

**RESOLUTION NO. 170116**

**PASSED: July 6, 2017**

**A Resolution of the City Commission of the City of Gainesville, Florida, adopting a new Procurement Policy of the City of Gainesville; providing a transition period and an effective date.**

**WHEREAS**, the City Commission of the City of Gainesville, Florida (the “City”) adopted Purchasing Policy by Resolution No. 150616 on January 21, 2016; and

**WHEREAS**, the City wishes to adopt a new procurement policy to govern purchases and sales of supplies, materials, equipment, and services by the City;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:**

**Section 1.** The City of Gainesville Procurement Policy is hereby adopted in its entirety to read as set forth in Exhibit A, attached hereto and incorporated herein as if set forth in full. The Purchasing Policy adopted by Resolution No. 150616 on January 21, 2016, is hereby rescinded.

**Section 2.** Transition Schedule. The provisions of the Procurement Policy adopted by this Resolution shall regulate and govern the purchase and sale of supplies, materials, equipment and contractual services of the City made on or after July 10, 2017, or in the case of purchases made pursuant to solicitations, to purchases made as a result of solicitations issued on or after July 10, 2017 Purchases made prior to July 9, 2017 shall be processed and acted upon in accordance with the provisions in effect prior to the effective date of this Resolution.

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

**PASSED AND ADOPTED** this 6th day of July, 2017.

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LAUREN B. POE, MAYOR

ATTEST:

Approved as to form and legality,

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KURT M. LANNON  
CLERK OF THE COMMISSION

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NICOLLE M. SHALLEY  
CITY ATTORNEY

## **PROCUREMENT POLICY**

### **Section 1: Purpose**

The City's Charter, Article III, Section 3.01, vests the Charter Officers of the City with the authority to procure and contract for materials, equipment and services required to perform their assigned duties subject to the rules adopted by the City 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. This Policy as amended shall constitute the regulations which shall govern the sale and purchase of 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 Procurement 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 Procurement**

The Procurement Divisions shall:

- (a) assist all departments and divisions, including Charter Officers, in making purchases and sales of materials, equipment and services in accordance with policies established by the City Commission and the procedures established by the Managers
- (b) provide support to enable all purchases to be made in an efficient and cost effective manner through the application of sound business practices
- (c) establish procedures for documenting that purchases have been made in accordance with the City's Procurement Policy.

### **Section 3: Functions of the City's Procurement Divisions**

The Procurement Divisions shall, as applicable:

- (a) provide customer support for the purchase, receipt, and delivery of materials, equipment and services to support operational requirements
- (b) identify and maintain information about businesses that provide materials, equipment and services, including performance records, as applicable
- (c) develop and maintain fair and impartial business relationships
- (d) assist as needed with contract administration to ensure that businesses fulfill contractual requirements
- (e) oversee the proper disposition of surplus materials and equipment

### **Section 4: Ethics in Public Procurement**

City Officials and Employees, as defined herein, 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 Officials and Employees are expected to demonstrate the highest standards of personal and professional

integrity in public activities and conduct their duties 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 their official duties.

### **Section 5: Definitions**

- a) **Award.** A decision or outcome resulting from a solicitation.
- b) **City.** The operating and administrative departments of General Government, Gainesville Regional Utilities, and the Charter Officers of the City of Gainesville, Florida.
- c) **City Officials and Employees.** Public Officers, elected or appointed, including City Commissioners, Charter Officers, and Advisory Boards, and City employees, and agents of the City.
- d) **Competitive Situation.** Exists if at least two businesses submit responses to a solicitation 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.
- e) **Cone of Silence.** The period of time during which there is prohibition on communication regarding a competitive solicitation.
- f) **Contractual Services.** Services performed for the City by persons not directly employed by the City including, but not limited to, professional services and the construction, and maintenance of City facilities.
- g) **Cooperative Purchasing.** Purchases made through a public agency contract which allows the use of the contract by other agencies under the same pricing and contract terms.
- h) **Emergency Purchase.** A purchase which is necessary due to unforeseen circumstances and that can negatively impact the operation of the City, or a purchase needed for a public safety emergency or where delay of a purchase subjects the City to additional costs or hardship.
- i) **Formal Solicitation.** A process conducted by a Procurement Division which sets forth the requirements of a purchase or sale and which is issued by Invitation to Bid, Request for Quotation, Request for Proposal or other procurement method.
- j) **Item.** A unit of 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 another.
- k) **Lobbying.** When a person seeks to influence or attempt to influence City Officials or employees with respect to a decision of the City, except as authorized by procurement procedures.
- l) **Lowest Responsive Bid.** The bid which offers the least cost and which conforms in all material respects to the requirements set forth in the bid documents.
- m) **Managers.** The City Manager and General Manager for Utilities as applicable, or their designee.
- n) **Non-competitive situation.** Exists when the product or service is being purchased from a Sole Source or Specified Source.
- o) **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.

- p) **Procurement Division.** The procurement organization of General Government or Gainesville Regional Utilities.
- q) **Sole Source.** The only available source through which goods, equipment or services may be purchased.
- r) **Specified Source.** A source selected without competitive bidding for justifiable reasons.
- s) **Standard Material.** Any items which are specified as in an approved material and stocked for use of City operations.
- t) **Surplus.** Materials and equipment that are no longer used, useable, useful, or cost-effective to maintain.

### **Section 6: Method of Source Selection**

6.1 Competitive bidding will be used to ensure the greatest economic benefit to the City except as provided herein. The value of the award shall determine the bidding process as follows:

- (a) Purchases with a value of \$5,000 or less do not require a competitive process. The purchase should be made from a small or service-disabled veteran business when feasible. The use of a Purchasing Card is recommended.
- (b) Purchases with a value between \$5,000.01 and \$50,000 are required to have three (3) written quotes, including one from a small or service-disabled veteran business, when feasible.
- (c) Purchases with an anticipated cost exceeding \$50,000 require a Formal Solicitation issued by the Procurement Division.
- (d) Verbal quotations are permissible for petroleum products and emergency purchases.

6.2 Basis of award will be as designated in the solicitation.

6.3 A small or service-disabled veteran business, as certified by the City of Gainesville, will be given a preference of 5% of the total price not to exceed \$25,000, when all of the following apply:

- (a) Purchase is anticipated to be greater than \$50,000;
- (b) Award is based on evaluation criteria other than to the lowest responsive and responsible bidder;
- (c) The certified small or service-disabled veteran business being evaluated did not receive a Local Preference; and
- (d) The preference is not prohibited by law.

6.4 In the case of tie bids with all factors being equal, preference shall be given to the business in the following order of priority: 1) business has a drug-free workplace program meeting the requirements of Florida Statutes; 2) business is located in the corporate limits of the City of Gainesville, if the solicitation is not subject to the Local Preference Ordinance; 3) business is located in Alachua County; 4) business is located in the State of Florida; 5) coin

toss.

6.5 All bids may be rejected by the appropriate Charter Officer, or designee, when it is determined to be in the best interest of the City.

- 6.6 Competitive bids are not required for the following:
- (a) Items, as defined in Section 5, not exceeding \$5,000.
  - (b) Non-competitive situations such as a Sole Source or Specified Source.
  - (c) Purchases made under state, federal or other public agency agreements or cooperative contracts.
  - (d) Utility services when the subject utility is the only available source of such service.
  - (e) Professional services whose cost does not exceed \$50,000, except as required by State law.
  - (f) Legal services.
  - (g) Work performed under Continuing Contracts, as defined by Florida Statutes, for professional services of indefinite duration. Continuing Contracts 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 Manager and shall be conducted not less than every five years.
  - (h) Emergency Purchases, at the discretion of the Managers, when urgent situations do not allow sufficient time to obtain competitive bids.

**Section 7: Purchases Requiring City Commission Approval**

7.1 Every purchase of an Item of materials, equipment, services, and extensions to existing contracts with a value greater than \$100,000 shall require approval by the City Commission, except for the following:

- (1) Any adjustment to a contract or purchase order previously approved by the City Commission which does not increase the cost more than ten (10%) percent 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, distribution and collection facilities, substations, lift stations, gate stations, and purchases of standard materials.
- (4) Purchases for the repair and maintenance of system-wide computer software and hardware.
- (5) Purchases for or related to the expansion, operation or maintenance of the fiber optic or other telecommunication systems and contracts for telecommunication access, transport, and other services.
- (6) Purchases for maintenance of fleet equipment and used vehicles.
- (7) Materials, equipment or services purchased under public agency cooperative

- purchasing contracts, agreements or consortiums.
- (8) Utility services when the subject utility is the only available source of such service.
  - (9) Emergency purchases as defined in this policy.
  - (10) Purchases and contracts for construction projects when the cost of the construction project does not exceed \$300,000.

7.2 Reports shall be made to the City Commission of any purchase of materials, equipment or services greater than \$100,000 for which City Commission 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 and Service-Disabled Veteran Business Programs**

The City shall take affirmative steps to seek out, identify, and work with Small and Service-Disabled Veteran Business Enterprises in accordance with programs and procedures developed by the Procurement Divisions and the Office of Equal Opportunity. As part of these programs, the Procurement Divisions may waive competitive bidding requirements for the first time order with a Small and Service-Disabled Veteran Business Enterprise in an amount not greater than \$20,000 in order to fairly assess the capabilities of the business to perform in accordance with required standards. The programs and procedures may also include sheltered market opportunities for Small and Service-Disabled Business Enterprises when appropriate.

### **Section 9: Prohibition of Lobbying in Procurement Matters**

Except as expressly set forth in Section 10, during the Cone of Silence, as defined herein, no person may lobby City Officials or employees in a particular procurement process, except the designated Procurement Division representative. Violation of this provision shall result in disqualification of the party on whose behalf the lobbying occurred.

### **Section 10: Remedies/Appeals**

Any actual bidder who is aggrieved in connection with a solicitation or award of a contract shall comply with the administrative procedures for a bid protest established by the appropriate Procurement Divisions.

### **Section 11: Sale of Surplus Items**

- (a) The sale of surplus items such as obsolete or unusable 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 Managers. The sale shall be by method selected by the Procurement Division as appropriate to reach prospective buyers.
- (b) Surplus items that have a current value greater than \$10,000 shall be sold by a competitive process. Surplus items with a current value of \$10,000 or less may be sold on a first come basis at the discretion of the Manager or designee.
- (c) If the items cannot be sold as is, surplus may be sold through a scrap contract, or properly disposed of if no other options exist. The surplus items may be given away to avoid the cost of disposal, giving preference to governmental agencies or non-profit organizations.

- (d) Surplus items with a current value greater than \$50,000 require approval by the City Commission prior to the sale.
- (e) All items shall be sold for cash, payable by certified check, wire transfer, or other means acceptable to the Accounting Division.

**Section 12: Donations of Property**

The Managers may authorize the donation of surplus items whose value does not exceed \$10,000 to a governmental agency after making a determination that such donation is in furtherance of governmental objectives.

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

The Managers may, at their discretion, lend, sell or lease materials, supplies, or tools to non-City entities at no cost or at cost plus overheads. All loans, sales or rentals shall be in accordance with the following criteria when: a) an 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 requires such assistance.