

**CITY OF GAINESVILLE
REQUEST FOR PROPOSALS FOR
EXECUTIVE SEARCH FOR CITY MANAGER**

SECTION I - REQUEST FOR PROPOSAL OVERVIEW & PROPOSAL PROCEDURES

RFP#: HRDX050066-DH

(Date)

A. INTRODUCTION/BACKGROUND

The City of Gainesville (hereafter "City") is requesting proposals from qualified firm/providers to perform an executive search service for the position of City Manager. This firm/provider will assist the City Commission and City staff with the recruitment of a new City Manager. The most recent City Manager had been in this position since 1995 and resigned October 15, 2004. An interim City Manager is currently serving until such time that the recruitment of the City Manager is complete.

The City of Gainesville is the county seat and largest city in Alachua County with a population estimate of 117,754. It is home to the University of Florida and Santa Fe Community College. The City is operated under a Commission-Manager form of government. The City Commission is comprised of six elected commissioners and the mayor. There are six charter officers reporting to the Commission-City Manager, General Manager for Utilities, City Attorney, City Auditor, Clerk of the Commission and Equal Opportunity Director. City staff is comprised of approximately 1,300 employees. The City owns and operates a regional transit system and regional electric, water, wastewater, natural gas and telecommunication utilities system. The General Manager for Utilities oversees the utility operations and reports directly to the City Commission.

B. RFP TIME TABLE

The anticipated schedule for the RFP and contract approval is as follows:

RFP available for distribution	(date)
[Mandatory] Pre-Proposal Conference	No pre-proposal conference
Deadline for receipt of questions	(date)
Deadline for receipt of proposals	(date) (3:00 p.m. local time)
Evaluation/Selection process	Week of (date)

Oral presentations, if conducted	Week of (date)
Projected award date	(date)
Projected contract start date	(date)

C. PROPOSAL SUBMISSION

One original and _____ copies (a total of _____) of the complete proposal must be received by (date) at 3:00 p.m. local time at which time all proposals will be publicly opened.

The original, all copies, and the separate sealed price envelope, if required, must be submitted in a sealed envelope or container stating on the outside the proposer's name, address, telephone number, RFP title, number and due date and delivered to:

City of Gainesville
General Government Purchasing
200 East University Avenue, Room 339
Gainesville, Florida 32601

Hand-carried and express mail proposals may be delivered to the above address **ONLY** between the hours of 8:00 a.m. and 5:00 p.m., local time, Monday through Friday, excluding holidays observed by the City.

Proposals may be mailed to:

City of Gainesville
General Government Purchasing, Mail Station 32
P.O. Box 490
Gainesville, Florida 32602

Proposers are responsible for informing any commercial delivery service, if used, of all delivery requirements and for ensuring that the required address information appears on the outer wrapper or envelope used by such service.

Any proposal received after 3:00 p.m. (local time), (date) will not be considered and will be returned unopened.

Both the Technical Proposal and the Price Proposal, if required to be submitted in a separate envelope, must be signed by an officer of the company who is legally authorized to enter into a contractual relationship in the name of the proposer, and proposer(s) must affix their company's corporate seal to both Proposals. In the absence of a corporate seal, the Proposals must be notarized by a Notary Public.

The submittal of a proposal by a proposer will be considered by the City as constituting an offer by the Proposer to perform the required services at the stated fees.

D. CONTACT PERSON

The contact person for this RFP is Diane Holder at (352) 334-5021 in Purchasing. Explanation(s) desired by proposer(s) regarding the meaning or interpretation of this RFP must be requested from the contact person, in writing, as is further described below.

Proposers are advised that from the date of release of this RFP until award of the contract, NO contact with City personnel related to this RFP is permitted, except as authorized by the contact person. Any such unauthorized contact may result in the disqualification of the proposer's submittal.

E. ADDITIONAL INFORMATION/ADDENDA

Requests for additional information or clarifications must be made in writing no later than the date specified in the RFP Timetable. The request must contain the proposer's name, address, phone number, and facsimile number. Electronic facsimile will be accepted at (352) 334-3163.

Facsimiles must have a cover sheet which includes, at a minimum, the proposer's name, address, number of pages transmitted, phone number, and facsimile number.

The City will issue responses to inquiries and any other corrections or amendments it deems necessary in written addenda issued prior to the Proposal Due Date. Proposers should not rely on any representations, statements or explanations other than those made in this RFP or in any addendum to this RFP. Where there appears to be a conflict between the RFP and any addenda issued, the last addendum issued will prevail.

It is the proposer's responsibility to be sure all addenda were received. The proposer should verify with the designated contact persons prior to submitting a proposal that all addenda have been received. Proposers are required to acknowledge the number of addenda received as part of their proposals.

F. LATE PROPOSALS, LATE MODIFICATIONS AND LATE WITHDRAWALS

Proposals received after the Proposal Due Date and time are late and will not be considered. Modifications received after the Proposal Due Date are also late and will not be considered. Letters of withdrawal received after the Proposal Due Date or after contract award, whichever is applicable, are late and will not be considered.

G. RFP POSTPONEMENT/CANCELLATION/WAIVER OF IRREGULARITIES

The City may, at its sole and absolute discretion, reject any and all, or parts of any and all, proposals; re-advertise this RFP; postpone or cancel, at any time, this RFP process; or waive any irregularities in this RFP or in the proposals received as a result of this RFP.

H. COSTS INCURRED BY PROPOSERS

All expenses involved with the preparation and submission of proposals to the City, or any work performed in connection therewith shall be borne by the proposer(s). No payment will be made for any responses received, nor for any other effort required of or made by the proposer(s) prior to commencement of work as defined by a contract approved by the City Commission.

I. ORAL PRESENTATION

The City may require proposers to give oral presentations in support of their proposals or to exhibit or otherwise demonstrate the information contained therein.

J. EXCEPTION TO THE RFP

Proposers may take exceptions to any of the terms of this RFP unless the RFP specifically states where exceptions may not be taken. Should a proposer take exception where none is permitted, the proposal will be rejected as non-responsive. All exceptions taken must be specific, and the Proposer must indicate clearly what alternative is being offered to allow the City a meaningful opportunity to evaluate and rank proposals.

Where exceptions are permitted, the City shall determine the acceptability of the proposed exceptions and the proposals will be evaluate based on the proposals as submitted. The City, after completing evaluations, may accept or reject the exceptions. Where exceptions are rejected, the City may request that the Proposer furnish the services or goods described herein, or negotiate an acceptable alternative.

K. PROPRIETARY INFORMATION

Responses to this Request for Proposals upon receipt by the City become public records subject to the provisions of Chapter 119 F.S., Florida's Public Records Law. If you believe that any portion or all of your response is confidential and/or proprietary, you should clearly assert such exemption and the specific legal authority of the asserted exemption. All material that qualifies for exemption from Chapter 119 must be submitted in a separate envelope, clearly identified as "TRADE SECRETS EXCEPTION," with your firm's name and the proposal number marked on the outside.

Please be aware that the designation of an item as a trade secret by you may be challenged in court by any person. By your designation of material in your proposal as a "trade secret" you agree to hold harmless the City for any award to a plaintiff for damages, costs

or attorneys' fees and for costs and attorneys' fees incurred by the City by reason of any legal action challenging your claim.

L. QUALIFICATIONS OF PROPOSERS

As a part of the Proposal evaluation process, City may conduct a background investigation of proposer, including a record check by the Gainesville Police Department. Proposer's submission of a Proposal constitutes acknowledgment of the process and consent to such investigation.

No proposal shall be accepted from, nor will any contract be awarded to, any proposer who is in arrears to City upon any debt, fee, tax or contract, or who is a defaulter, as surety or otherwise, upon any obligation to City, or who is otherwise determined to be irresponsible or unreliable by City.

If Proposer is determined to be irresponsible or unreliable, City will notify Proposer of its finding, including evidence used, and allow proposer an informal hearing and the opportunity to come into compliance within three business days of notification.

M. NEGOTIATIONS

The City may award a contract on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the proposer's best terms from a cost or price and technical standpoint.

The City reserves the right to enter into contract negotiations with the selected proposer. If the City and the selected proposer cannot negotiate a successful contract, the City may terminate said negotiations and begin negotiations with the next selected proposer. This process will continue until a contract has been executed or all proposers have been rejected. No proposer shall have any rights against the City arising from such negotiations.

N. RIGHTS OF APPEAL

Participants in this RFP solicitation may protest RFP specifications or award in accordance with Section 41-580 of the City of Gainesville's Financial Procedures Manual.

O. RULES; REGULATIONS; LICENSING REQUIREMENT

The proposer shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, including those applicable to conflict of interest and collusion. Proposers are presumed to be familiar with all Federal, State and local laws, ordinances, codes and regulations that may in any way affect the services offered.

P. REVIEW OF PROPOSALS

Each proposal will be reviewed to determine if the proposal is responsive to the submission requirements outlined in the RFP. A responsive proposal is one which follows the requirements of the RFP, includes all required documentation, is submitted in the format outlined in the RFP, is of timely submission, and has the appropriate signatures as required on each document. Failure to comply with these requirements may deem your proposal non-responsive.

Q. LOCAL MINORITY ENTERPRISE AND LOCAL SMALL BUSINESS ENTERPRISE PARTICIPATION

It is the policy of the City of Gainesville that qualified local minority and local small business enterprises (MBEs/SBEs) as defined in the City of Gainesville’s Local MBE/SBE Procurement Program (the “Program”) shall have the maximum practical opportunity to participate in the competitive process of supplying commodities and services to the City. Notification is hereby given that local minority and local small businesses are strongly encouraged to submit a bid in response to any procurement opportunity let by the City of Gainesville. Prime contractors are strongly encouraged to utilize qualified local minority and local small subcontractors and material suppliers.

Any individual or entity that engages in fraud, misrepresentation, or other wrongful conduct, whether by act or omission, related to its participation in or eligibility to participate in the Program or in the performance of its MBE/SBE obligations under a City contract, shall be in violation of the Program. This determination shall be solely at the discretion of the City. Violators of the Program may be subject to, on an individual and/or entity basis, the debarment or suspension from participating in the City’s contracts in accordance with the City of Gainesville’s Debarment and Suspension Policy.

R. LIVING WAGE

- This contract is a covered service. (See Living Wage Decision Tree - Exhibit C attached hereto)
- This contract is **not** a covered service.

The Living Wage ordinance, Ordinance 020663, as amended at Ordinance 030168, and as shown on the City’s web page, applies to certain contracts for specific “Covered Services,” which the City has determined may include services purchased under this Contract, depending upon the cost/price of the contract awarded. A copy of the ordinance, as amended, will be attached to and made a part of the executed contract. Bidders/Proposers should consider the effect/cost of compliance, if any, with the requirements of the Living Wage Ordinance if the services purchased are “Covered Services”, the prime contract amount exceeds the threshold amount, the bidder/proposer meets the definition of Service

Contractor/Subcontractor (and is not otherwise excluded from the application of the ordinance) and the ordinance provisions, which are incorporated herein, apply to any Covered Employees.

If applicable, the adjusted Living Wage for this contract will be \$ 9.06 per hour (Living Wage with Health Benefits) or \$ 10.31 per hour if Health Benefits are not offered.

If applicable, a successful Service Contractor/Subcontractor shall be required to execute the certification, attached as Exhibit LWC hereto, prior to the City executing the contract. Once executed, such certification will become part of the contract; however, failure to sign such certification will prevent execution of the contract, may result in forfeiture of any applicable bid or proposal bond, and could result in other adverse action.

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor shall comply with the provisions of the City of Gainesville's living wage requirements, as applicable. Failure to do so shall be deemed a breach of contract and shall authorize the City to withhold payment of funds until the living wage requirements have been met.

(2) The Contractor will include the provision of (1) above in each subcontract for Covered Services with a Service Contractor/Subcontractor, as defined herein, so that the provisions of (1) above will be binding upon each such Service Contractor/Subcontractor. The Contractor will take such action with respect to any such subcontract as may be directed by the contract administrator as a means of enforcing such provisions; provided, however, the City shall not be deemed a necessary or indispensable party in any litigation between the contractor and a subcontractor concerning compliance with living wage requirements.

S. LOCAL PREFERENCE

In bidding of, or letting contracts for procurement of, supplies, materials, equipment and services, as described in the purchasing policies, the city commission, or other purchasing authority, may give a preference to local businesses in making such purchase or awarding such contract in an amount not to exceed five percent of the local business' total bid price, and in any event the cost differential should not exceed \$25,000.00. Total bid price shall include not only the base bid price but also all alterations to that base bid price resulting from alternates which were both part of the bid and actually purchased and awarded by the City Commission or other authority. In the case of requests for proposals, letter of interest, best evaluated bids, qualifications or other solicitations and competitive negotiation and selection in which objective factors are used to evaluate the responses. Local Businesses are assigned five (5) percent of the total points of the total evaluation points. If Local Preference is requested by the proposer, the attached Exhibit B must be submitted with the proposal.

Local business means the firm/provider has a valid occupational license, issued by the City of Gainesville at least six months prior to bid or proposal opening date, to do business in said locality that authorizes the business to provide the goods, services, or

construction to be purchased, and a physical business address located within the limits of said locality, in an area zoned for the conduct of such business, from which the firm/provider operates or performs business on a day-to-day basis. Post office boxes are not verifiable and shall not be used for the purpose of establishing said physical address. In order to be eligible for local preference, in the Bid or RFP evaluation, the firm/provider must provide a copy of the occupational license and Zoning Compliance Permit. Exhibit --A----- (Attach Codified document)

SECTION II - SCOPE OF SERVICES

A. INTENT

It is the intent of the City of Gainesville to obtain proposals from qualified firms/providers to perform an executive search service for the position of City Manager.

B. MINIMUM REQUIREMENTS

The awarded Consultant shall conduct a nation wide City Manager executive search and recruitment, which includes the recruitment of a diverse group of applicants that demonstrate characteristics, experience and competencies that would qualify them for this position. The Consultant shall provide applicable services consisting of, but not limited to, the following:

- Work with City of Gainesville's City Commission and staff to develop characteristics and attributes of the successful candidate, appropriate and necessary selection criteria, selection process and timeline, representing a proposed initial path for selection of a City Manager.
- Develop a strategy for carrying out the recruitment, including outreach to encourage applicants from diverse backgrounds to apply.
- Conduct a broad and thorough nationwide recruitment utilizing but not limited to professional publications, advertisements, internet, targeted recruitment and professional contacts to insure a pool of qualified individuals.
- Develop a recruitment brochure and solicitations that describe City Manager position, the City organization and the community.
- Acknowledge receipt of candidates' application materials.
- Review resumes and conduct initial screening of all candidates' applications utilizing the criteria developed with the City Commission.
- Review resumes for background and qualifications followed by telephone interviews to clarify each applicant's experience and to prepare a written summary detailing background, achievements, and strengths of 5 to 10 candidates with the most promising qualifications.
- Conduct all background and reference checks on final candidates. Verify education and employment history. This may include a detailed financial, newspaper, criminal, and civil litigation investigation.

- In the event politically sensitive or potentially embarrassing issue arise in the candidate's background, conduct in-depth interviews with principal parties to clarify the event and clearly describe a picture of the event.
- Assist City Commission in the selection of finalists.
- Coordinate the final on-site selection process. Tasks that should occur during this phase of the process include at a minimum formal interviews with each City Commissioner. Other tasks may include meeting with employee and/or citizen representatives and tours of City facilities.
- Coordinate the on-site portion of the process including scheduling interviews and other activities, and making travel and lodging arrangements as directed by the City.
- Assist in contract negotiations with the selected candidate.
- Provide notification to all candidates not selected as finalists for the position.

SECTION III - PROPOSAL FORMAT

Instructions to proposers: Proposals must contain each of the below enumerated documents, each fully completed, signed, and notarized as required. Proposals submitted which do not include the following items may be deemed non-responsive and may not be considered for contract award.

A. FORMAT AND CONTENTS OF PROPOSAL

1. Table of Contents

The table of contents should outline in sequential order the major areas of the proposal, and all pages of the proposal, including the enclosures, must be clearly and consecutively numbered and correspond to the table of contents.

2. Technical Proposals

The technical proposal is a narrative which addresses the scope of work, the proposed approach to the work, the schedule of the work, and any other information called for by the RFP which the proposer deems relevant.

3. Cost Proposal

The price proposal is a presentation of the proposer's total offering price including the estimated cost for providing each component of the required goods or services.

- Cost breakdown of services listed in the Scope of Work, as well as a total "not to exceed" fee for all professional services.
- Cost breakdown for reimbursable expenses in the performance of services listed in the Scope of Work. [Do not include compensation for candidates' reimbursable expenses. The City shall reimburse candidates' expenses.]
- Cost breakdown for any additional activities/techniques identified in your work plan.
- An hourly rate at which the City would be billed for any services that the City might request outside the scope of items listed in the RFP.

If a prescribed format for the price proposal is appended, proposers must use it; otherwise, proposers may use formats of their choice.

4. Qualifications

The response to the minimum qualification requirements contained below is a list of the minimum qualification requirements prescribed for the RFP. Proposers must provide documentation which demonstrates their ability to satisfy all of the minimum

qualification requirements. Proposers who do not meet the minimum qualification requirements or who fail to provide supporting documentation will not be considered for award. If a prescribed format, or required documentation for the response to minimum qualification requirements is stated below, proposers must use said format and supply said documentation.

5. Timetable

All proposers should include a complete timetable outlining the estimated length of time each major component of the project will take.

B. QUALIFICATIONS/STATEMENT OF QUALIFICATIONS

A. Background and Experience of the Firm

Provide a summary of the firm's background, including, but not limited to, founding date; history; the names of principals and relationships with any parent, subsidiary, and/or affiliation of other firms; and the location of the closest servicing office. Provide a narrative of recruitment services your firm has conducted within the last three (3) years that demonstrates the firms/providers successful experience working with local jurisdictions and government leaders with emphasis of placing City Managers in the state of Florida.

B. Staff Qualifications and Assignments

Include resumes (biographies) for all professional staff assigned to work on this project, describing each individual's education, specialized training or certification, and experience in this area to which they will be assigned. Include a company organization chart to identify the name and location of key personnel. Identify a project manager and whether he/she will have decision-making authority and the extent to which he/she will be available to the City.

C. References

Provide the name, title, address, telephone number and email address for reference from at least five (5) City/County governments that used your services for recruiting a top level manager.

A copy of your Occupational License and Zoning Compliance Permit must be submitted with the proposal if a local preference is requested.

SECTION IV - EVALUATION CRITERIA AND PROCEDURES

A. EVALUATION CRITERIA

Proposal evaluation involves an assessment of both the quality of the proposals and the ability of the proposers to fulfill the requirements of the RFP. The successful proposer will be the one evaluated most favorably by the evaluation.

The proposals will be evaluated to ensure that all material requirements of the Request for Proposals are met. Those proposals determined to be responsive will be further evaluated based on the following:

- **Qualifications and experience of the firm.** Evaluation of the firm's record of successful search/recruitment assignments for City Manager positions. Past performance on contract with other city governments in terms of quality and compliance with schedule.
- **Expertise of Firm/Provider Personnel.** Identify personnel assigned this projection and list their qualifications, experience, ability and skill with similar projects. The accessibility and availability to adhere to the project schedule.
- **Methodology/Responsiveness.** Evaluation of overall problem-solving approach, including proposed methodologies, processes, techniques, standards and creativity required for search and recruitment of City Manager. The proposal should clearly state and understand the work to be performed. Comprehensiveness of the approach that will be taken to ensure that all requirements are met.
- **References.** Past performance and reference or prior experience.
- **Costs.** All proposers should include firm, fixed fee, travel, lodging and details regarding all additional ad related expenses, if applicable, to provide the specified services and obtain a successful placement.
- **Schedule.** Timeframe being proposed that meets the City requirements.

B. SELECTION PROCESS

The contractor(s) will be selected from the qualified firms submitting responses to this Request for Proposals. The selection process will be as follows:

1. An evaluation committee consisting of staff will review the written proposals. The evaluation process provides a structured means for consideration of all proposals.
2. Upon review and evaluation of RFP, the City may request oral presentations from the top ranked firms. During the oral presentations, the firms shall further detail their qualifications, approach to the project and ability to furnish the required services. These presentations shall be made at no cost to the City.

3. Prior to final ranking of firms, the apparent top ranked firms will be required to furnish proof to the City that it complies with the specifications.
4. The final ranking of firms will be based upon a combination of the written proposal scoring and the oral presentation scoring. If required, the final ranking of firms will be presented to the City Commission. The City Commission will be requested to approve the recommended ranking and authorize negotiation and execution of the contract beginning with the top ranked firms.
5. Provided that the City Commission approves the ranking and an award, the City will negotiate a contract with the top ranked proposer for an executive search for City Manager. Should the City be unable to negotiate a satisfactory contract with the top ranked firm, negotiations will be terminated with that proposer and negotiations will be initiated with the second most qualified proposer, and so on until a satisfactory contact is negotiated.

SECTION V - GENERAL PROVISIONS

A. CONTRACT AWARD

The award(s), if any, shall be made to the proposer(s) whose proposal(s) shall be deemed by the City to be in the best interest of the City. The decision of the City of whether to make the award(s) and which proposal is in the best interest of the City shall be final.

The Contract to be entered into with the successful proposer will designate the successful proposer as the City's Contractor and will include, but not be limited to, the following terms and conditions.

B. GENERAL TERMS AND CONDITIONS

Following are the General Terms and Conditions, supplemental to those stated elsewhere in the Request for Proposals, to which the Firm must comply to be consistent with the requirements for this Request for Proposals. Any deviation from these or any other stated requirements should be listed as exceptions in a separate appendix of the proposal.

1. Public Entity Crimes. Section 287.133 (2)(a), Florida Statutes, contains the following provisions: "A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity, in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted firms list."

2. Tie Bids. Whenever two or more bids which are equal with respect to price, quality and service are received, preference shall be given in the following order: (1) Bidders submitting the attached Drug-Free Workplace form with their bid/proposal certifying they have a drug free workplace in accordance with Section 287.087, Florida Statutes; (2) Bidders certified as a Disadvantaged Business Enterprise; (3) Bidders determined to be a Small Business Enterprise; (4) Bidders located within the City of Gainesville; (5) Bidders located within Alachua County; and (6) Bidders located within the State of Florida. In the case where Federal funds are being utilized, articles 4, 5 and 6 will not apply.
3. Indemnification. The Contractor shall agree to indemnify and save harmless the City, its officers, agents, and employees, from and against any and all liability, claims, demands, fines, fees, expenses, penalties, suits, proceedings, actions and costs of action, including attorney's fees for trial and on appeal, of any kind and nature arising or growing out of or in any way connected with the performance of the contract whether by act or omission or negligence of the Contractor, its agents, servants, employees or others, or because of or due to the mere existence of the Contract between the parties.
4. Insurance. Insurance coverage acceptable to the City shall be required.
5. Sovereign Immunity. Nothing in the executed contract shall be interpreted that the City waives its sovereign immunity granted under Section 768.28, Florida Statutes.
6. Term. The term of the contract will commence upon final execution and will continue until the services are completed.
7. Termination. The contract will provide termination by either party without cause upon 120 days prior written notice to the other party. In the event of termination, the Contractor will be compensated for services rendered up to and including the day of termination.
8. Applicable Law. The contract and the legal relations between the parties hereto shall be governed and construed in accordance with the laws of the State of Florida. Venue in the courts of Alachua County, Florida.
9. Joint Bidding/Cooperative Purchasing Agreement: All bidders submitting a response to this invitation to bid agree that such response also constitutes a bid to all State Agencies and Political Subdivisions of the State of Florida under the same terms and conditions, for the same prices and the same effective period as this bid, should the bidder deem it in the best interest of its business to do so. This agreement in no way restricts or interferes with any State Agency or Political Subdivision of the State of Florida to rebid any or all items.

DRUG-FREE WORKPLACE FORM

The undersigned firms in accordance with Florida Statute 287.087 hereby certifies that

_____ does:
(Name of Business)

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for the drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

Bidder's Signature

Date

DEBARRED AND SUSPENDED BIDDERS:
Breach of Contract

1. **Scope.**

This policy prescribes policies and procedures relating to:

 - (a) the debarment of bidders for cause;
 - (b) the suspension of bidders for cause under prescribed conditions;
and,
 - (c) the rejection of bids, revocation of acceptance and termination of contracts for cause.
It is directly applicable to the advertised and negotiated purchases and contracts, for equipment and services of the City.
2. **General.**

Debarment and suspension are measures which may be invoked by the City either to exclude or to disqualify bidders and contractors from participation in City contracting or subcontracting. These measure should be used for the purpose of protecting the interests of the City and not for punishment. To assure the City the benefits to be derived from the full and free competition of interested bidders, these measures should not be instituted for any time longer than deemed necessary to protect the interests of the City, and should preclude awards only for the probably duration of the period of non-responsibility.
- 2.1 **Definitions.**
 - (a) "Debarment" means, in general, an exclusion from City contracting and subcontracting for a reasonable, specified period of time commensurate with the seriousness of the offense, improper conduct or the inadequacy of performance.
 - (b) "Suspension" means a disqualification from City contracting and subcontracting for a temporary period of time because a concern or individual is suspected upon adequate evidence (See Section 6) of engaging in criminal, fraudulent, improper conduct or inadequate performance.
 - (c) A "debarment list" or "debarred bidders list" means a list of names of concerns or individuals against whom any or all of the measures referred to in this policy have been invoked.
 - (d) "Bidders" means, wherever the term is used in this policy, an offerors bidding pursuant to an invitation for bids or a request for proposals.
 - (e) "Affiliates" means business concerns which are affiliates of each other when either directly or indirectly one concern or individual controls or has the power to control another, or when a third party controls or has the power to control both.
 - (f) "Business operations" means commercial or industrial activity engaged in regularly and continuously over a period of time for the purpose of receiving pecuniary benefit or otherwise accomplishing an objective. "Business operations" constitute and are equivalent to "carrying on business", "engaged in business", "doing business".
3. **Establishment and Maintenance of a List of Concerns or Individuals Debarred or Suspended.**
 - (a) The Purchasing Department shall establish and maintain on the basis contained in Sections 6 and 6.1, a consolidated list of concerns and individuals to whom contracts will not be awarded and from whom bids or proposals will not be solicited.
 - (b) The list shall show as a minimum the following information:
 - (1) the names of those concerns or individuals debarred or suspended (in alphabetical order) with appropriate cross-reference where more than one name is involved in a single action;
 - (2) the basis of authority for each action;
 - (3) the extent of restrictions imposed; and,
 - (4) the termination date for each debarred or suspended listing.
 - (c) The list shall be kept current by issuance of notices of additions and deletions.
4. **Treatment to be Accorded Firms or Individuals Debarred or Suspended**

Firms or individuals listed by the Purchasing Department as debarred or suspended shall be treated as follows.

- (a) Total restrictions. A contract shall not be awarded to a concern or individual that is listed on the basis of a Section 5(a)(1), (2) or (3) felony "conviction", or to any concern, corporation, partnership, or association in which the listed concern or individual has actual control or a material interest; nor shall bids or proposals be solicited therefrom. However, when it is determined essential in the public interest by the City Commission, an exception may be made with respect to a particular procurement action where the individual or concern is effectively the sole source of supply or it is an emergency purchase.
- (b) Restrictions on subcontracting. If a concern or individual listed on the debarred and suspended bidders list is proposed as a subcontractor, the Purchasing Department shall decline to approve subcontracting with that firm or individual in any instance in which consent is required of the City before the subcontract is made, unless it is determined by the City to grant approval City Commission essential to public interest and the individual or concern is effectively the sole source of supply or it is an emergency purchase.

5. Causes and Conditions Applicable to Determination of Debarment.

Subject to the following conditions, the Department of Management and Financial Services is authorized to debar a firm or individual in the public interest for any of the following causes occurring within ten (10) years of debarment.

- (a) Causes
 - (1) "Conviction" for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract thereunder, or in the performance of such contract or subcontract.
 - (2) "Convictions" of embezzlement, theft, forgery, issuance of worthless checks, bribery, falsification or destruction of records, perjury, or receiving stolen property where the conviction is based upon conduct which arose out of, or was related to, business operations of the bidder.
 - (3) "Conviction" for bid-rigging activities arising out of the submission of bids or proposals.
 - (4) Violation of contract provisions, as set forth below, of a character which is regarded by the City to be so serious as to justify debarment action:
 - (i) willful failure to perform in accordance with the specifications or within the time limit provided in the contract;
 - (ii) a record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts. Failure to perform or unsatisfactory performance caused by acts beyond the control of the firm or individual as a contractor shall not be considered to be a basis for debarment.
 - (5) Debarment by any other governmental agency.
- (b) Conditions.
 - (1) Debarment for any of the causes set forth in this section shall be made only upon approval of the Department of Management and Financial Services.
 - (2) The existence of any of the causes set forth in (a) of this section does not necessarily require that a firm or individual be debarred except as provided in 4(a). In each instance, whether the offense or failure, or inadequacy of performance, be of criminal, fraudulent, or serious nature, the decision to debar shall only be made if supported by a preponderance of the credible evidence available. Likewise, all mitigating factors may be considered in determining the seriousness of the offense, failure, or inadequacy of performance, in deciding whether debarment is warranted. The actual or apparent authority of an involved individual, the present relationship of involved individuals with the bidder, the

past performance of the individual or concern, and the relationship of the violation to the services or materials involved shall be considered.

- (3) The existence of a cause set forth in (a)(1), (2), and (3) of this section shall be established by criminal "conviction" by a court of competent jurisdiction. In the event that an appeal taken from such conviction results in reversal of the "conviction", the debarment shall be removed upon the request of the bidder (unless other causes for debarment exists). For the purposes of this policy, the following shall have the same effect as a "conviction": pleading guilty or nolo contendere, or being found guilty by a jury or court of, the offense in question, regardless of whether probation is imposed and adjudication withheld.
- (4) The existence of a cause set forth in (a)(4) and (5) of this section shall be established by a preponderance of credible evidence by the Department of Management and Financial Services.
- (5) Debarment for the cause set forth in (a)(5) of this section (debarment by another agency) shall be proper if one of the causes for debarment set forth in (a)(1) through (4) of this section was the basis for debarment by the original debarring agency. Such debarment may be based entirely on the record of facts obtained by the original debarring agency, or upon a combination of such facts and additional facts.

5.1 Period of Debarment.

- (a) Debarment of a firm or individual shall be for a reasonable, definitely stated period of time commensurate with the seriousness of the offense or the failure or inadequacy or performance. As a general rule, a period of debarment shall not exceed five (5) years. However, when partial or total debarment for an additional period is deemed necessary, notice of the proposed additional debarment shall be furnished to that concern or individual in accordance with Section 8.
- (b) A debarment may be removed or the period thereof may be reduced by the City Manager upon the submission of an application supported by documentary evidence, setting forth appropriate grounds for the granting of relief; such as newly discovered material evidence, reversal of a conviction, bona fide change of ownership or management, or the elimination of the causes for which the debarment was imposed. The City Manager may request additional information, shall consider all relevant facts, and shall render a decision within twenty (20) days of receipt of the application unless a longer period is warranted under the circumstances.

6. Suspension of Bidders.

- (a) Suspension is a drastic action and, as such, shall not be based upon an unsupported accusation. In assessing whether evidence exists for invoking a suspension, consideration should be given to the amount of credible evidence which is available, to the existence or absence of corroboration as to important allegations, as well as to the inferences which may properly be drawn from the existence or absence of affirmative facts. This assessment should include an examination of basic documents, such as contracts, inspection reports, and correspondence. In making a determination to suspend, the Department of Management and Financial Services shall consider the factors set forth in Section 5(b)(2). A suspension may be modified by the City Manager as described in Section 5.1(b).

6.1 Causes and Conditions Under Which the City May Suspend Contractors

- (a) The Department of Management and Financial Services may, in the interest of the City, suspend a firm or individual when the firm or individual is suspected, upon credible evidence, of having committed one or more the following act(s) within three (3) years of the date of suspension:
 - (1) Commission of fraud or a criminal offense as an incident to obtaining, attempting to obtain, or in the performance of a public contract;

- (2) Violation of statutes concerning bid-rigging activities out of the submission of bids and proposals; and,
 - (3) Commission of embezzlement, theft, forgery, issuance of worthless checks, bribery, falsification, or destruction of records, perjury, receiving stolen property. Commission of any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the question of present responsibility as a City contractor.
- 6.2 Period of Suspension.
- (a) All suspension shall be for temporary period pending the completion of an investigation and such legal proceedings as may ensue. In the event that prosecution has not been initiated within twelve (12) months from the date of the suspension, the suspension shall be terminated. Upon removal of suspension, consideration may be given to debarment in accordance with Section 5 of this policy.
7. Scope of Debarment or Suspension.
- (a) A debarment or suspension may include all known affiliates of a concern or individual.
 - (b) Each decision to include a known affiliate within the scope of a proposed debarment or suspension is to be made on a case-by-case basis, after giving due regard to actual or apparent authority of the controlling concern or individual and similarity of the services provided by the affiliate to those provided by the debarred individual or concern.
 - (c) The criminal, fraudulent, or seriously improper conduct of an individual may be imputed to the business concern with which he is connected, where such impropriety was accomplished within the course of his official duty or apparent authority, or was effected by him with the knowledge and approval of that concern. When the individual was an officer of the concern, knowledge and approval may be presumed. Likewise, where a concern is involved in criminal, fraudulent, or seriously improper conduct, any individual who was involved in the commission of the impropriety may be debarred or suspended.
8. Notice of Debarment of Suspension.
- When the Department of Management and Financial Services seeks to debar or suspend a concern or individual (or any affiliate thereof) for cause, it shall furnish that party with a written notice:
- (1) stating that debarment or suspension is being considered;
 - (2) setting forth the reasons for the proposed action;
 - (3) indicating that such party will be afforded an opportunity for a hearing if he so requests one within ten (10) days; and,
 - (4) indicating that such party may make a written response in accordance with Section 9(a).
9. Response to Notice of Debarment or Suspension.
- (a) In lieu of requesting a hearing within the prescribed ten (10) day period, the party may, within said ten (10) day period, notify the City of its intent to provide a written reply and submit written evidence to contest the debarment or suspension. Such written evidence must be submitted within twenty (20) days after receipt of the notice of proposed debarment or suspension in order for it to be considered.
 - (b) Whatever response is received to the notice of intent to debar or suspend, such will be considered in determining whether debarment or suspension action will be made. Where a reply is received to the notice of intent to debar or to suspend, and evidence to refute such action is furnished but no hearing is requested, the information furnished will be considered in determining the action to be taken.
 - (c) If a hearing is requested, it shall be conducted by the City Manager. The hearing will be held at a location convenient to the City as determined by the City Manager and on a date and at a time stated. An opportunity shall be afforded to the firm or individual to appear with witnesses and counsel, to present facts or circumstances showing cause why such firm or individual should not be debarred or suspended. The proceeding shall be of an informal nature as determined by the City Manager. After consideration of the facts, the City Manager shall notify the firm or individual of the final decision.

- (d) If no response is made to the notice of debarment or suspension within the first ten (10) day period, the decision of the Department of Management and Financial Services shall be deemed final and the party so notified.

10. Rejection of Bids, Breach of Contract.

- (a) Previously solicited and/or accepted bids may be rejected or acceptance revoked prior to beginning of performance upon discovery by the City that the bidder or its affiliates have committed any act which would have been cause for debarment.
- (b) If after a contract is awarded and performance has been begun the City discovers that the bidder or its affiliates have committed any act prior to award or acceptance which would have been cause for debarment had it been discovered prior to solicitation or acceptance, the City may consider such to be a material breach of the contract and such shall constitute cause for termination of the contract.
- (c) If after bids have been solicited and/or accepted or after a contract is awarded and performance begun, the City discovers that the bidder or its affiliates committed any act prior to award or acceptance which would have been cause for disbarment or suspension had it been discovered prior to solicitation or acceptance, the City may require additional satisfactory assurances that such act(s) have not occurred and that the contract can and will be faithfully performed. If additional assurances are requested and are not satisfactory or if the bidder or its affiliates fail to immediately cooperate with all reasonable requests, including requests for information reasonably calculated to lead to the discovery of relevant evidence, then such may be considered a material breach of the contract and such shall constitute cause for termination of the contract.

ORDINANCE NO. 001261
0-04-26

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3
4 **An ordinance of the City of Gainesville, Florida, creating Article X of**
5 **Chapter 2 of the Code of Ordinances of the City of Gainesville relating to**
6 **local preference in purchasing, making findings, providing for definitions,**
7 **preference and exceptions, providing directions to the codifier; providing a**
8 **severability clause; providing a repealing clause; and providing a prospective**
9 **effective date and sunset provisions.**

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13 **WHEREAS,** at least 10 days notice has been given once by publication in a
14 newspaper of general circulation notifying the public of this proposed ordinance and of a Public
15 Hearing in the Auditorium of City Hall in the City of Gainesville; and

16 **WHEREAS,** a Public Hearing was held pursuant to the published notice described at
17 which hearing the parties in interest and all others had an opportunity to be and were, in fact,
18 heard;

19 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
20 **CITY OF GAINESVILLE, FLORIDA:**

21
22 **Section 1.** Section 2-620 of Article X, entitled "Local Preference Policy" of Chapter 2 of the
23 Code of Ordinances of the City of Gainesville is hereby created to read as follows:

24 ARTICLE X. LOCAL PREFERENCE POLICY

25 Sec. 2-620. Findings of Fact.

26 The City annually spends significant amounts on purchasing personal property,
27 materials, and contractual services and in constructing improvements to real property or to
28 existing structures. The dollars used in making those purchases are derived, in large part, from
29 taxes, fees, and utility revenues derived from Local Businesses in the corporate city limits of

1 Gainesville, and the City Commission has determined that funds generated in the community
2 should, to the extent possible, be placed back into the local economy. Therefore, the City
3 Commission has determined that it is in the best interest of the city to give a preference to Local
4 Businesses in the corporate city limits of Gainesville in making such purchases whenever the
5 application of such a preference is reasonable in light of the dollar-value of proposals received in
6 relation to such expenditures.

7 **Section 2.** Section 2-621 of the Code of Ordinances of the City of Gainesville is hereby
8 created to read as follows:

9 Sec. 2-621. Definition.

10 Local Business means the vendor has a valid occupational license, issued by the City of
11 Gainesville at least six months prior to bid or proposal opening date, to do business in said
12 locality that authorizes the business to provide the goods, services, or construction to be
13 purchased, and a physical business address located within the limits of said locality, in an area
14 zoned for the conduct of such business, from which the vendor operates or performs business on
15 a day-to-day basis. Post office boxes are not verifiable and shall not be used for the purpose of
16 establishing said physical address. In order to be eligible for local preference, the vendor must
17 provide a copy of the occupational license.

18 **Section 3.** Section 2-622 of the Code of Ordinances of the City of Gainesville is hereby
19 created to read as follows:

20 Sec. 2-622. Local preference in purchasing and contracting

21 In bidding of, or letting contracts for procurement of, supplies, materials, equipment
22 and services, as described in the Purchasing Policies, the City Commission, or other purchasing
23 authority, may give a preference to Local Businesses in making such purchase or awarding such

1 contract in an amount not to exceed five (5) percent of the Local Business' total bid price, as Exhibit A
2 described below, and in any event the cost differential should not exceed twenty-five thousand
3 dollars (\$25,000.00). Total bid price shall include not only the base bid price but also all
4 alterations to that base bid price resulting from alternates which were both part of the bid and
5 actually purchased or awarded by the City Commission or other authority. In the case of requests
6 for proposals, letters of interest, best evaluated bids, qualifications or other solicitations and
7 competitive negotiation and selection in which objective factors are used to evaluate the
8 responses, Local Businesses are assigned five (5) percent of the total points of the total
9 evaluation points.

10 **Section 4.** Section 2-623 of the Code of Ordinances of the City of Gainesville is hereby
11 created to read as follows:

12 Sec. 2-623. Exceptions to local preference policy.

13 The preference set forth in this article X shall not apply to any of the following
14 purchases or contracts:

15 1. Good or services provided under a cooperative purchasing agreement;

16 2. Contracts for professional services procurement of which is subject to the

17 Consultants' Competitive Negotiation Act (F.S. § 287.055) or subject to any competitive

18 consultant selection Policy or Procedure adopted or utilized by the City Commission or Charter
19 Officer.

20 3. Purchases or contracts which are funded, in whole or in part, by a governmental
21 entity and the laws, regulations, or policies governing such funding prohibit application of that
22 preference; or

23 4. Purchases made or contracts let under emergency or noncompetitive situations, or

1 for litigation related legal services, etc., as such are described in the city's Purchasing Policies.

2 5. Purchases with an estimated cost of \$50,000 or less.

3 6. Application of local preference to a particular purchase, contract, or category of
4 contracts for which the City Commission is the awarding authority may be waived upon written
5 justification and recommendation of the Charter Officer and approval of the City Commission.

6 The preferences established herein in no way prohibit the right of the City Commission or other
7 purchasing authority to compare quality or fitness for use of supplies, materials, equipment and
8 services proposed for purchase and compare qualifications, character, responsibility and fitness
9 of all persons, firms, or corporations submitting bids or proposals. Further, the preferences
10 established herein in no way prohibit the right of the City Commission or other purchasing
11 authority from giving any other preference permitted by law in addition to the preference
12 authorized herein.

13 **Section 5.** Section 2-624 of the Code of Ordinances of the City of Gainesville is hereby
14 created to read as follows:

15 Sec. 2-624. Application, enforcement.

16 The local preference shall apply to new contracts for supplies, materials, equipment and
17 services first solicited after October 1, 2004. This Article shall be implemented in a fashion
18 consistent with otherwise applicable City Purchasing Policies and Procedures.

19 **Section 6.** It is the intention of the City Commission that the provisions of Sections 1
20 through 5 of this Ordinance shall become and be made a part of the Code of Ordinances of the
21 City of Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be
22 renumbered or relettered in order to accomplish such intentions.

23 **Section 7.** If any section, sentence, clause or phrase of this ordinance is held to be invalid or

1 unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect
2 the validity of the remaining portions of this ordinance.

3 **Section 8.** All ordinances or parts of ordinances in conflict herewith are to the extent of such
4 conflict hereby repealed.


5 **Section 9.** This ordinance shall become effective October 1, 2004, and shall be reviewed by
6 the City Commission October 1, 2005, and unless extended by action of the City Commission,
7 shall be deemed repealed effective March 31, 2006, provided that it shall remain applicable to
8 new contracts solicited prior to repeal.

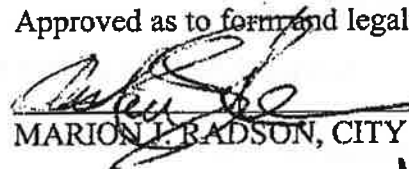
9 **PASSED AND ADOPTED** this 29th day of March, 2004.

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THOMAS D. BUSSING, MAYOR

ATTEST:


KURT McLANNON
CLERK OF THE COMMISSION

Approved as to form and legality

MARION J. RADSON, CITY ATTORNEY
MAR 30 2004

21 This Ordinance passed on first reading this 15th day of March, 2004.

22 This Ordinance passed on second reading this 29th day of March, 2004.

Local Preference is requested: _____ yes _____ no

If Local preference is requested this exhibit must be submitted with the proposal.

A copy of your Occupational License and Zoning Compliance Permit must be submitted with the proposal if a local preference is requested.

CITY OF GAINESVILLE

CERTIFICATION OF COMPLIANCE WITH LIVING WAGE

The undersigned hereby agrees to comply with the terms of the Living Wage Ordinance and to pay all covered employees, as defined by City of Gainesville Ordinance 020663 as amended at 030168 (Living Wage Ordinance), during the time they are directly involved in providing covered services under the contract with the City of Gainesville for

_____ a living wage of \$_____ per hour to covered employees who receive Health Benefits from the undersigned employer and \$_____ per hour to covered employees not offered health care benefits by the undersigned employer.

Name of Service Contractor/Subcontractor: _____
 Address: _____
 Phone Number: _____

Name of Local Contact Person _____
 Address: _____
 Phone Number: _____

_____ (Specific Project for which the service contract is sought)

\$ _____ (Amount of Contract) _____ (Department Contract Administrator)

NOTE: To be filled in by City

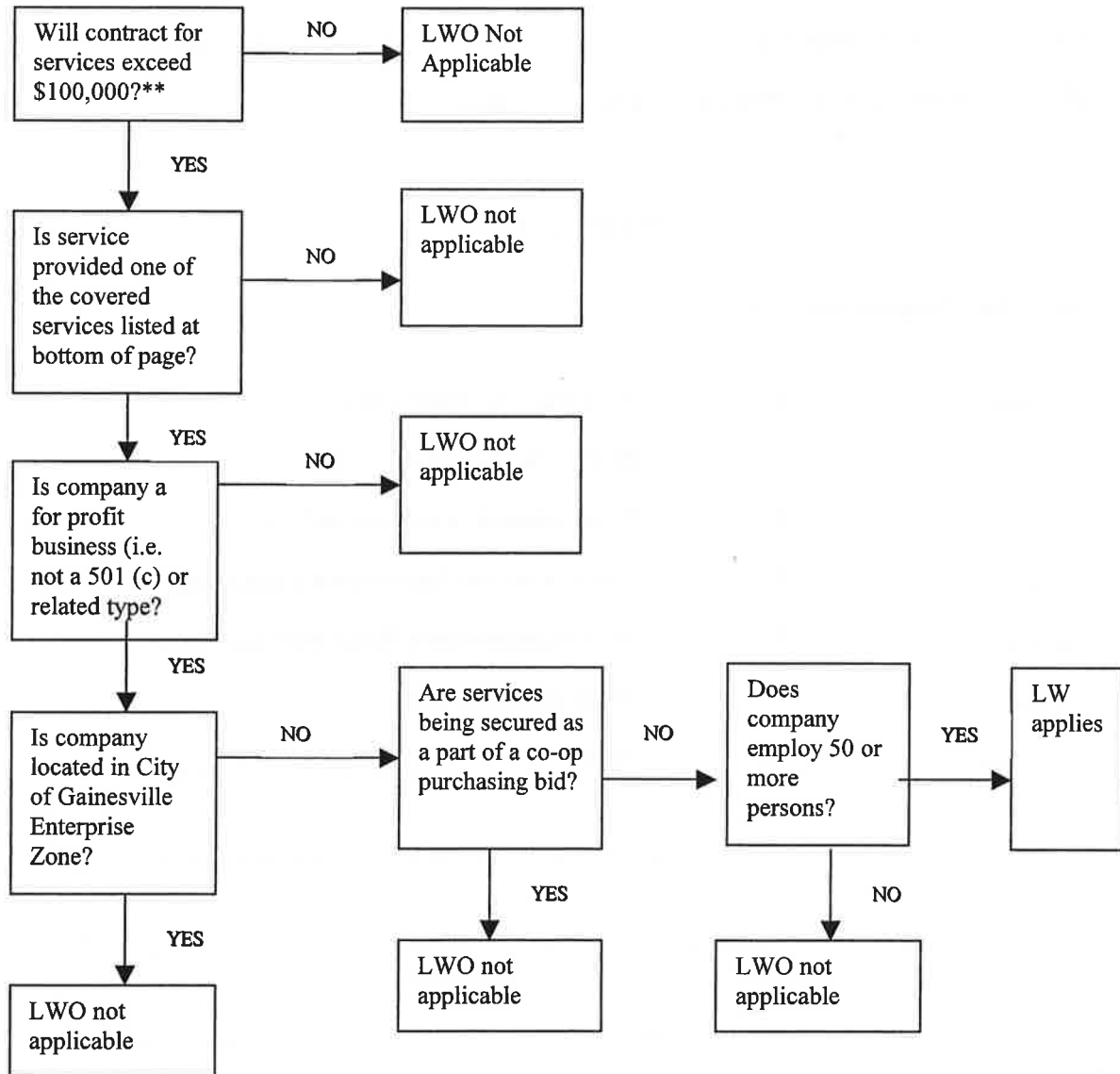
Signature: _____ Date: _____

Printed Name: _____

Title: _____

LIVING WAGE DECISION TREE

While not all encompassing, the following is provided as a guideline for contractors in determining whether the City of Gainesville Living Wage Ordinance applies to their firm in the performance of specified service contracts for covered services* with the City. Contractors are advised to review the entire text of the Living Wage Ordinance in conjunction with this guideline.



***Covered Services:** food preparation and/or distribution; custodial/cleaning; refuse removal; maintenance and repair; recycling; parking services; painting/refinishing; printing and reproduction services; landscaping/grounds maintenance; agricultural/forestry services; and construction services
****Total value of contract.**

**CITY OF GAINESVILLE
GENERAL GOVERNMENT
PURCHASING DIVISION SURVEY
BID INFORMATION**

BID #: CMGR050066-DH

DUE DATE:

SEALED PROPOSAL ON: Executive Search for City Manager

IF YOU DO NOT BID

Please check the appropriate or explain:

- | | | |
|-------|-----|--|
| _____ | 1. | Not enough bid response time. |
| _____ | 2. | Specifications not clear. |
| _____ | 3. | Do not submit bids to Municipalities. |
| _____ | 4. | Current work load does not permit time to bid. |
| _____ | 5. | Delay in payment from Governmental agencies. |
| _____ | 6. | Do not handle this item. |
| _____ | 7.0 | Other: _____ |
- _____
- _____
- _____

Company: _____

Address: _____

Are you a minority business? yes _____ no _____

RFP (09/22/03)
rev. 10/1/04