency are below the current market prices for such personal property.~~
- ~~(7) An informal public works contract shall be submitted in writing from a minimum of three (3) contractors with no public notification or time requirements or surety bond. For public improvements not exceeding five thousand dollars (\$5,000.00), the purchasing manager shall have the~~

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~~authority to approve the lowest and best responsible bid. For those public improvements not exceeding twenty five thousand dollars (\$25,000.00), the city manager or his authorized designee shall have the authority to approve the lowest and best responsible bid.~~

- ~~(8) Notwithstanding any provision in this division to the contrary, the city may enter into contracts for construction management services, construction management at risk services, program management services, design/build contracts, continuation contracts based on unit prices, and any other contract arrangement with a private sector contractor permitted by any applicable ordinance or state law.~~

Sec. 2-180. -- Formal bid procedure.

~~All supplies and services, except as otherwise provided in this division, when the estimated cost shall exceed twenty five thousand dollars (\$25,000.00), shall be purchased by written and sealed bids, proposals, reverse auction, or other competitive solicitation as provided for in this division, and awarded to the lowest and best responsible, responsive bidder, after due notice inviting proposals; provided, however, that the city purchasing manager shall have authority to waive formal bid procedures in cases where it deems it advisable to do so, under the terms and conditions provided for in section 2-181.~~

- ~~(1) *Notice inviting bids.* Invitations to bid shall be subject to the following:~~
- ~~a. *Advertisement for bids required, amount.* When any goods, supplies, materials or contractual services for city purposes or uses shall be purchased and when the amount to be paid by the city shall be more than twenty five thousand dollars (\$25,000.00), notice thereof may be advertised at least one (1) time in a newspaper of general circulation published in the city, calling for sealed bids upon the work to be done under the proposed contract, to be received no earlier than five (5) days from the first publication of notice. At the option of the purchasing manager, unless any provision of law provides to the contrary, the city may satisfy any city requirement of public advertisement, public notice and public mailing of invitations to bid, requests for proposals, requests for letters of interest and other solicitations, electronically. Electronic notice shall specify that receipt of bids, proposals or other offers shall~~

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~~be received no earlier than five (5) days from the first announcement or posting of such electronic notice. For the purposes of this section electronic notice shall mean the posting of the solicitation information to the world wide web (Internet).~~

~~b. *Bidders list.* Notice of sealed bids may also be solicited from responsible prospective suppliers. Notification of solicitation may be sent to the vendors that have registered with the city or with a third party procurement provider selected by the city, via whatever method is determined by the purchasing manager or the purchasing manager's designee to be most effective and efficient.~~

~~c. *Bulletin board.* All formal purchases or sales, as defined in this section, shall also be advertised by a notice posted on a public bulletin board in City Hall.~~

~~(2) *Bid deposits and performance bonds.* When deemed appropriate by the purchasing manager or the purchasing manager's designee, bid deposits and performance bonds shall be prescribed in the invitation to bid or request for proposals. Unsuccessful bidders shall be entitled to a return of surety where the city has required such. A successful bidder shall forfeit any required surety upon failure by such successful bidder to enter into a contract after city approval or to meet other requirements as set forth in the invitation to bid or request for proposals.~~

~~(3) *Bid opening procedure.* The following procedure shall be followed in opening bids:~~

~~a. *Sealed.* Bids and proposals shall be submitted sealed in an envelope or via the city's e-procurement electronic lock box to the city's procurement division and shall be identified as bids or proposals on the envelope if the original written bid or proposal is submitted.~~

~~b. *Opening.* Bids shall be opened in public at the time and place stated in the public notices.~~

~~c. *Tabulation.* A tabulation of all bids received shall be available for public inspection.~~

~~(4) *Award of contract.* The provisions of section 2-184 shall apply.~~

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- ~~(5) *Rejection of bids.* All bids and proposals received shall be reported to the city commission, but the city commission shall have the authority to reject all bids, parts of all bids, or all bids for any one (1) or more supplies or contractual services included in the proposed specifications when the public interest will be served thereby. In the event a bid or proposal does not meet specifications or is otherwise non-conforming, such fact shall be pointed out to the commission. If the low responsive bid does not exceed fifty thousand dollars (\$50,000.00), the bid or proposal may be awarded or rejected under the provisions of section 2-184 without submission to the city commission for approval.~~
- ~~(6) *Correction or withdrawal of bids; cancellation of awards.* Correction before bid opening or withdrawal of inadvertently erroneous bids before or after bid opening or cancellation of awards or contracts based on bid mistakes may be permitted. Mistakes discovered before bid opening may be modified or withdrawn by written notice from the bidder and received in the office designated in the invitation for bids or request for proposals prior to the time set for bid opening. After bid or proposal opening, corrections or clarifications in bids or proposals shall be permitted only to the extent that the corrections do not materially affect the terms, conditions and specifications and may be subject to the approval of the city attorney.~~
- ~~(7) *Late bids.* Bids received and clocked in after the hour and date specified in the proposal form will not be opened but will be reported to the city commission, and only the city commission may authorize the opening of a late bid after considering all the circumstances involved.~~
- ~~(8) *Contracts.* Supplies and services to be provided over a period of time may be a subject of a formal contract signed by the successful bidder, the city manager and by the city attorney.~~
- ~~(9) *Change of dollar threshold limits.* The city commission may by resolution raise or lower the twenty-five thousand dollar (\$25,000.00) and fifty thousand dollar (\$50,000.00) threshold limits contained in this division.~~

Sec. 2-181. - Waiver of formal bid requirements.

~~When the estimated cost of supplies and contractual services is fifty thousand dollars (\$50,000.00) or over, a contract for same may be awarded by the city~~

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~~commission to the lowest and best responsible bidder without formal contract, and, when requested, the commission may waive formal bidding procedures, under the following conditions:~~

- ~~(1) Notices shall be sent out inviting bids by electronic notification, facsimile, or telephone to at least three (3) vendors believed to handle the product or service desired at least three (3) days before the bids are to be received, such notices to specify the kind and quality of materials, supplies and contractual services desired, and shall make written certification of such facts. Notice inviting bids shall be posted on the procurement bulletin board at City Hall at least three (3) days before the bids are to be received.~~
- ~~(2) Records of all bids submitted shall be kept and reported to the commission and shall be open for public inspection.~~
- ~~(3) All provisions of this division pertaining to bidders lists, bid deposits and bid opening procedures, where not in conflict with this section, shall be applicable.~~
- ~~(4) The commission shall waive formal bid procedures and award the contract to the lowest and best responsible bidder at a regular meeting by motion, which shall be recorded in the minutes of the meeting.~~
- ~~(5) The provisions of section 2-184 shall apply in awarding contracts under this section.~~
- ~~(6) The city manager may procure, without competitive bids, supplies and services which are the subject of contracts with the state as set forth in Florida Statutes or are the subject of contracts with the U.S. Federal General Services Administration.~~
- ~~(7) The city may buy from another governmental entity contracts or bids whereby such contract or formal bid followed formal bid procedures of sealed written bids, public opening, and legal advertising.~~
- ~~(8) The city may make purchases based on the terms of a contract let by an entity that is organized as a not for profit entity under the laws governing such entity where the contract was entered into following a fair and~~

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~~competitive process that included public notice, sealed written or secure electronic bids, and public bid opening.~~

- ~~(9) The city manager may authorize the purchasing manager or the purchasing manager's designee to purchase surplus property as donated by the state department of general services, division of surplus property, as authorized by Florida Statutes. Supplies costing in excess of fifty thousand dollars (\$50,000.00) shall be reported to the city commission at the next meeting following any purchase, listing item(s) and cost of supplies purchased.~~
- ~~(10) Bids received after the hour and date specified in the bid invitation will not be opened. Only the city manager will authorize the opening of a late bid when so requested by the bidder and after considering all the circumstances involved.~~

~~Sec. 2-182. -- Purchase of supplies and contractual services estimated to cost between five thousand dollars and fifty thousand dollars.~~

~~Where the furnishing of supplies and contractual services is estimated to cost between five thousand dollars (\$5,000.00) and fifty thousand dollars (\$50,000.00), such purchases may be made upon approval of the city manager or the city manager's designee except when only a single bid is received in response to a city requests for bids in an amount greater than twenty five thousand dollars (\$25,000.00), in which case such purchase shall be subject to the approval of the city commission. Whenever the total cost does not exceed twenty-five thousand dollars (\$25,000.00) and it is deemed necessary and proper to do so, except in case of emergency, or as otherwise provided herein, at least three (3) competitive written quotes shall be sought by electronic mail, the city's e-procurement web site, U.S. mail, or facsimile, and the quote of the lowest responsive and responsible bidder may be accepted by the purchasing manager or the purchasing manager's designee without city commission approval. The following purchases, however, may be made upon approval of the city manager or the city manager's designee when the cost exceeds five thousand dollars (\$5,000.00), without bid and on a nonemergency basis, when such purchases are deemed to be made for the best interests of the city:~~

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- ~~(1) *Test items.* Test items may be purchased without bid when it is probable that such purchases will result in formulating future bid specifications for such items or will result in the determination that such are proprietary items.~~
- ~~(2) *Odd lots and closed-out materials.* Odd lots and closed-out materials may be purchased without bid when such purchases are offered at considerable savings to the city.~~
- ~~(3) *Photocopy or office-type machine rentals or purchases.* Photocopy or office-type machine rentals or purchases may be made without bid upon recommendation of the central services organization after conducting extensive study and trial usage of a minimum of three (3) such machines.~~
- ~~(4) *Maintenance service of equipment.* When considered to be in the best interest of the city, maintenance service of office-type equipment may be made without bid, and on other type equipment without bid upon the recommendation of the using department, when services to be performed are by the equipment manufacturer, manufacturer's service representative, a distributor of the manufacturer's equipment, or when at least three (3) responsible services have been tested.~~
- ~~(5) *Land surveys, land appraisals, abstracts of title and title searches.* Land surveys, land appraisals, abstracts of title and title searches may be purchased without bid and may be made on a rotation basis between at least three (3) reliable sources, subject to the provisions of Florida's Consultant's Competitive Negotiation Act and section 2-194 of this Code.~~
- ~~(6) *Late bids.* Bids received after the hour and date specified in the proposal form will not be opened. Only the city manager will authorize the opening of a late bid when so requested by the bidder and after considering all the circumstances involved.~~

~~Sec. 2-183. -- Small purchases.~~

~~Purchases of supplies and services may be made when the cost does not exceed five thousand dollars (\$5,000.00) without competitive bids by the city manager or the city manager's designee, when it best serves the interests of the city.~~

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~~Sec. 2-184. - Awards generally.~~

~~Awards of contracts and/or purchases shall be to the lowest, responsive, and most responsible bidder. In determining the lowest responsive and responsible bidder and that purchase or contract that will best serve the interests of the city, the commission, city manager, and purchasing manager, as appropriate, shall consider, but shall not be limited to, in addition to price, the following:~~

- ~~(1) The ability, capacity and skill of the bidder to perform under the terms of the bid documents.~~
- ~~(2) Whether the bidder can perform the contract or provide the materials or service promptly, or within the time specified, without delay or interference.~~
- ~~(3) The character, integrity, reputation, judgment, experience and efficiency of the bidder.~~
- ~~(4) The quality of performance of previous contracts and the providing of materials and/or services.~~
- ~~(5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract, or the providing of materials or services.~~
- ~~(6) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the materials or services.~~
- ~~(7) The quality, availability and adaptability of the supplies, equipment, or contractual services to the particular use required.~~
- ~~(8) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.~~
- ~~(9) The number and scope of conditions attached to the bid.~~

~~Sec. 2-185. - Award to other than low responsible bidder.~~

~~When the award is not given to the low responsible bidder, a statement of the reason for placing the order elsewhere shall be prepared and made a part of the record when bids are taken by formal method.~~

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~~Sec. 2-186. - Tie bids.~~

~~If all bids received are for the same total amount or unit price, quality and service being equal, the contract or purchase shall be awarded to a local responsible bidder. "Local bidder" is defined to be a bidder whose business office is located within the city. If there is a tie bid among local bidders, or among nonlocal bidders, the commission shall determine which bid shall be selected when bids exceed fifty thousand dollars (\$50,000.00). For tie bids of fifty thousand dollars (\$50,000.00) or less, the city manager or the city manager's designee shall determine which bid shall be selected.~~

~~Sec. 2-187. - Performance bonds.~~

~~A performance bond with a surety company authorized to do business in the state may be required by the city commission in any case where the contract price exceeds twenty-five thousand dollars (\$25,000.00). The city commission shall have authority to require a performance bond, if it so desires, for any contract or to waive the requirement of a performance bond as to any contract.~~

~~Sec. 2-188. - Prohibition against subdivision.~~

~~No contract or purchase shall be subdivided to avoid the requirements of this division.~~

~~Sec. 2-189. - Proprietary purchases.~~

- ~~(a) The purchase of proprietary items, as defined in this article, may be made without the necessity of public bids. Such purchases shall require the approval of the city manager or the city manager's designee when the estimated cost of the item is between five thousand dollars (\$5,000.00) and twenty-five thousand dollars (\$25,000.00) and if greater than twenty-five thousand dollars (\$25,000.00), then the approval of the city commission is required.~~
- ~~(b) When a purchase of proprietary items exceeds twenty-five thousand dollars (\$25,000.00) and is to be made by the use of grant funds, then the approval of the city manager shall be sufficient, if provisions of the grant are followed and the grantor of the funds approves the purchase.~~

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~~(e) There are occasions when it is not to the advantage of the city to utilize sealed competitive bids or proposals for the purchase of certain goods or services or purchases from certain types of entities. These instances include purchases from other governmental or educational agencies or from non-profit organizations. When the city manager or the purchasing manager determines in writing that while competitive bids could be utilized, their use may not be in the best interest of the city or are impractical, informal or formal bids will not be required but instead the price and scope of services if applicable will be negotiated. Such determinations may include the purchase of the following goods or services or purchases from the following entities:~~

- ~~(1) Work of art for public places;~~
- ~~(2) Copyrighted materials or patented works or items including by not limited to books, maps, periodical, testing or instructional materials and software;~~
- ~~(3) Entertainers, teachers, specialized instructors;~~
- ~~(4) Purchasers from another governmental or educational entity or non-profit agency;~~
- ~~(5) Purchase of items for resale;~~
- ~~(6) City sponsored events at hotels, motels, restaurants.~~

~~This exemption from the normal bidding process does not mean that the city will make awards without an investigation of the pricing of products or services being purchased in order to determine that the city is obtaining the product or service at its lowest price and from a responsible supplier. Such purchases will require the approval of the city commission except those under twenty-five thousand dollars (\$25,000.00) which may be approved by the city manager or the city manager's designee. For purposes of this section "impractical" shall mean not subject to competition because the providers of the service or product are students, volunteers or persons in a training program.~~

~~Sec. 2-190. -- Emergency purchases.~~

~~(a) *Natural or manmade disasters and acts of domestic terrorism.* In the event of or in anticipation of, a natural or manmade disasters, including but not limited~~

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~~to, a hurricane, tornado, flood, fire, riot or other act of God, or an act of domestic terrorism, the city manager is authorized to declare a state of emergency for purchasing purposes for a period of time not to exceed seven (7) days. The city commission may extend the emergency period as circumstances require in seven-day increments. Nothing in this section shall be construed to limit the authority of the city commission to declare or terminate a state of emergency and take any action authorized by law when sitting in a regular or special meeting. During the declared emergency period, all normal purchasing procedures and requirements shall be suspended and the following procedures shall apply:~~

- ~~(1) *By city manager.* The city manager shall be empowered to authorize the purchasing manager to secure any needed emergency supplies, materials, equipment or services using the most efficient and effective procurement methods in each procurement, as determined by the purchasing manager. If the cost of any purchase exceeds the current formal bid threshold, a full report of such purchase shall be made to the city commission at the earliest available commission meeting.~~
- ~~(2) *By head of department.* With the approval of the city manager, or purchasing manager if so designated by the city manager, the head of any department may purchase any needed emergency supplies, materials, equipment or services where, using the most effective procurement methods in each procurement, as determined by the department head, which made the emergency purchases necessary. If the cost of any purchase exceeds the current formal bid threshold, a full report of such purchase shall be made to the city commission at the earliest available commission meeting.~~
- ~~(3) *Other municipalities.* The city manager, or purchasing manager if so designated by the city manager, may request another municipality to purchase for the city any needed emergency supplies, materials, or equipment or the city may purchase from another municipality any needed emergency supplies, materials or equipment such municipality has available. If the cost of any purchase exceeds the current formal bid threshold, a full report of such purchase shall be made to the city commission at the earliest available commission meeting.~~

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~~(b) All other emergencies. In the event of an emergency, other than those mentioned in paragraph (a) above, such as an equipment failure, catastrophic damage to city property, or other similar unexpected event, all normal purchasing procedures and requirements directly related to such emergency shall be suspended and the following procedures shall apply:~~

~~(1) By head of department. With the approval of the city manager or purchasing manager, if so designated by the city manager, the head of any department may purchase any required emergency supplies, materials, equipment or services. The head of such department shall send to the purchasing manager a requisition and copy of the delivery record together with a full written report of the circumstances of the emergency. If the cost exceeds the current formal bid threshold, a full report of each such purchase shall be made to the city commission at the earliest available commission meeting.~~

Sec. 2-191. -- Negotiations.

~~(a) When only one (1) bid is received under competitive bidding, or the purchase is deemed to be proprietary, negotiation is permitted in order to obtain a fair and reasonable price, or if the low responsive bid is considered by the purchasing manager to be high, he shall have the authority to negotiate a lower price with the low responsible bidder.~~

~~(b) The city manager or the city manager's designee may negotiate for used equipment when deemed to be in the best interest of the city, and if the cost exceeds fifty thousand dollars (\$50,000.00), the approval of the city commission shall be obtained.~~

Sec. 2-192. -- Petty cash.

~~Purchases may be made from the city's fund of petty cash by using agencies for incidentals or emergencies, with the approval of the city manager.~~

Sec. 2-193. -- Professional services contracts.

~~All contracts for performance of professional services for the city which exceed twenty-five thousand dollars (\$25,000.00), except for contracts for the performance of legal services, shall be awarded in accordance with the provisions of sections 2-~~

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~~182 and 2-194 of this Code. All contracts for performance of professional services which do not exceed twenty-five thousand dollars (\$25,000.00) shall be awarded in accordance with section 2-182, and may be approved by the city manager or the city manager's designee. If the city has an existing contract for the performance of such services, the contract may be renewed annually, provided that the services rendered have been satisfactory, after a recommendation to that effect has been made by city staff and approved by the city commission.~~

Sec. 2-194. -- Competitive negotiations.

~~(a) *Conditions for use.* When the city manager or the city manager's designee determines that the use of competitive sealed bidding is either not practicable or not advantageous to the city, an award or a contract may be entered into by use of the competitive sealed proposals method or the request for qualifications method.~~

~~(b) *Request for proposals.* Proposals shall be solicited through a request for proposals.~~

~~(c) *Request for qualifications.* Statements of qualifications shall be solicited through requests for qualifications. The city shall evaluate professional services, including capabilities, adequacy of personnel, past record, experience, and other factors determined by the city to be applicable to its particular requirements.~~

~~(1) *Competitive selection.* For each proposed project, the city shall evaluate current statements of qualifications and performance data on file with the city, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with, and may require public presentations by, no fewer than three (3) firms regarding their qualifications, approach to the project, and ability to furnish the required services.~~

~~The city shall select in order of preference no fewer than three (3) firms deemed to be the most highly qualified to perform the required services. In determining whether a firm is qualified, the city shall consider such factors as the ability of professional personnel; past performance; willingness to meet time and budget requirements; location; recent, current, and projected workloads of the firms; and the volume of work~~

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~~previously awarded to each firm by the city, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms. The city may request, accept, and consider proposals for the compensation to be paid under the contract only during the competitive negotiations process.~~

~~(2) *Competitive negotiation.* The city shall negotiate a contract with the most qualified firm for professional services at compensation which the city determines to be fair, competitive, and reasonable. In making such determination, the city shall conduct a detailed analysis of the cost of the professional services required in addition to considering their scope and complexity.~~

~~Should the city be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price the city determines to be fair, competitive, and reasonable, negotiations with that firm must be formally terminated. The city shall then undertake negotiations with the second most qualified firm. The city shall then undertake negotiations with the third most qualified firm. Failing accord with the third most qualified firm, the city must terminate negotiations. The city shall then undertake negotiations with the next most qualified firms in order of preference.~~

~~Should the city be unable to negotiate a satisfactory contract with any of the selected firms, the city shall select additional firms in the order of their competence and qualification and continue negotiations in accordance with this subsection until an agreement is reached.~~

~~(d) *Public notice.* Adequate public notice of the request for proposals shall be given in the same manner as provided in section 2-180.~~

~~(e) *Quotation of fees.* The city shall also require interested persons to submit a quotation of their proposed fees or prices for the performance or delivery of their proposed services or goods, unless such interested persons are prohibited by law.~~

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- ~~(f) *Evaluation factors.* The request for proposals shall state the relative importance of price and other evaluation factors.~~
- ~~(g) *Negotiation with responsible offerors and revisions to proposals.* Negotiations may be conducted with at least the three (3) best qualified responsible offerors who submit proposals who are determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. If less than three (3) reasonably susceptible offers are received, then negotiations may be conducted with all best qualified offerors. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion, negotiation, and revision of proposals and such revisions may be permitted through negotiations after submissions and prior to award for the purpose of obtaining best and final offers.~~
- ~~(h) *Award.* Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the city taking into consideration price and the evaluation factors set forth in the request for proposals. Approval of final award will be governed by the total estimated cost and provisions set forth in section 2-184. No other factors or criteria shall be used in the evaluation.~~

~~Sec. 2-195. - Purchase of products or services from the blind and other severely handicapped persons.~~

- ~~(a) Purchase of products or services from the blind and other severely handicapped persons shall be in accordance with F.S. § 413.036.~~
- ~~(b) The provisions of F.S. §§ 413.032, 413.033, and 413.036 are hereby incorporated by reference in their entirety, when and where applicable, in order to provide that the city shall purchase products manufactured or services rendered by the blind and other severely handicapped persons when such products or services are available within a reasonable delivery time.~~

~~Sec. 2-196. - Inspection and testing.~~

~~The purchasing organization shall supervise the inspection procedure of all deliveries of supplies or services to determine their conformance with the specifications set forth in the order or the contract.~~

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- ~~(1) *Inspection.* Deliveries made of supplies or goods shall be inspected under rules and regulations which the purchasing manager shall prescribe, and using agencies will ensure that the product or service conforms to the specifications set forth in the order or contract.~~
- ~~(2) *Tests.* The purchasing organization shall have the authority to require chemical and physical tests of samples to be submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with the specifications. In the performance of such tests, laboratory facilities of any agency of the city government or of any outside laboratory may be used.~~

Sec. 2-197. -- Surplus supplies.

- ~~(a) *Generally.* Using agencies shall submit, at such times and in such form as prescribed, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn out or scrapped. After review for use by other city using agencies, remaining surplus property shall be disposed of in accordance with this section or as may be directed by the city commission.~~
- ~~(b) *Transfer.* Surplus stock may be transferred to other using agencies.~~
- ~~(c) *Sale.* Sales under this section shall be made to the highest responsible bidder and in conformance with competitive conditions or they may be exchanged for or traded in on new supplies. Sales of supplies not exceeding twenty-five thousand dollars (\$25,000.00) shall be approved by the city manager. Sales of supplies with a value in excess of twenty five thousand dollars (\$25,000.00) shall be approved by the city commission.~~
- ~~(d) *Items of a unique or unusual nature.* Notwithstanding anything above to the contrary, any surplus property owned by the city and being of a unique nature or having a unique value as an antique or a collector's item may be sold upon such terms and conditions as determined by the city manager without the necessity of competitive bidding. A determination of such unique nature or value shall be made by the city manager prior to any sale.~~
- ~~(e) *Garage sales.* Notwithstanding anything above to the contrary, the city manager shall have the authority to sell equipment and materials that have become surplus to the needs of the city and which have an estimated unit~~

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~~value of less than two hundred fifty dollars (\$250.00) by means of a "garage sale" in lieu of competitive methods. "Garage sale" means the establishment of a unit sale price, the display of materials to the general public for a specified period of time at a specified place, which sale shall be advertised at least once in the official newspaper of the city.~~

- ~~(f) *Obsolete or surplus items.* Stock materials or items carried in the central stores of the city which have become obsolete or exceed the requirements of the city may be returned to the vendor for reasonable and fair credit, or exchanged with a vendor for similar goods if reasonable and fair credit is given the city for the items to be exchanged, less any reasonable charge which may be imposed by the vendor for restocking.~~
- ~~(g) *Sale or trade of surplus stock to another government entity.* Notwithstanding anything above to the contrary, the city manager shall have the authority to sell (for fair market value) or trade (for like value) to other governmental entities, without the necessity of competitive bidding, surplus supplies or equipment when the estimated value does not exceed twenty five thousand dollars (\$25,000.00). Sales or trades of surplus supplies or equipment of a value in excess of twenty five thousand dollars (\$25,000.00) shall be approved by the city commission.~~

~~Sec. 2-198. - Cooperative purchasing.~~

~~The city manager or the city manager's designee shall have the authority to join with other units of government in cooperative purchasing plans when the best interest of the city would be served thereby.~~

~~Sec. 2-199. - Procedure for the purchase of insurance and insurance-related services.~~

~~The purchase of insurance and such insurance-related services as consulting, actuarial, and claims administration shall be accomplished in the following manner:~~

- ~~(1) *Negotiation.* The city shall procure insurance, as may be needed from time to time, through the negotiation process established in this section. The method of the procurement of insurance shall be on a negotiation basis, except for those situations where the bid process is required by law. To~~

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~~negotiate the purchase of insurance, the following procedure must be followed:~~

- ~~a. As directed by the risk manager or the risk manager's designee, the city's contracted agent shall distribute specifications for insurance and conduct negotiations with those interested insurance companies or their appointed agents.~~
 - ~~b. Those interested insurance companies shall submit proposals for furnishing the insurance sought by the city and those proposals will be evaluated by the person, persons or committee so designated by the city manager.~~
 - ~~c. The risk manager or the risk manager's designee shall submit recommendations and evaluations of the proposals submitted by the insurance companies with which negotiations were conducted and shall submit recommendations as to the award of a contract and reasons therefore to the city commission. The city commission shall, by motion, approve a contract with the insurance company which it determines shall best meet the needs of the city.~~
 - ~~d. No annual insurance contract secured through negotiation shall be renewed more than twice with the same insurance company without being marketed, except as otherwise approved by the city commission.~~
- ~~(2) *Competitive negotiation/bidding.* The city shall procure insurance-related services, such as consulting, actuarial and claims administration services, as may be needed from time to time, through the competitive negotiation process as specified in section 2-194 or through the bid procedure as specified in section 2-178 of this Code.~~
- ~~(3) *Emergency purchase.* In the case of an apparent emergency which requires immediate purchase of insurance or insurance-related services, the city commission may award a contract after such investigation on and upon such terms and conditions as it deems to be in the best interest of the city.~~

Sec. 2-199.1. – Bid protest procedure.

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~~(a) *Applicability.* This section shall apply to protests by bidders and proposers when the city manager or a department director recommends a purchase of goods, supplies, equipment, or services that would cost twenty-five thousand dollars (\$25,000.00) or more.~~

~~(b) *Procedure.*~~

~~(1) Any proposer or bidder who is not recommended for award of a contract and who alleges a failure by the city to follow the city's procurement ordinance or any applicable law may protest to the Director of the Procurement Services Department ("Director") by delivering a letter of protest to the Director within five (5) days after a notice of intent to award is posted on the City of Fort Lauderdale's world wide web site. The date the letter of protest is received in the Office of the Director shall constitute the date of delivery.~~

~~(2) The calculation of days shall exclude Saturdays, Sundays, and holidays observed by the city.~~

~~(3) Service of a protest by mail or courier shall not expand the time period allowed for delivery of a protest. In computing any period of time prescribed or allowed by this protest policy, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or holiday observed by the city, in which event the period shall run until the end of the next business day which is neither a Saturday nor Sunday, nor a holiday observed by the city.~~

~~(4) The written protest shall state with particularity the specific facts and law or ordinance upon which the protest of the proposed award is based, and shall include all pertinent documents and evidence.~~

~~(5) A written protest may not challenge the relative weight of evaluation criteria or a formula for assigning points.~~

~~(6) The letter of protest must be accompanied by a non-refundable protest application fee in accordance with the following schedule:~~

Recommended Purchase	Protest Application
----------------------	---------------------

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Amount Rounded to the Nearest Dollar	Fee
\$10,000.00 to \$25,000.00	\$50.00
\$25,001.00 to \$50,000.00	\$100.00
\$50,001.00 to \$100,000.00	\$150.00
Over \$100,000.00	\$200.00

~~The protest application fee must be a cashier's check, a certified check, or an attorney's trust account check payable to the City of Fort Lauderdale.~~

~~(c) Authority to resolve protests.~~

- ~~(1) The Director shall first have the authority to settle and resolve any written protest. Within seven (7) days from receipt of a timely written protest the Director shall send a written decision to the protesting party via U.S. certified mail upholding or denying the protest or staying the award process for further investigation.~~
- ~~(2) The protesting party may appeal to the City Commission a decision by the Director denying the protest by delivering a notice of appeal to the Director within three (3) days from the protesting party's receipt of the Director's decision. Upon receipt of a timely notice of appeal the Director will schedule the protest for consideration by the city commission, which may affirm, reverse, or modify the Director's decision.~~
- ~~(3) The City's consideration of a timely written protest shall not necessarily stay the award process, as may be in the best interest of the City of Fort Lauderdale. The Director may recommend to the City Commission to~~

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~~render moot any written protest that is overtaken by events, in which case the City Commission may abate or dismiss such protest.~~

- ~~(d) *Timely submittal of a protest or appeal required.* Failure of a party to submit timely a written protest to the Director within the time provided in this section shall constitute a waiver of such party's right to protest pursuant to this section.~~
- ~~(e) *Costs.* Any and all costs incurred by a protesting party in connection with a protest pursuant to this section shall be the sole responsibility of the protesting party.~~

Sec. 2-199.2. -- Local business preference.

~~(a) *Definitions.*~~

~~The term "*business*" shall mean a person, firm, corporation, or other business entity that is duly licensed, if required, and authorized to transact business in the State of Florida.~~

~~The term "*Class A business*" shall mean any business that has established and agrees to maintain a permanent place of business located in a non-residential zone and staffed with full-time employees within the limits of the city and shall maintain a staffing level for the proposed work of at least fifty (50) percent who are residents of the City of Fort Lauderdale.~~

~~The term "*Class B business*" shall mean any business that has established and agrees to maintain a permanent place of business located in a non-residential zone and staffed with full-time employees within the limits of the city or shall maintain a staffing level for the proposed work of at least fifty (50) percent who are residents of the City of Fort Lauderdale.~~

~~The term "*Class C business*" shall mean any business that has established and agrees to maintain a permanent place of business located in a non-residential zone and staffed with full-time employees within the limits of Broward County.~~

~~The term "*Class D business*" shall mean any business that does not qualify as a Class A, Class B, or Class C business.~~

~~The term "*budgeted cost*" shall mean the estimated cost of the project as determined by the corresponding department director and certified to the director~~

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~~of finance or the director of finance's designee after a proposal is submitted to the city but prior to the opening of said proposal.~~

~~(b) *Conditions.* Notwithstanding subsection (a):~~

- ~~(1) A business can only qualify for one class preference level.~~
- ~~(2) A business with outstanding liens, fines or violations with the city shall not be eligible to qualify for Class A, Class B, or Class C status.~~
- ~~(3) A business that operates through the use of a post office box, mail house or a residential/home address shall not be eligible to qualify as either a Class A or Class B business, with respect to the business's location.~~
- ~~(4) A business may receive a conditional classification as a Class A or Class B business if that business certifies in writing to the city that it will meet the requirements of the specific class within three (3) months of entering into a contract with the city.~~

~~(c) *Preference.* For those purchases of goods and services in excess of fifty thousand dollars (\$50,000.00) via a request for proposals, invitation to bid, request for qualifications, or other competitive process, after completion of the final ranking, local vendors shall receive the following preferences:~~

- ~~(1) Class A business—Ten (10) percent preference;~~
- ~~(2) Class B business—Seven and one-half (7.5) percent preference;~~
- ~~(3) Class C business—Five (5) percent preference.~~

~~(d) *Exceptions.* Notwithstanding anything contained in this section to the contrary, the local preference provided for in this section shall not be applied in any one (1) or more of the following circumstances:~~

- ~~(1) The business submits a proposal that exceeds the projected budget cost;~~
- ~~(2) The proposal is in excess of one million dollars (\$1,000,000.00);~~
- ~~(3) State or federal law or applicable county ordinance prohibits the use of local preferences;~~
- ~~(4) The work is funded in whole or in part by a governmental entity, and laws, rules, regulations, or policies prohibit the use of local preferences;~~

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- ~~(5) Emergency purchases;~~
- ~~(6) Sole source purchases;~~
- ~~(7) Proprietary purchases;~~
- ~~(8) Cooperative purchasing agreements or utilization of other agency contracts;~~
- ~~(9) The city's purchasing manager has determined that the business is unqualified to perform the work.~~

SECTION 2. That Section 2-125.1 of the Code of Ordinances of the City of Fort Lauderdale, Florida, is repealed as follows:

~~Sec. 2-125.1. -- Design/build contracts.~~

- ~~(a) Purpose. In order to comply fully with the requirements of section 287.055, Florida Statutes, as amended by chapter 89-158, Laws of Florida, (the "act"), the following procedures shall be followed in selecting firms to provide design/build services and in negotiating design/build contracts.~~
- ~~(b) Definitions.~~
 - ~~(1) Design/build means a single contract with a design/build firm for the design and construction of a city construction project.~~
 - ~~(2) Design criteria package means concise, performance-oriented drawings or specifications of the project and shall include but not be limited to performance-based criteria as the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, storm water retention and disposal, and parking requirements, as may be applicable to the project.~~
- ~~(c) Design criteria package. For each design/build construction project ("project"), the city shall employ a design criteria professional as defined in section 287.055(2)(k) of the Florida Statutes, which professional shall prepare a~~

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~~design criteria package ("package") specifying performance-based criteria for the project, including, but not limited to:~~

- ~~(1) The 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.~~
- ~~(6) Cost or budget estimates.~~
- ~~(7) Design and construction schedules.~~
- ~~(8) Site development requirements.~~
- ~~(9) Provision for utilities.~~
- ~~(10) Storm water retention and disposal.~~
- ~~(11) Parking requirements.~~

~~The selected design criteria professional shall not be eligible to render services under a design/build contract executed pursuant to any package prepared by said design criteria professional.~~

- ~~(d) Solicitation of proposals. Subsequent to preparation of a package, the city shall publicly request, in a newspaper of general circulation and by posting notice at its offices, competitive proposals from design/build firms ("proposals").~~
- ~~(e) Qualification and selection of design/build firms. Upon receipt of proposals by the time specified in the package, the city shall review the qualifications of the design/build firms submitting same considering such factors as: the ability of professional personnel; past performance; ability to meet time and budget~~

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~~requirements; location of firm offices; recent, current and projected work loads of the firms; and, other factors relevant to the project. The city shall then evaluate the proposals based on price, technical and design aspects of the project and other evaluation factors as may be set forth in the request for proposal. Upon the receipt of three (3) or more bids, the city shall next select no less than three (3) design/build firms in order of preference, deemed to be the most qualified to perform the required services for the project. Upon selection of such firms, the city will proceed to negotiate a contract in accordance with the procedures set forth hereafter.~~

- ~~(f) Competitive negotiations. The city shall negotiate a contract for design/build services for the project with the firms identified as qualified. Should the city be unable to negotiate a satisfactory design/build contract with the design/build firm considered to be the most qualified, negotiations with that design/build firm shall be formally terminated. The city shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the city shall then undertake negotiations with the third most qualified firm. Should the city be unable to negotiate a satisfactory contract with any of the selected firms, additional firms shall be selected in accordance with the foregoing rules. Negotiations shall continue in accordance herewith until an agreement is reached.~~
- ~~(g) Consultation with design criteria professional. The city shall consult with the design criteria professional who prepared the package concerning evaluation of the proposals, approval of detail work and drawings for the project and compliance of project construction with the package.~~
- ~~(h) Prohibition against contingent fees. Each contract for design/build services shall contain a prohibition against contingent fees as required by the act.~~
- ~~(i) Valid public emergencies. Pursuant to the act, these rules shall apply in all cases except the cases declared to be valid public emergencies as certified by the city commission based on recommendation and data supplied by city staff and counsel.~~

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SECTION 3. That Section 2-127 of the Code of Ordinances of the City of Fort Lauderdale, Florida, is repealed as follows:

~~Sec. 2-127. -- Approval of change orders and task orders.~~

~~Where a change order or task order or an amendment to a change order or task order, for goods or services relative to an existing contract, the cumulative amount of such change orders, task orders, and amendments to change orders, and task orders, which does not exceed twenty five thousand dollars (\$25,000.00), is recommended by a department director and the director of finance, and it is previously determined that sufficient funds are available in the proper amount, then, under those circumstances, a change order or task order or an amendment to a change order or task order may be approved by the city manager or the city manager's designee. Change orders and task orders and amendments to change orders and task orders over a cumulative amount of twenty five thousand dollars (\$25,000.00) shall be subject to city commission approval.~~

~~Notwithstanding the foregoing paragraph, the city manager is authorized to approve task orders in amounts that, in the aggregate, do not exceed the contract amount of the corresponding existing contract or the amount authorized by the city commission for expenditure in connection with the corresponding existing contract, and the city manager shall provide monthly reports to the city commission on such task orders.~~

~~(1) Definitions.~~

- ~~(a) A change order is defined as a written order to a contractor approved by the city, authorizing a revision of an underlying agreement between the city and a contractor that is directly related to the original scope of work or an adjustment in the original contract price or the contract time directly related to the original scope of work, issued on or after the effective date of the contract.~~
- ~~(b) A task order is defined as a document setting forth a negotiated detailed scope of services to be performed by a vendor at fixed contract prices in accordance with an underlying agreement between the city and a vendor.~~

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SECTION 4. Division 2. – Procurement, of Article V. – Finance, of Chapter 2 - Administration of the Code of Ordinances of the City of Fort Lauderdale, Florida, is created to provide as follows:

DIVISION 2. - PROCUREMENT

Sec. 2-171 – Title

The provisions of this Ordinance shall be known and cited as the "City of Fort Lauderdale Procurement Ordinance."

Sec. 2-172 – Purpose

- (a) The City wishes to provide for the purchase of the highest quality and best value of goods and services at fair and reasonable cost, and ensure equitable treatment of Firms doing business with the City. The City's Procurement function shall operate under a centralized system which will enable the City to:
 - (1) Establish policies governing all purchases and contracts;
 - (2) Encourage and promote fair and equal opportunity for all Firms doing business with the City;
 - (3) Obtain goods and services of good quality and appropriate quantity at fair and reasonable cost for the City;
 - (4) Permit the continued development of procurement policies and procedures through the promulgation of internal procedures (Procurement Manual), containing administrative regulations and internal processes of procurement;
 - (5) Foster effective broad-based competition within the free enterprise system; and,
 - (6) Provide safeguards for the maintenance of a procurement system of quality and integrity.

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Sec. 2-173 – Definition of Terms

Agreement: See Contract.

Ancillary Document: Any document related to a procurement that does not create a separate obligation to purchase goods or services or alter the performance obligations under a procurement contract or agreement.

As to Form: Legal sufficiency and format of documents and agreements that are reviewed by an attorney prior to their execution.

Award: The selection of a bidder, proposer, or offeror prior to issuance of a purchase order or contract.

Best Interest of the City: A term which grants the City Manager or City Manager's designee the discretion to take the most advantageous action on behalf of the City.

Best Value: A procurement method that emphasizes value as much as, or more than, price. Best Value may be based on, but not be limited to the following: the competitive solicitation evaluation criteria, subsequent discussions, presentations, demonstrations, negotiations, past performance, project management experience, prime contractor qualifications, sub-contractor qualifications, similar project's completed, adequacy of facilities or equipment, technology, location, sustainability, diversity, contract terms and conditions, project completion time, technical solutions, and pricing.

Bid: A formal written price offer by a vendor offering to furnish specific goods or services to the City in response to an Invitation to Bid.

Business: See Firm.

Chief Procurement Officer (CPO): The Finance Director, or their designee, and is the individual in charge of and responsible for centralized procurement for the City.

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City Manager: The person holding the title of City Manager or the City Manager's designee.

Competitive Solicitation: Competitive procurement via any of the following procurement solicitation methods: Invitation to Bid, Request for Information, Request for Proposals, Request for Qualifications, Invitation to Negotiate, or any other methodology which may be used to competitively select vendors to perform the delivery of goods and services to the City.

Construction Services: means all labor, services, and materials provided in connection with the construction, alteration, repair, demolition, reconstruction, or any other improvements to real property.

Consultant: A Firm providing professional services for the City.

Consultants' Competitive Negotiation Act (CCNA): Section 287.055, Florida Statutes, pertaining to the acquisition of architects, engineers, land surveyors, landscape architects, and mapping services.

Contract: All types of agreements, including purchase orders, for procurement of supplies, services, and construction, regardless of what these agreements may be called.

Contractor: Any Firm having a contract with the City. Also referred to as a "Vendor".

Contractual Services: Any services provided to the City through contract, and includes, but shall not be limited to, security, maintenance and cleaning services; and the repair or maintenance of equipment and machinery or other City-owned personal property.

Cooperative Procurement: The action taken when two or more public entities combine their requirements to obtain advantages of volume purchases including administrative savings and other benefits; a variety of arrangements whereby two or more public entities purchase from the same supplier or multiple suppliers using a

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single solicitation. Cooperative procurement efforts may result in contracts that other public entities may “piggyback”.

Debarment: Permanent prohibition of a vendor or contractor engaging in future procurement actions with the City.

Design-Build Contract: A single contract with a design-build Firm for the design and construction of a city construction project.

Designee: An authorized representative of a person holding a position of authority.

Emergency Purchase: A purchase made due to an unexpected and urgent request where health and safety or the conservation of public resources is at risk.

Firm: Any corporation, partnership, individual, sole proprietorship, limited liability company, joint stock company, joint venture, governmental body or other legal entity.

Goods: Anything purchased other than services or real property.

Internal Procedures of Procurement: Those appropriately promulgated directives having general or particular applicability designed to implement or interpret this Ordinance, or describing organization, procedure, processes, or practice requirements as prescribed by the Chief Procurement Officer. Such directives shall be included in the City’s Procurement Manual.

Invitation to Bid (ITB): The solicitation document used for soliciting competitive sealed bids for goods or services.

Invitation to Negotiate (ITN): All solicitation documents, regardless of medium, whether attached to or incorporated by reference in solicitations for responses from Firms that invite proposals from interested and qualified Firms so the City may enter into negotiations with the Firm(s) determined most capable of providing the required goods or services.

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Job Order Contracting (JOC): A competitively bid contract between the City and a construction contractor. The contract may include parameters such as the types of work that can be done, location of work, design criteria, and maximum amount of work to be awarded. The contract may include a unit-price book that establishes a unit price to be paid for a multitude of construction line items. The contract's price may be set in terms of a coefficient, which is a multiplier that covers the contractor's overhead and profit as well as any adjustments between the unit-price book and actual market prices.

Legally sufficient: The designation that a contract or document on its face is legal, valid and binding.

Mandatory Commission Approval Amount: The minimum procurement award or rejection amount at which City Commission approval is required. The mandatory Commission approval amount shall be equal to or greater than one hundred thousand dollars (\$100,000.00) total expenditure for the initial contract term or, in the case of a term contract, not exceeding one hundred thousand dollars (\$100,000.00) per term, excluding price adjustments. Purchases for items delineated per Section 2-176 (e) of this Ordinance shall be exempt from the mandatory Commission approval amount and shall be acquired at reasonable prices from qualified sources. Purchases not exceeding the mandatory Commission approval amount may be made in accordance with the Procurement Manual.

May, Should, and Can: Means the permissive.

Piggyback: A form of intergovernmental purchasing in which the City will be extended the pricing, terms, or conditions of a competitively solicited contract entered into by another Public Entity; also referred to as accessing another Public Entity's contract.

Procurement: All functions pertaining to buying, purchasing, renting, leasing, contracting for, or otherwise acquiring any goods, supplies, services, professional services, capital improvement and construction projects, including description of requirements, solicitation and selection of sources, negotiations, preparation, award and execution of contracts and orders. Procurement may also include the combined

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functions of purchasing, inventory control, transportation, receiving, inspection, storekeeping, salvage and disposal operations.

Procurement Manual: The administrative regulations which implement this ordinance and the internal procedures of Procurement Services and describes rules, regulations, policies and procedures to be followed by Procurement Services and the departments it serves.

Professional Services: Services, the value of which is substantially measured by the professional competence of the person performing them, and which are not susceptible to realistic competition by cost of services alone, rendered by members of a recognized profession or possessing a special skill. Such services are generally acquired to obtain information, advice, training, or direct assistance. Professional services shall include, but not be limited to, services customarily rendered by architects, engineers, surveyors, certified public accountants, financial experts, attorneys, planners, lobbyists, and consultants.

Proprietary item or service: Any item or service essential to the day-to-day operation of the city government and when time is of the essence. Proprietary item or service also means any other item or service which, in the judgment of the City Manager or City Manager's designee, is not readily available from more than one (1) supplier, manufacturer or person. Proprietary may, when so determined by the city manager, be applied to any other material and services that are in their nature unique and/or not readily subject to competition or whereby specifications cannot clearly be drawn or when time is of the essence.

Proposal: The response to a competitive solicitation that addresses a proposer's experience, qualifications, approach and other factors that may be required by the City in the solicitation documents.

Public Entity: A county or municipal government, school board, school district, authority, special taxing district, other political subdivision, or any office, board, bureau, commission, department, branch, division, or institution thereof.

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Purchase Order (PO): A document, including electronic document, by which the City acquires goods and services at a stated price, specifying all the terms and conditions of a proposed transaction, such as a description of the requested items, delivery schedule, terms of payment, and transportation.

Request for Information (RFI): A non-binding method whereby the City publishes its need for input from interested parties for an upcoming solicitation. A procurement practice used to obtain comments, feedback or reactions from potential suppliers (contractors) prior to the issuing of a solicitation. Generally price or cost is not required. Feedback may include best practices, industry standards, technology options, preferred timeframes, innovative approaches, or other related criteria.

Request for Proposals (RFP): A solicitation method used for soliciting competitive sealed proposals to determine the best value among proposals for goods or services for which price may not be the prevailing factor in award of the contract, or the scope of work, specifications or contract terms and conditions may be difficult to define. Such solicitation will consider the qualifications of the proposers along with evaluation of each proposal using identified and generally weighted evaluation criteria. RFPs may include price criteria whenever feasible, at the discretion of the City.

Request for Qualifications (RFQ): A solicitation method used for requesting statements of qualifications in order to determine the most qualified proposer for professional services.

Responsible Vendor, Bidder, Offeror, or Respondent: A Firm who is fully capable of meeting all requirements of the solicitation and subsequent contract. The Respondent must possess the full capability, including financial and technical, ability, business judgment, experience, qualifications, facilities, equipment, integrity, capability, and reliability, in all respects to perform fully the contract requirements and assure good faith performance as determined by the City.

Responsive Vendor, Bidder, Offeror, or Respondent: A Firm who has submitted a bid, offer, quote, or response which conforms in all material respects to the competitive solicitation document and all of its requirements.

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Services: The furnishing of labor, time, skill, expertise, or effort by a consultant or a contractor rather than providing specific goods and commodities. Such services may include, but not be limited to: general consultations, construction, operation, repairs, maintenance, studies, reports, and technical and social services. This term shall not include employment agreements or collective bargaining agreements for purposes of this Ordinance.

Shall, Must, and Will: Means the imperative.

Sole Source: An item that is the only one that will produce the desired results, or fulfill the specific need, and the item is available from only one source of supply.

Specifications: A precise description of the physical or functional characteristics of a good, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply or service for delivery. It may also include a reference to a specific name brand name, model, or equal.

Supplies: All tangible items purchased or consumed by the City.

Suspension: The temporary prohibition of a vendor or contractor from doing business with the City for a period not to exceed two (2) years.

Unauthorized Purchase: Any item(s) or service(s) that is purchased in a manner that is inconsistent with this ordinance or the Procurement Manual, including any item or service that is. :

- (a) Purchased without sufficient funds as determined by Finance, or
- (b) Splitting orders of the same or like materials/requirements into two or more individual purchases with the intention of circumventing the competitive solicitation requirements.

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Vendor or Supplier: A supplier of goods or services.

Sec. 2-174 – Applicable Laws

The City shall comply with all applicable federal and state laws.

Sec. 2-175 – Requirement of Good Faith

The provisions of this Ordinance require all parties involved in the procurement of goods or services and the issuance of contracts for the City to act in good faith.

Sec. 2-176 – Application and Exclusions

(a) Unauthorized purchases: No officer of the City shall, except in cases of emergency as specified herein, issue any oral or written purchase order, contract, or conduct open market purchases in any manner unless specifically authorized by this Ordinance.

The City shall not be bound by purchases made without proper authorization or in any unauthorized manner.

Except as provided in this division, it shall be unlawful for any city officer or employee under the supervision of the city manager to order the purchase of any materials or supplies or make any contract for municipal materials or supplies or services within the purview of this division other than through the central purchasing organization, and the city shall not be bound by any purchase order or contract made contrary to the provisions of this division.

(b) Requisition-purchase authorization: Except in cases of emergency, no request and process of any requisition-purchase authorization (RPA) for any order shall be made if there are insufficient unencumbered funds in the appropriate account to be charged, and the City's shall not pay any RPA when there are insufficient unencumbered appropriation balances, in excess of all unpaid obligations.

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- (c) Prohibition against subdivision: No contract or purchase shall be subdivided to avoid the requirements of this Ordinance and the Procurement Manual.
- (d) Competitive solicitation and selection: The competitive selection process provisions of this Ordinance shall apply to every purchase by the City Commission and the departments that are under the control of the City Commission, irrespective of their fund source, including state and federal assistance monies and grants, except as otherwise specified in this Ordinance, or by federal, state or local laws or grant terms and conditions.
- (e) Exclusions: The competitive solicitation and selection processes stipulated in this Ordinance shall not apply to the following:
 - (1) Emergency procurements as defined herein
 - (2) Sole source and proprietary procurements as defined herein
 - (3) Contracts with, and purchases from, other public entities, i.e.: public state colleges, public state universities, federal government agencies, state governments, county governments, city governments, government school boards, county sheriff's offices, and other government entities
 - (4) Utilities, including water, wastewater, sewer, gas, electric, or other utilities as defined by law
 - (5) Cable and satellite television services
 - (6) Magazine subscriptions, periodicals, and publications
 - (7) Membership dues for trade or professional organizations
 - (8) Travel and training expenses for employees
 - (9) Items purchased for resale

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- (10) Advertising: radio, newspapers, magazines, professional organizations, trade shows, television, and any other related media
- (11) Shipping services, including postage, overnight delivery, and courier services
- (12) Copyrighted materials or patented works, including books, maps, periodicals, testing or instructional materials
- (13) Governmental fees
- (14) Regulatory or government licenses and permits
- (15) Real estate, including:
 - a. Real property (land or buildings) purchase, lease or rental
 - b. Closing/processing fees
 - c. Abstracts of titles
 - d. Title insurance
- (16) Durable Medical Equipment (DME)
- (17) Professional services, including:
 - a. Court reporter services
 - b. Medical services, including wellness activities and pharmacy services.
 - c. Veterinarian services
 - d. Legal services

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- e. Expert witnesses
- f. Entertainers
- g. Teaching, training and specialized services
- h. Recreational program instructors
- i. Professional services when use by the City in the settlement and administration of workers' compensation and liability claims, such as:
 - 1. Private investigators and workplace investigators
 - 2. Claim adjusting services
- (18) On-going maintenance and support of existing software/hardware, equipment, machinery, vehicles, and other City-owned items
- (19) Purchases of goods or services for which the provisions of this Ordinance are waived by the City Commission by resolution
- (20) Direct material purchases: Purchases of materials, equipment, prefabricated elements and components, appliances, fixtures, and other goods, pursuant to a program contained in a construction contract that has been awarded in accordance with any provision of this Ordinance, whereby the City makes such purchases directly
- (21) Services provided by, or in partnership with, institutions of higher learning, not-for-profit organizations, state sponsored institutions, and other governmental and public agencies
- (22) Purchases from contracts established by local, state, or national cooperative procurement organizations, Federal General Services Administration, and the State of Florida contracts

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- (23) Insurance and insurance-related services including, but not limited to insurance consulting, self-funding, and claims administration
- (24) Works of art for public places
- (25) Purchase for services and facilities at hotels, motels, restaurants and similar facilities for City sponsored events.
- (26) Products purchased from the blind, and other severely impaired persons (RESPECT) in accordance with Sections 413.032, 413.033 and 413.036, Florida Statutes.
- (27) Products purchased from the Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE), in accordance with Section 946.515 Florida Statutes.
- (28) Goods and/or services accepted by the City via grant, gift, or bequest
- (29) Publications from publishers or exclusive distributors of such publications
- (30) Media such as movies, slides, videos, and similar forms of media

Sec. 2-177 – Administrative authority to issue change orders affecting contracts awarded by the City Commission

- (a) The City Manager or the City Manager's designee is authorized to issue a change order or multiple change orders increasing the adjusted contract price of any contract awarded by the city commission up to a cumulative maximum amount of ten percent of the adjusted contract value. For purposes herein, "adjusted contract value" means the original contract value or the contract value resulting from city commission-approved change orders or contract amendments.
- (b) The City Manager or the City Manager's designee is authorized to issue a change order increasing the value of a contract awarded by the City Commission in excess of the amount set forth in (a) of this section where the increase is necessary to effect emergency repairs or replacements, due to

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exigent circumstances encountered during the performance of the contract, or to prevent increased costs due to reasonable delay claims by the contractor. A full report of change orders exceeding the amount set forth in (a) of this section shall be submitted to the City Commission at the earliest available commission meeting.

Sec. 2-178 – Organization

- (a) Procurement Services Division: The Procurement Services Division shall be the organization through which the City will oversee and conduct all of its procurement and contracting for supplies, goods, equipment, contractual services, professional and consultant services, capital improvements and construction or any combination of goods and services.
- (b) Chief Procurement Officer: Subject to the provisions of this Ordinance, the Chief Procurement Officer shall serve as the principal officer for the contracting and/or purchase of goods and services. Within the limits of this Ordinance, all rights, powers, duties and authority relating to the procurement and contracting of goods and services for the City, including the authority to approve all purchases and sign those agreements, contracts, change orders, and purchase orders for the purchase of goods and services, provided they are in conformance with the Procurement Manual, the law, and all applicable rules and regulations, are vested in the Chief Procurement Officer.
- (c) Duties, Responsibilities, Authorizations, and Accountabilities: The Chief Procurement Officer shall have the following duties, responsibilities, authorizations, and accountabilities:
- (1) Administer the centralized procurement and contracting system for the City;
 - (2) Determine conditions and procedures for delegations of procurement authority;

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- (3) Determine the conditions and procedures for the use of source selection methods, including determination of sole source, proprietary and emergency procurements;
- (4) Maintain a Procurement Manual. Such procedures and processes shall be in compliance with this Ordinance, and may not conflict with the thresholds or approval requirements set forth in this Ordinance. The Procurement Manual shall define the minimum threshold amounts at which competitive quotes and other competitive solicitations under the mandatory Commission approval amount shall be required by the City;
- (5) Award all competitive solicitations, and execute, on behalf of the City, all contractual agreements, purchase orders, task orders, ancillary documents, and change orders for the purchase of goods or services required by the City of less than the Mandatory Commission Approval Amount and as otherwise stipulated in this Ordinance;
- (6) If so delegated by the City Manager, sign all contractual agreements, purchase orders, task orders, ancillary documents, and change orders, for the purchase of goods and/or services required on behalf of the City, exceeding the Mandatory Commission Approval Amount after award approval by the Commission, and as otherwise stipulated in this Ordinance;
- (7) Determine the use and amount of bid security, payment bonds, performance bonds, and other securities in connection with all solicitation documents and contracts for supplies, services, and capital improvements and construction, in accordance with Florida Statutes;
- (8) For bids or proposals under the mandatory Commission amount, reject bids or proposals which are nonresponsive or non-responsible, including those due to late submittal;

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- (9) Negotiate reasonable prices, terms and conditions for any procurement where only one (1) responsive and responsible bid or proposal is received;
 - (10) Standardize, to the extent possible, terms and conditions and contractual clauses of all solicitation documents, contracts, and purchase order;
 - (11) Take all necessary action to further the objectives of the City with regard to the promotion and encouragement of local, minority owned, and women owned Firms' participation in the procurement process;
 - (12) Make final determinations of the day to day activities and functions for procurement related matters not specifically addressed in this Ordinance;
 - (13) Renew purchase orders and/or contracts with vendors/contractors originally selected with or without a competitive selection process, provided such renewal is within the scope of the original purchase order or contract;
 - (14) In the event additional time is required to prepare and/or award a competitive solicitation, the Chief Procurement Officer shall have the authority to extend an existing contract for the necessary time period with prorated dollar authorization, provided such extension in no event shall exceed 180 days following the expiration of the contract; and
 - (15) To evaluate responses to solicitations and establish evaluation teams as set forth in the Procurement Manual.
- ~~(d) The City Attorney and the City Clerk each is authorized to purchase goods and services in amounts not exceeding \$25,000, or in the case of term contracts, in amounts not exceeding \$25,000 per term, and execute on behalf of the City agreements for such purchases containing terms acceptable to the City Attorney or the City Clerk, respectively.~~

Sec. 2-179 – Delegation of Authority by CPO to City Staff

The Chief Procurement Officer may delegate rights, powers, and authority vested in the CPO to subordinate Procurement Services employees, or other City staff,

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when deemed necessary by the Chief Procurement Officer, provided such staff shall comply with all applicable laws, ordinances, resolutions, rules and procedures established by the City.

Sec. 2-180 – Purchasing and Related Transactions

- (a) Except as otherwise exempted or provided herein, or by State or Federal law, the procurement of all goods, supplies, material, equipment, services and combinations of goods and services by or on behalf of the City, including those transactions through which the City shall receive revenue, in an amount equal to or in excess of the Mandatory Commission Approval Amount, shall be solicited by a competitive selection process, such as: the competitive sealed bidding (ITB) process, competitive sealed proposal (RFP) process, the Request for Qualifications (RFQ) process, or the competitive negotiations (ITN) process, or other methods, as determined by the Chief Procurement Officer.
- (b) The use of electronic media, including acceptance of electronic signatures, is authorized consistent with Chapter 668 Florida Statutes, as may be amended, for use of such media, when practical or appropriate.
- (c) Evaluation and negotiation teams shall be considered dissolved upon award or rejection by the City for any specific competitive solicitation.

Sec. 2-181 – Methods of Procurement

The Chief Procurement Officer shall determine the appropriate method of source selection for each procurement, including but not limited to the following:

- (a) Competitive Sealed Bid Process
 - (1) Invitation to Bid: The Invitation to Bid (ITB) solicitation document shall include the specifications and all contractual terms and conditions applicable to the procurement.

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(2) ITBs may include pricing for the life cycle cost of items and shall be awarded to the lowest responsive and responsible bidder, considering all pertinent qualifications of the recommended awardee.

(b) Competitive Sealed Proposal Process

(1) Request for Proposals: When it is determined by the Chief Procurement Officer that the use of competitive sealed bidding is either not practical, not advantageous to the City due to the technical or specialized nature of the goods and/or services sought, or best value procurement will result in selection of the best qualified vendor/contractor at a reasonable price, the City may use the competitive sealed proposal process. A Request for Proposals may be used as the solicitation document.

(c) Request for Qualifications (RFQ) Process

(1) The services of professional architects, engineers, landscape architect, surveyors, and mapping services shall be acquired in accordance with Section 287.055 Florida Statutes, and as further delineated in the Procurement Manual.

(2) Continuing contracts for these services may be solicited and entered into on a rotational basis between at least three firms, in accordance with Chapter 287.055 (2) (g) Florida Statutes, as may be amended, and as further delineated in the Procurement Manual.

(d) Competitive Negotiations Process

(1) When the Chief Procurement Officer determines that the use of competitive negotiations is advantageous to the City, the competitive negotiations process may be used. An Invitation to Negotiate (ITN) may be the solicitation method.

(2) The goal of an ITN is to obtain proposals from interested and qualified firms so that the City may enter into negotiations with the firm or firms determined most capable of providing the required supplies and services.

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- (3) The ITN document will supply the firms with information necessary to understand the need; however, the terms, scope of work, price, method of delivery, conditions of performance, and approaches of the project may be open to consideration and negotiations, including simultaneous negotiations with the most qualified firms.
- (4) ITNs may not be used for procuring professional services addressed by Chapter 287.055 Florida Statutes (CCNA).

(e) Request for Information Process:

- (1) When it is considered impractical to prepare a purchase description to support an award based on price or detailed scope of work, any competitive solicitation may be preceded by a Request for Information (RFI) requesting the submission of unpriced submittals, which will provide input for the specifications or scope of work to be included in a subsequent competitive solicitation.

Public notice of a competitive solicitation shall be published on the City's website for a reasonable period prior to bid opening or response due date. The public notice shall state the place, due date, time for delivery or receipt, and the location of the public acknowledgement of receipt. Bids and responses received after the time and date specified in the solicitation document shall not be opened, but will be reported to the City Manager. Only the City Manager may authorize the opening of a late bid or proposal.

(f) Alternative Source Selection

- (1) Small Purchases: Any purchase for an amount less than the Mandatory Commission Approval Amount shall be made in accordance with those procedures promulgated in the Procurement Manual, provided, however, no purchase shall be artificially divided so as to constitute a small purchase under this section.

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- (2) Sole Source Purchases: The Chief Procurement Officer may make or authorize the procurement of goods and/or services, subject to the mandatory Commission approval level stipulated in this Ordinance, without competitive solicitation when the director of the client department has documented in writing that such good or service is the only item that meets the need and is available through only one source of supply, or when the intent to award through sole source is posted on the City's website for a reasonable time period, or when a documented research effort by the Chief Procurement Officer or designee fails to identify further competing sources of the goods or services. Such written determinations and supporting documentation shall be retained by the Chief Procurement Officer for public inspection and auditing purposes. The sole source process shall be further delineated in the Procurement Manual.
- (3) Proprietary Purchases: The Chief Procurement Officer may make or authorize the procurement of goods and/or services, subject to the mandatory Commission approval level stipulated in this Ordinance, without competitive solicitation when the director of the client department has documented in writing that such good and/or service is proprietary in nature. Such written determination and supporting documentation shall be retained by the Chief Procurement Officer for public inspection and auditing purposes. The proprietary purchase process shall be further delineated in the Procurement Manual.
- (4) Emergency Purchases: The City Manager and/or designee may make or authorize emergency purchases as defined herein.
- a. In the event of an emergency, such as an equipment failure, catastrophic damage to City property, or other similar unexpected event, all normal procurement procedures and requirements directly related to such emergency shall be suspended; and with the approval of the City Manager or designee, the head of any department may purchase any required emergency supplies, materials, equipment or services. The head of such department shall send to the Chief Procurement Officer, a requisition and copy of the delivery record together with a full justification and circumstances of the emergency.

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- b. Records of emergency purchases shall be maintained by the Chief Procurement Officer. A full report of emergency purchases exceeding the mandatory Commission approval amount shall be submitted to the City Commission at the earliest available commission meeting.

The emergency purchase process shall be further delineated in the Procurement Manual.

(5) Cooperative Purchases:

- a. The City may purchase from any cooperative contract, including but not limited to, term contracts by the State of Florida, Federal General Services Administration, and other governmental or Public Entity and entities within and outside the State of Florida provided that the cooperative contract is established in compliance with the procurement procedures and requirements of the issuing body, entity, authority, or cooperative. If such other governmental or cooperative contract is utilized, the public notice requirements and the need to utilize the methods of selection processes included in this Ordinance and the Procurement Manual are obviated.
- b. The City may purchase from (piggyback) a contract entered into by another governmental or public entity and a provider of supplies or services required by the City, if the Chief Procurement Officer determines that it is practicable and advantageous for the City to employ this method of procurement. If such other governmental or Public Entity contract is utilized, the public notice requirements and the need to use the methods of selection processes included in this Ordinance and the Procurement Manual are obviated.
- c. Other governmental agencies may purchase from the City's contracts.
- d. The cooperative and piggyback procurement processes shall be further delineated in the Procurement Manual.

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- (6) Design-Build Services:
 - a. In accordance with Florida Statutes, the City may use a competitive solicitation process to establish a design-build contract.
 - b. The design-build process shall be further delineated in the Procurement Manual which implements this section.
 - c. Prohibition against contingent fees. Each contract for design-build services shall contain a prohibition against contingent fees as required by Florida Statute.

- (7) Capital Improvement and Construction Services: Construction services shall be acquired in accordance with the competitive selection process as determined by the Chief Procurement Officer. Performance bonds and payment bonds shall be as stipulated in Chapter 255.05, Florida Statutes, as may be amended. Public notice for competitive solicitations related to construction and capital improvement projects shall be in accordance with Chapter 255.0525 (2), Florida Statutes, as may be amended. The capital improvement and construction procurement process shall be further delineated in the Procurement Manual.

- (8) Construction Management and Construction Management at Risk Services: The procurement of Construction Management Services shall be made in accordance with the Request for Proposal or Request for Qualifications process herein and as further delineated in the Procurement Manual.

- (9) Negotiated Procurements: Negotiation of contracts and pricing by any method of selection process identified herein shall be by means promulgated in the Procurement Manual. Said procedures may include provisions for the right of the City to audit, cost principals to be used to determine the allowability of reimbursing expenses, and the designation of members of evaluation and negotiation teams.

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- (10) Job Order Contracting (JOC): The City may procure services by means of Job Order Contracting. The Job Order Contracting procurement process shall be further delineated in the Procurement Manual.

Sec. 2-182 – Dispute Resolution and Protests

- (a) Applicability. This section shall apply to protests by bidders and proposers when the city manager or a designee recommends a purchase of goods, supplies, equipment, or services valued at or above the Minimum Competitive Selection Threshold as defined in the Procurement Manual.

- (b) Procedure.
 - (1) Any proposer or bidder who is not recommended for award of a contract and who alleges a failure by the city to follow the city's procurement ordinance or any applicable law may protest to the Chief Procurement Officer (CPO) by delivering a letter of protest to the Director within five (5) days after a notice of intent to award is posted on the City of Fort Lauderdale's world wide web site. The date the letter of protest is received in the Procurement Office shall constitute the date of delivery.

 - (2) The calculation of days shall exclude Saturdays, Sundays, federal holidays, and holidays observed by the city.

 - (3) Service of a protest by mail or courier shall not expand the time period allowed for delivery of a protest. In computing any time period prescribed or allowed by this protest policy, the day of the act or event from which the designated time period begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, federal holiday, or holiday observed by the city, in which event the period shall run until the end of the next business day which is neither a Saturday, Sunday, federal holiday, nor a holiday observed by the city.

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- (4) The written protest shall state the specific facts and law or ordinance upon which the protest of the proposed award is based, and shall include all relevant documents and evidence.
- (5) A written protest may not challenge the relative weight of evaluation criteria or a formula for assigning points.
- (6) The letter of protest must be accompanied by a non-refundable protest application fee in an amount equal to one percent of the protestor's bid or \$5,000, which is less.
- (7) The protest application fee must be a cashier's check, a certified check, or an attorney's trust account check payable to the City of Fort Lauderdale.

(c) Authority to resolve protests.

- (1) The CPO shall first have the authority to settle and resolve any written protest. Within seven (7) days from receipt of a timely written protest the CPO shall send a written decision to the protesting party via U.S. certified mail upholding or denying the protest or staying the award process for further investigation.
- (2) The protesting party may appeal to the City Commission a decision by the CPO denying the protest by delivering a notice of appeal to the CPO within three (3) days from the protesting party's receipt of the CPO's decision. Upon receipt of a timely notice of appeal the CPO will schedule the protest for consideration by the City Commission, which may affirm, reverse, or modify the CPO's decision.
- (3) The City's consideration of a timely written protest shall not necessarily stay the award process, as may be in the best interest of the City of Fort Lauderdale. The CPO may recommend to the City Commission to render moot any written protest that is overtaken by events, in which case the City Commission may abate or dismiss such protest.

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- (d) Timely submittal of a protest or appeal required. Failure of a party to submit timely a written protest to the CPO within the time provided in this section shall constitute a waiver of such party's right to protest pursuant to this section.
- (e) Costs. Any and all costs incurred by a protesting party in connection with a protest pursuant to this section shall be the sole responsibility of the protesting party.

Sec. 2-183 – Suspension and Debarment

- (a) Authority: The Chief Procurement Officer may suspend or debar, for cause, the right of a vendor to be included on a vendor database, and prohibit such vendor to bid or propose on any City competitive solicitation, and any bid or response from that vendor shall be rejected; provided however, the Commission shall have the power to waive or lift such suspension or debarment.
- (b) Suspension: A vendor may be suspended for a period not to exceed two (2) years as determined by the Chief Procurement Officer and approved by the City Manager based upon the following:
 - (1) Vendor has terminated, defaulted, failed to perform, or failed to fully comply with the conditions, time frames, performance, specifications, drawings, or terms of a contract with the City; or
 - (2) Vendor commits any fraud or misrepresentation in connection with any competitive solicitation or contract with the City; or
 - (3) Vendor or its officer(s) is charged by a court of competent jurisdiction with a criminal offense in an incident related to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract; or
 - (4) Vendor is charged by a court of competent jurisdiction with any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack

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of business integrity or business honesty which is determined to currently, seriously, or directly affects responsibility as a City government contractor. If charges are dismissed or the vendor found not guilty, the suspension shall be lifted upon written notification and proof of final court disposition provided by the vendor to City; or

- (5) Vendor becomes insolvent, has proceedings in bankruptcy instituted or, compounds its debts, or assigns over its estate or effects for payment thereof, or has a receiver or trustee appointed over its property; or
- (6) Vendor violates the ethical standards set forth in local, state or federal law; or
- (7) Vendor fails to comply with the local business preference or M/WBE participation requirements of an awarded contract; or
- (8) Any other cause the Chief Procurement Officer determines to be so serious and compelling as to materially and adversely affect responsibility of a business as a City contractor, including but not limited to suspension.

(c) Debarment: A Vendor may be permanently debarred for the following:

- (1) Termination, default, failure to perform, or fully comply with the conditions, time frames, performance, specifications, drawings, or terms of a contract with the City two (2) times within any ten (10) year period; or
- (2) Conviction by, or judgment obtained, in a court of competent jurisdiction for those offenses in connection with the vendor's commercial enterprise stated in Section 2-183 (b)(3) of this Ordinance. If the conviction or judgment is reversed through the appellate process, the debarment shall be removed upon written notification and proof of final court disposition; or
- (3) Conviction of a Public Entity Crime as defined by Chapter 287.133 Florida Statutes, shall result in debarment to transact business with the City.
- (4) Debarment of any vendor shall require City Commission approval.

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- (d) Process: After the Chief Procurement Officer has determined there is cause to suspend or debar a vendor, and the City Manager has approved the recommended suspension or debarment, the CPO shall notify the vendor in writing of the debarment or the period of suspension and the reasons for the action taken. The suspension or debarment shall be final and conclusive unless the suspended or debarred vendor initiates written protest proceedings pursuant to this Ordinance within five (5) business days after the date of notification.

Sec. 2-184 – Inspection and Tests

- (a) The Chief Procurement Officer or designee may inspect, or arrange for the inspection of all deliveries of supplies, materials, equipment or contractual services to determine conformance with specifications or the scope of work set forth in the purchase order or contract.
- (b) Any client department which has the staff and facilities for adequate inspection may be authorized by the Chief Procurement Officer or designee to inspect deliveries.
- (c) The Chief Procurement Officer or designee shall have the authority to require chemical and/or physical tests or samples submitted with competitive solicitations and demonstrations of items or services which are necessary to determine their quality and conformance with the specifications. For such tests, the Chief Procurement Officer shall have the authority to make use of laboratory facilities of an agency of the City or any outside laboratory. Should the product fail such testing, the City may require the vendor to pay the City for any expense incurred in testing, and/or the Chief Procurement Officer may initiate suspension or debarment proceedings as appropriate.

Sec. 2-185 – Equal Opportunity for Minority and Women-Owned Business Enterprises

- (a) The City shall use its best efforts to ensure that minority and women-owned businesses shall have an equitable opportunity to participate in the City's procurement process and that no Firm shall be excluded from participation in, denied benefits of, or otherwise discriminated against in connection with the

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award and performance of any contracts with the City on the grounds of race, color, national origin, gender, disability, religion, or sexual orientation.

- (b) The City, in accordance with the provisions of Title VII of the Civil rights Act of 1964, as amended, the Florida Civil Rights Act of 1992, as amended, and other Federal and State discrimination statutes, prohibits discrimination on the basis of race, color, gender, age, national origin, religion, disability or sexual orientation.
- (c) The City strongly supports disadvantaged, small, minority and woman owned Firms having full opportunity to submit bids and proposals in response to solicitation documents issued by the City and commits that bidders and proposers will not be discriminated against on the basis of gender, race, color, national origin, religion, disability, or other protected status.

Sec. 2-186 – Local Business Price Preference

(a) Definitions:

- (1) The term "Class A business" shall mean any business that has established and agrees to maintain a permanent place of business located in a non-residential zone, staffed with full-time employees within the limits of the City, AND shall maintain a staffing level for the proposed work of at least fifty percent (50%) who are residents of the City of Fort Lauderdale.
- (2) The term "Class B business" shall mean any business that has established and agrees to maintain a permanent place of business located in a non-residential zone, staffed with full-time employees within the limits of the City, OR shall maintain a staffing level for the proposed work of at least fifty percent (50%) who are residents of the City of Fort Lauderdale.
- (3) The term "Class C business" shall mean any business that has established and agrees to maintain a permanent place of business located in a non-residential zone, staffed with full-time employees within the limits of Broward County.

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(4) The term "Class D business" shall mean any business that does not qualify as a Class A, Class B, or Class C business.

(b) Conditions: Notwithstanding subsection (a) above:

(1) A business can only qualify for one class preference level.

(2) A business with outstanding liens, fines or violations with the City shall not be eligible to qualify for Class A, Class B, or Class C status.

(3) A business that operates through the use of a post office box, mail house or a residential/home address shall not be eligible to qualify as either a Class A or Class B business, with respect to the business's location.

(4) A business may receive a conditional classification as a Class A or Class B business if that business certifies in writing to the City that it will meet the requirements of the specific class within three (3) months of entering into a contract with the City.

(c) Price Preference: For those purchases of goods and services in excess of the Mandatory Commission Approval Amount via competitive solicitation, after completion of the final ranking, local vendors shall receive the following price preferences:

(1) Class A business — ten percent (10%) price preference;

(2) Class B business — seven and one-half percent (7.5%) price preference;

(3) Class C business — five percent (5%) price preference.

(d) Exceptions: Notwithstanding anything contained in this section to the contrary, the local preference provided for in this section shall not be applied in any one (1) or more of the following circumstances:

(1) The business submits a proposal that exceeds the projected budget cost;

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- (2) The price proposed or bid is in excess of one million dollars (\$1,000,000⁰⁰):
- (3) State or federal law or applicable county ordinance prohibits the use of local preferences;
- (4) The work is funded in whole or in part by a governmental entity, and laws, rules, regulations, grant, or policies prohibit the use of local preferences;
- (5) Emergency purchases;
- (6) Sole source purchases;
- (7) Cooperative purchasing agreements or use of other agency contracts;
- (8) The City's Chief Procurement Officer or Commission has determined that the business is unqualified to perform the work.

Sec. 2-187 – Non-Discrimination by City Contractors

- (a) Contractors doing business with the City shall not discriminate against their employees based on the employee's race, color, religion, gender (including identity or expression), marital status, sexual orientation, national origin, age, disability or any other protected classification as defined by applicable law.

Contracts. Every Contract exceeding \$100,000, or otherwise exempt from this section shall contain language that obligates the Contractor to comply with the applicable provisions of this section. The Contract shall include provisions for the following:

- (i) The Contractor certifies and represents that it will comply with this section during the entire term of the contract.
- (ii) The failure of the Contractor to comply with this section shall be deemed to be a material breach of the contract, entitling the City to pursue any remedy stated below or any remedy provided under applicable law.

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- (iii) The City may terminate the Contract if the Contractor fails to comply with this section.
- (iv) The City may retain all monies due or to become due until the Contractor complies with this section.
- (v) The Contractor may be subject to debarment or suspension proceedings. Such proceedings will be consistent with the procedures in Section 2-183 of this code.

Sec. 2-188187 – Ethics, Standards of Conduct and Conflict of Interest

- (a) In accordance with Section 112.313 Florida Statutes, neither the Chief Procurement Officer nor any member of their staff, nor any other employee of the City engaged in the request for, or actual procurement of goods and/or services, shall have a financial interest or have any personal beneficial interest, directly or indirectly, in any purchase or contract of any supplies, materials, equipment, or services used by, or furnished to, the City. Such conflict of interest may include, but may not be limited to an individual or ownership, in whole or in part, of a firm seeking to contract with the City.
- (b) The Chief Procurement Officer, every member of their staff, and any other employee of the City engaged in the requisition or procurement of goods and/or services are prohibited from accepting or receiving from any person, firm or corporation to which any purchase or contract may be awarded any money, rebate, gift (including meals), gift cards, or anything of value or any promise, obligation or contract for future reward or compensation.
- (c) Financial disclosure per Chapter 112.3144 Florida Statutes shall be submitted on an annual basis by the appropriate Procurement Services staff.

SECTION 5. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 6. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

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SECTION 7. That this ordinance shall be in full force and effect upon final passage.

PASSED FIRST READING this the 22nd day of August, 2017.

PASSED SECOND READING this the _____ day of _____, 2017.

Mayor
JOHN P. "JACK" SEILER

ATTEST:

City Clerk
JEFFREY A. MODARELLI

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