

1 **Section 3.** This resolution shall take effect immediately upon adoption.

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3 **PASSED AND ADOPTED** this 11 day of December, 2006.

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PEGEEN HANRAHAN
MAYOR

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ATTEST:

Approved as to form and legality

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KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

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DEC 19 2006

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Purchasing Policy

Section 1: Purpose

The City's Charter, Article III, Section 3.01, vests the Charter Officers of the City with the authority to purchase and contract for supplies, materials, equipment and services required to perform their assigned duties subject to the rules adopted by the commission. The Charter Officers shall have the authority to bind the City for all purchases unless prior approval of the City Commission is required, and may delegate such authority as they see fit. Approval of the City Attorney shall be obtained on all written contracts, except where standardized documents approved by the Attorney's office are used. The policies contained herein as amended shall constitute the regulations which shall govern the sale and purchase of supplies, materials, equipment, and contractual services by the City, which regulations shall be implemented by procedures approved by the City Manager and the General Manager for Utilities (the "Managers"). The Purchasing Divisions of the City derive their authority to supervise purchases and sales through the Managers. Nothing herein shall be construed to regulate the purchase and sale of any interest in real property by the City.

Section 2: Responsibilities of Purchasing

- (a) The purchasing divisions shall assist all departments and divisions, including Charter Officers, in making purchases and sales of supplies, materials, equipment and services in accordance with the policies established by the City Commission and the procedures established by the Managers.
- (b) The purchasing divisions shall provide support to enable all purchases to be made at prices, which are the most cost effective and through the application of sound business practices.
- (c) The purchasing divisions shall maintain records, which document that purchases have been made in accordance with City Commission policy and established procedures.

Section 3: Functions of the City's purchasing divisions

In carrying out its responsibilities, the purchasing divisions shall perform as follows:

- (a) provide customer responsive management of the purchase, receipt, and delivery of materials, equipment and services to support corporate and public operational requirements.
- (b) identify qualified suppliers of materials, equipment and services; develop and maintain bid lists of quality suppliers; add and delete vendors and contractors from the list of qualified suppliers in order to maintain performance standards;
- (c) develop and maintain fair and impartial business relationships with vendors that ensure that quality, cost-effective products and services are provided for the benefit of tax and rate payers; and
- (d) conduct quality control and performance checks as needed to ensure that vendors fulfill contractual requirements;
- (e) supervise the disposition of supplies, materials and equipment by approved processes.

Section 4: Ethics in Public Contracting

City employees shall have no interest, financial or otherwise, direct or indirect, nor engage in any business transaction or professional activities nor incur any obligation of any nature which is in conflict with the City's Code of Ethical Standards and Florida Statutes, Chapter 112 as applicable. To this end, City employees are expected to demonstrate the highest standards of personal integrity in public

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activities and conduct their duties in ways that are free from the inference or perception that favorable treatment was sought, received or given and to avoid any interest or activity which is in conflict with the conduct of official duties.

Section 5: Definitions

- (a) Award Basis. The basis on which the purchase decision is made.
- (b) Best Evaluated Bid. The bid which, through analysis, is determined to be most advantageous to the City considering factors such as qualifications, past performance, stated price, costs of transportation, ownership and operation, elements of service, technical support, product quality, fitness for purpose or design, delivery time and/or time required for performance, warranties, exceptions taken to the specifications or any other basis of award stated in the bid documents.
- (c) City. The operating and administrative departments of the General Government, Gainesville Regional Utilities, and the Charter Officers of the City of Gainesville, Florida.
- (d) City Officials and Employees. City Commissioners, Charter Officers, City Employees, and agents of the City.
- (e) Competitive Situation. Exists if at least two suppliers submit responsive bids in an effort to obtain an award and the receipt of quotations is without prior disclosure of a competitor's quotation; also, the receipt of quotation(s) by auction.
- (f) Contractual Services. Services performed for the City by persons not in the employ of the City including, but not limited to, travel, freight, express, parcel post, postage, telephone, telegraph, utilities, rent, professionals services and the construction, repair, alteration and maintenance of facilities of the City.
- (g) Cooperative Purchasing. Purchases made under the terms and conditions of another public agency's bid where the vendor awarded the bid is willing to supply the items at the agency's bid price or the agency's bid documents provided for purchases by other agencies.
- (h) Emergency Purchase. Any purchase which becomes necessary due to unforeseen circumstances and which affects the operation of the City; or is needed in a life threatening situation or public safety emergency or where delay of the purchase would subject the City to substantial additional costs.
- (i) Formal Bid. A process of bidding, conducted by Purchasing, which sets forth the requirements of a purchase or sale and which is issued by Invitation to Bid, Request for Quotation, Request for Qualification, or Request for Proposal.
- (j) Item. A unit of supplies, materials, equipment, or contractual services; a quantity of the same units purchased at the same time; or, a combination of items which are purchased together because the purchase of one item is required for the use of other(s).
- (k) Lowest Responsive Bid. The lowest bid which conforms in all material respects to the requirements set forth in the bid documents.
- (l) Manager. The City Manager or General Manager for Utilities as appropriate, or their designee.
- (m) Non-competitive situation. Exists when the product or service is purchased from a sole source, a specified source, or an only approved source.

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- (n) Obsolete materials and equipment. Materials and equipment that are no longer used, useable, useful, or cost-effective.
- (o) Only Approved Source. Only one source meets the stated requirements of a specification based on a thorough qualitative and/or quantitative evaluation.
- (p) Professional Services. Services which involve extended analysis, the exercise of discretion and independent judgment in their performance, and an advanced, specialized type of knowledge, expertise, or training customarily acquired either by a prolonged course of study or equivalent experience in the field.
- (q) Purchasing Division. The purchasing organization of General Government or Gainesville Regional Utilities, as appropriate.
- (r) Sole Source. The only source through which materials or services may be purchased.
- (s) Specified Source. A source selected without competitive bidding for justifiable reasons.
- (t) Standard Material. Any material, which is specified in an approved materials manual and routinely stocked for use of any operations department of the City.
- (u) Black out period means the period between the time the submittals for invitation for bid or the request for proposal, or qualifications, or information, or the invitation to negotiate, as applicable, are received at the City of Gainesville Purchasing Departments, and the time the City Officials and Employee awards the contract.
- (v) Lobbying means when any natural person for compensation, seeks to influence the governmental decision making, to encourage the passage, defeat, or modification of any proposal, recommendation or decision by City Officials and Employees, except as authorized by procurement documents.

Section 6: Method of Source Selection

6.1 To ensure the greatest economic benefit to the City, competitive bidding will be used except as provided herein. The requirement for competitive bidding shall be satisfied as long as two or more qualified suppliers submit responsive bids. The value of the award shall determine the bidding process as follows:

- (a) Purchases with an anticipated cost exceeding \$50,000 require Formal Bids submitted through the Purchasing Division;
- (b) Purchases with an anticipated cost of \$50,000 or less, but greater than \$2,000 require a Written Quotation submitted either through the Purchasing Division or the originating department, except that verbal quotations will be permissible for the following:
 - i. Petroleum products;
 - ii. Emergency purchases.

6.2 Best evaluated or lowest responsive bids, as designated by the bid solicitation, will serve as the basis for bid awards in competitive situations. All factors being equal, preference shall be given in the following order to products, manufactured, produced, or distributed by a person, firm, or corporation: 1) with drug-free workplace programs meeting the requirements of Florida Statutes; 2) located within the City of Gainesville, if not subject to the Local Preference Ordinance; 3) located within Alachua County; 4) located within the State of Florida. When the appropriate Charter Officer determines that rejection of all bids is in the best interest of the City, all bids may be rejected and either the purchase discontinued or additional bids sought.

6.3 The following may be purchased without receipt of competitive bids:

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- (a) Items of supplies, materials, equipment, or contractual services whose cost does not exceed \$2,000.
- (b) Non-competitive situations.
- (c) Materials, equipment, or services purchased under state or federal contracts or other public agency cooperative purchasing opportunities.
- (d) Utility services when the subject utility is the only available source of such service
- (e) Contractual services of a professional nature whose cost does not exceed \$50,000, except as required by State law and except for legal services in which case the City Attorney may supply the qualifications of one firm for legal services in connection with litigation involving the City. Continuing contracts for professional services of indefinite duration shall be reviewed for appropriateness with regard to the quality of the service and the competitiveness of the cost. Such review shall be the responsibility of the appropriate charter officer or his/her designee and shall be conducted not less than every five years.
- (f) Emergency purchases, at the discretion of the Manager, where the circumstances of the emergency do not permit sufficient time to obtain competitive quotes.

Section 7: Purchases Requiring City Commission Approval

7.1 Every purchase of an item of supplies, materials, equipment, contractual services, or extension(s) to existing contracts costing in excess of \$50,000 shall require the approval of the City Commission, except that no prior approval shall be required for the following:

- (1) any adjustment to a contract or purchase order previously approved by the City Commission which does not affect the cost, including change of the contract time, or which constitutes a deduction to the purchase amount or which constitutes an addition to the purchase amount of ten (10%) percent or less of the previously approved amount.
- (2) Purchases of fuels used in operating plants and equipment or for the delivery of customer services, including petroleum products and fuel oil for generation; coal meeting environmental requirements at the lowest delivered price per BTU available and the transportation thereof; and natural gas and liquefied petroleum gas at the lowest delivered price per BTU available and the transportation thereof; also natural gas rebates.
- (3) Purchases of materials, equipment or services used for the operation and maintenance of utility plants, and distribution facilities, substations, lift stations and gate stations, and purchases of standard materials.
- (4) Purchases for the repair and maintenance of system-wide computer software and hardware.
- (5) Purchases for the expansion or operation and maintenance of the fiberoptic or other telecommunication systems and contracts for telecommunication access, transport, and other services.
- (6) Used lease vehicles and purchases for the maintenance of fleet equipment.
- (7) Materials, equipment or services purchased under state or federal contracts or other public agency cooperative purchasing opportunities, provided funds for the items have been included in the approved budgets.
- (8) Utility services when the subject utility is the only available source of such service.
- (9) Emergency purchases as defined in Section 5.
- (10) Contracts or purchase orders for construction projects, or professional services associated with construction projects, which do not exceed \$300,000.

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7.2 Reports shall be made to the City Commission of any purchase of materials, equipment or services greater than \$50,000 for which prior approval has not been obtained.

7.3 Reports shall be made to the City Commission of any Bid Protest for purchases that do not require approval of the City Commission.

Section 8: Small Business Programs

The Purchasing Divisions shall take affirmative steps to seek out, identify, and work with Small Business Enterprises in accordance with programs and procedures developed by the Purchasing Divisions. As part of these programs, the Purchasing Divisions may waive competitive bidding requirements for the first time order with a Small Business Enterprises in an amount not greater than \$10,000 in order to fairly assess their capabilities to perform in accordance with required standards.

Section 9: Prohibition of lobbying in procurement matters

Except as expressly set forth in section 10, during the black out period as defined herein no person may lobby, on behalf of a competing party in a particular procurement process, City Officials or employees except the purchasing division, the purchasing designated staff contact. Violation of this provision shall result in disqualification of the party on whose behalf the lobbying occurred.

Section 10: Remedies/Appeals

Any actual or prospective bidder or contractor who is aggrieved in connection with the solicitation or award of a contract shall comply with the administrative procedures published by the Purchasing Divisions established for bid protest. In the case of purchases that require approval of the City Commission, a bidder or proposer who has exhausted the foregoing procedures may appeal the decision of the City Manager, or other Charter Officer as applicable, to the City Commission, which appeal shall be scheduled by the Charter Officer involved, prior to the award.

The City Commission shall review the decision of the Charter Officer, the record before the Charter Officer, and written or oral argument of the parties involved in the protest. No new evidence shall be considered and the City Commission may only reverse or modify the decision of the Charter Officer upon a determination that his/her decision was not based on substantial competent evidence or that his/her reasoning or application of the policies, procedures and law was fundamentally flawed. The decision of the City Commission shall constitute final administrative action.

Section 11: Sale of Obsolete and Unusable Property

- (a) The sale of obsolete or other unused equipment and materials or the sale of by-products of utilities operations or improvements on real property (such as timber or hay) shall be at the discretion of the Manager. The sale shall be by method selected by the Purchasing Manager as appropriate to reach prospective buyers.
- (b) Any items sold with a current book value in excess of \$10,000 shall be sold by written quotations except when the sale is by auction.
- (c) Obsolete or unusable items with a current book value of \$25,000 or less may be sold in accordance with written guidelines promulgated by the Manager.
- (d) Any items sold shall be for cash, payable by certified check, wire transfer, or other means acceptable to the Accounting Manager.

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Section 12: Donations of Property

The Manager may authorize and approve the donation to any governmental agency of obsolete or unusable items whose value does not exceed \$7,500 after making a determination that such donation is in furtherance of governmental objectives.

Section 13: Loans, Sales, or Rentals to Other Entities

The Manager may, at his discretion, lend materials, supplies, tools or services to non-City entities. The Manager, or his designee may sell or lease useable materials, supplies tools or services to non-City entities at cost plus overheads. All loans, sales or rentals shall be in accordance with the following criteria: a) when emergency or unusual conditions dictate the need for such sale, rental or loan; b) a community service would be served and the good or service is in sufficient supply that the sale, rental or loan would not impair service to customers or citizens; or c) an agreement entered into by the City contemplates or requires such assistance.