

DIVISION 2. - PROCUREMENT

*Footnotes:**--- (7) ---*

Editor's note— Ord. No. C-17-26, §§ 1, 4, adopted September 6, 2017, repealed the former Div. 2. §§ 2-171—2-199.2, and enacted a new Div. 2 as set out herein. The former Div. 2 pertained to purchasing and derived from Code 1953, §§ 2-40.1, 2-40.2, 2-41, 2-42(a)—(e), 2-45.1—2-45.9, 2-46—2-52, 2-54—2-56, 2-58; Laws of Fla. Ch. 57-1322, § 160; Laws of Fla. Ch. 59-1281, § 14; Laws of Fla. Ch. 61-2166, § 26; Laws of Fla. Ch. 67-1384, § 26; Laws of Fla. Ch. 73-465, § 5; Ord. No. C-78-27, § 1, 2-21-78; Ord. No. C-80-114, § 1, 12-23-80;; Ord. No. C-84-16, § 2, 3-7-84; Ord. No. C-85-27, §§ 1, 2, 3-5-85; Ord. No. C-86-1, § 1, 1-21-86; Ord. No. C-86-69, §§ 1, 2, 9-16-86; Ord. No. C-87-26, §§ 2—7, 3-31-87; Ord. No. C-88-68, § 1, 9-20-88; Ord. No. C-89-85, § 1, 7-18-89; Ord. No. C-89-144, § 1, 12-19-89; Ord. No. C-91-46, § 1, 7-23-91; Ord. No. C-94-11, § 1, 4-5-94; Ord. No. C-98-40, §§ 1—7, 7-21-98; Ord. No. C-00-21, § 1, 4-18-00; Ord. No. C-04-12, § 2, 3-16-04; Ord. No. C-04-18, § 2, 4-7-04; Ord. No. C-06-38, § 1, 11-7-06; Ord. No. C-08-43, § 1, 10-7-08; Ord. No. C-10-41, § 1, 11-16-10; Ord. No. C-11-20, §§ 1—2, 9-7-11; Ord. No. C-12-04, §§ 1—19, 3-20-12; Ord. No. C-13-32, §§ 1, 2, 9-17-13; Ord. No. C-14-07, § 1, 2-4-14; Ord. No. C-14-28, § 1, 8-19-14; Ord. No. C-15-25, § 1, 7-7-15; Ord. No. C-16-19, §§ 1—9, 9-7-16.

Sec. 2-171. - Title.

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

(Ord. No. C-17-26, § 4, 9-6-17)

Sec. 2-172. - Purpose.

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

(5) Foster effective broad-based competition within the free enterprise system; and,

(6) Provide safeguards for the maintenance of a procurement system of quality and integrity.

(Ord. No. C-17-26, § 4, 9-6-17)

Sec. 2-173. - Definition of terms.

Agreement. See *Contract*.

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

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

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

Best interest of the city. A term which grants the city manager or city manager's designee the discretion to take the most advantageous action on behalf of the city.

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

Bid. A formal written price offer by a vendor offering to furnish specific goods or services to the city in response to an invitation to bid.

Business. See *Firm*.

Chief procurement officer (CPO). The procurement and contracts manager, who is the individual in charge of and responsible for centralized procurement for the city, or the procurement and contracts manager's designee.

City manager. The person holding the title of city manager or the city manager's designee.

Competitive solicitation. Competitive procurement via any of the following procurement solicitation methods: invitation to bid, request for

information, request for proposals, request for qualifications, invitation to negotiate, or any other methodology which may be used to competitively select vendors to perform the delivery of goods and services to the city.

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

Consultant. A firm providing professional services for the city.

Consultants' Competitive Negotiation Act (CCNA). F.S. § 287.055, pertaining to the acquisition of architects, engineers, land surveyors, landscape architects, and mapping services.

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

Contractor. Any firm having a contract with the city. Also referred to as a "Vendor".

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

Cooperative procurement. The action taken when two (2) or more public entities combine their requirements to obtain advantages of volume purchases including administrative savings and other benefits; a variety of arrangements whereby two (2) or more public entities purchase from the same supplier or multiple suppliers using a single solicitation. Cooperative procurement efforts may result in contracts that other public entities may "piggyback".

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

Design-build contract. A single contract with a design-build firm for the design and construction of a city construction project.

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

Disadvantaged business enterprise or DBE. A for-profit small business where socially and economically disadvantaged individuals own at least a fifty-one (51) percent interest and also control management and daily business operations as certified by a public entity with a certification program. African Americans, Hispanics, Native Americans, Asian-Pacific and Subcontinent Asian Americans, veterans, and women are presumed to be socially and economically disadvantaged.

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

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

Goods. Anything purchased other than services or real property.

Internal procedures of procurement. Those appropriately promulgated directives having general or particular applicability designed to implement or interpret this article, or describing organization, procedure, processes, or practice requirements as prescribed by the chief procurement officer. Such directives shall be included in the city's Procurement Manual.

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

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

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

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

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

May, should, and can. Means the permissive.

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

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

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

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

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

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

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

Purchase order (PO). A document, including electronic document, by which the city acquires goods and services at a stated price,

specifying all the terms and conditions of a proposed transaction, such as a description of the requested items, delivery schedule, terms of payment, and transportation.

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

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

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

Responsible vendor, bidder, offeror, or respondent. A firm who is fully capable of meeting all requirements of the solicitation and subsequent contract. The respondent must possess the full capability, including financial and technical, ability, business judgment, experience, qualifications, facilities, equipment, integrity, capability, and reliability, in all respects to perform fully the contract requirements and assure good faith performance as determined by the city.

Responsive vendor, bidder, offeror, or respondent. A firm who has submitted a bid, offer, quote, or response which conforms in all material respects to the competitive solicitation document and all of its requirements.

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

Shall, must, and will. Means the imperative.

Small business. A person or firm that is certified as a small business as set forth in the city's Procurement Manual.

Sole source. An item that is the only one (1) that will produce the desired results, or fulfill the specific need, and the item is available from only one (1) source of supply.

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

Supplies. All tangible items purchased or consumed by the city.

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

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

- (a) Purchased without sufficient funds as determined by finance, or
- (b) Splitting orders of the same or like materials/requirements into two (2) or more individual purchases with the intention of circumventing the competitive solicitation requirements.

Vendor or supplier. A supplier of goods or services.

(Ord. No. C-17-26, § 4, 9-6-17; C-17-41, § 1, 11-7-17; Ord. No. C-19-11, §§ 1, 2, 6-4-19; Ord. No. C-20-46, § 9, 1-5-21)

Sec. 2-174. - Applicable laws.

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

(Ord. No. C-17-26, § 4, 9-6-17)

Sec. 2-175. - Requirement of good faith.

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

(Ord. No. C-17-26, § 4, 9-6-17)

Sec. 2-176. - Application and exclusions.

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

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

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

- (b) *Requisition-purchase authorization.* Except in cases of emergency, no request and process of any requisition-purchase authorization (RPA) for any order shall be made if there are insufficient unencumbered funds in the appropriate account to be charged, and the city's shall not pay any RPA when there are insufficient unencumbered appropriation balances, in excess of all unpaid obligations.
- (c) *Prohibition against subdivision.* No contract or purchase shall be subdivided to avoid the requirements of this article and the Procurement Manual.
- (d) *Competitive solicitation and selection.* The competitive solicitation and selection process provisions of this article shall apply to every purchase by the city commission and the departments that are under the control of the city commission, irrespective of their fund source, including state and federal assistance monies and grants, except as otherwise specified in this article, or by federal, state or local laws or grant terms and conditions, or as follows:
- (1) Emergency procurements as defined herein.
 - (2) Sole source and proprietary procurements as defined herein.
 - (3) Real property (land or buildings) purchase, lease or rental.
 - (4) Insurance and insurance-related products.
 - (5) Works of art for public places.

(6) Goods and/or services accepted by the city via grant, gift, or bequest.

(e) *Exclusions.* The mandatory commission approval amount and the competitive solicitation and selection processes set forth in this article shall not apply to the following:

(1) Contracts with, and purchases from, other public entities, i.e.: public state colleges, public state universities, federal government agencies, state governments, county governments, city governments, government school boards, county sheriff's offices, and other government entities.

(2) Utilities, including water, wastewater, sewer, gas, electric, or other utilities as defined by law.

(3) Cable and satellite television services.

(4) Magazine subscriptions, periodicals, and publications.

(5) Membership dues for trade or professional organizations.

(6) Travel and training expenses for employees.

(7) Items purchased for resale.

(8) Advertisement: radio, newspapers, magazines, professional organizations, trade shows, television, and any other related media.

(9) Shipping services, including postage, overnight delivery, and courier services.

(10) Copyrighted materials or patented works, including books, maps, periodicals, testing or instructional materials.

(11) Governmental fees.

(12) Regulatory or government licenses and permits.

(13) Real estate transaction-related costs, including:

a. Closing/processing fees.

b. Abstracts of titles.

c. Title insurance.

(14) Durable medical equipment (DME).

(15) Professional services, including:

- a. Court reporter services.
 - b. Medical services, including wellness activities and pharmacy services.
 - c. Animal services, including veterinary services and the acquisition or training of animals.
 - d. Legal services.
 - e. Expert witnesses.
 - f. Entertainers.
 - g. Teaching, training and specialized services.
 - h. Recreational program instructors.
 - i. Professional services when used by the city in the settlement and administration of workers' compensation and liability claims, such as:
 1. Private investigators and workplace investigators.
 2. Claim adjusting services.
- (16) On-going maintenance and support of existing software/hardware and on-going maintenance, monitoring, and support of existing security software and hardware and alarm software and hardware.
- (17) Purchases of goods or services for which the provisions of this article are waived by the city commission by resolution.
- (18) Direct material purchases. Purchases of materials, equipment, prefabricated elements and components, appliances, fixtures, and other goods, pursuant to a program contained in a construction contract that has been awarded in accordance with any provision of this article, whereby the city makes such purchases directly.
- (19) Services provided by, or in partnership with, institutions of higher learning, not-for-profit organizations, state sponsored institutions, and other governmental and public agencies.
- (20) Purchases from contracts established by local, state, or national cooperative procurement organizations, Federal General Services Administration, and the State of Florida contracts.
- (21) Purchase for services and facilities at hotels, motels, restaurants and similar facilities for city sponsored events.
- (22) Products purchased from the blind, and other severely impaired persons (RESPECT) in accordance with F.S. §§ 413.032, 413.033 and 413.036.

- (23) Products purchased from the Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE), in accordance with F.S. § 946.515.
- (24) Publications from publishers or exclusive distributors of such publications.
- (25) Media such as movies, slides, videos, and similar forms of media.
- (26) Banking, financial custodial, merchant card, and other related services.
- (27) Cemetery merchandise including markers, temporary markers, granite base, inscriptions, vaults, urns, monuments, benches, vases, mausoleum light kits, cameos, and cemetery mausoleums.

(Ord. No. C-17-26, § 4, 9-6-17; Ord. No. C-19-11, §§ 3, 4, 6-4-19; Ord. No. C-20-46, § 9, 1-5-21)

Sec. 2-177. - Administrative authority to issue change orders affecting contracts awarded by the city commission.

- (a) The city manager or the city manager's designee is authorized to issue a change order or multiple change orders increasing the adjusted contract price of any contract awarded by the city commission up to a cumulative maximum amount of ten percent (10%) of the adjusted contract value. For purposes herein, "adjusted contract value" means the original contract value or the contract value resulting from city commission-approved change orders or contract amendments.
- (b) The city manager or the city manager's designee is authorized to issue a change order increasing the value of a contract awarded by the city commission in excess of the amount set forth in (a) of this section where the increase is necessary to effect emergency repairs or replacements, due to exigent circumstances encountered during the performance of the contract, or to prevent increased costs due to reasonable delay claims by the contractor. A full report of change orders exceeding the amount set forth in subsection (a) of this section shall be submitted to the city commission at the earliest available commission meeting.

(Ord. No. C-17-26, § 4, 9-6-17; Ord. No. C-19-11, §§ 3, 4, 6-4-19)

Sec. 2-178. - Organization.

- (a) *Procurement services division.* The procurement services division shall be the organization through which the city will oversee and conduct all of its procurement and contracting for supplies, goods, equipment, contractual services, professional and consultant services, capital improvements and construction or any combination of goods and services.

- (b) *Chief procurement officer.* Subject to the provisions of this article, the chief procurement officer shall serve as the principal officer for the contracting and/or purchase of goods and services. Within the limits of this article, all rights, powers, duties and authority relating to the procurement and contracting of goods and services for the city, including the authority to approve all purchases and sign those agreements, contracts, change orders, and purchase orders for the purchase of goods and services, provided they are in conformance with the Procurement Manual, the law, and all applicable rules and regulations, are vested in the chief procurement officer.
- (c) *Duties, responsibilities, authorizations, and accountabilities.* The chief procurement officer shall have the following duties, responsibilities, authorizations, and accountabilities:
- (1) Administer the centralized procurement and contracting system for the city;
 - (2) Determine conditions and procedures for delegations of procurement authority;
 - (3) Determine the conditions and procedures for the use of source selection methods, including determination of sole source, proprietary and emergency procurements;
 - (4) Maintain a Procurement Manual. Such procedures and processes shall be in compliance with this article, and may not conflict with the thresholds or approval requirements set forth in this article. The Procurement Manual shall define the minimum threshold amounts at which competitive quotes and other competitive solicitations under the mandatory commission approval amount shall be required by the city;
 - (5) Award all competitive solicitations, and execute, on behalf of the city, all contractual agreements, purchase orders, task orders, ancillary documents, and change orders for the purchase of goods or services required by the city of less than the mandatory commission approval amount and as otherwise stipulated in this article;
 - (6) If so delegated by the city manager, sign all contractual agreements, purchase orders, task orders, ancillary documents, and change orders, for the purchase of goods and/or services required on behalf of the city, exceeding the mandatory commission approval amount after award approval by the commission, and as otherwise stipulated in this article;
 - (7) Determine the use and amount of bid security, payment bonds, performance bonds, and other securities in connection with all solicitation documents and contracts for supplies, services, and capital improvements and construction, in accordance with Florida Statutes;
 - (8) For bids or proposals under the mandatory commission amount, reject bids or proposals which are nonresponsive or non-

responsible, including those due to late submittal;

- (9) Negotiate reasonable prices, terms and conditions for any procurement where only one (1) responsive and responsible bid or proposal is received;
- (10) Standardize, to the extent possible, terms and conditions and contractual clauses of all solicitation documents, contracts, and purchase order;
- (11) Make final determinations of the day to day activities and functions for procurement related matters not specifically addressed in this article;
- (12) Renew purchase orders and/or contracts with vendors/contractors originally selected with or without a competitive selection process, provided such renewal is within the scope of the original purchase order or contract;
- (13) In the event additional time is required to prepare and/or award a competitive solicitation, the chief procurement officer shall have the authority to extend an existing contract for the necessary time period with prorated dollar authorization, provided such extension in no event shall exceed two hundred seventy (270) days following the expiration of the contract; and
- (14) To evaluate responses to solicitations and establish evaluation teams as set forth in the Procurement Manual.
- (15) Take all necessary action to further the objectives of the city with regard to the promotion and encouragement of participation in the procurement process by disadvantaged business enterprises.
- (16) Administer the city's DBE program, which includes determining the appropriateness of set-aside solicitations and DBE goals, and promulgating policies and procedures consistent with the provisions of this Division, applicable federal and state laws and regulations, and applicable grant requirements.

(Ord. No. C-17-26, § 4, 9-6-17; Ord. No. C-20-46, § 9, 1-5-21)

Sec. 2-179. - Delegation of authority by CPO to city staff.

The chief procurement officer may delegate rights, powers, and authority vested in the CPO to subordinate procurement services employees, or other city staff, when deemed necessary by the chief procurement officer, provided such staff shall comply with all applicable laws, ordinances, resolutions, rules and procedures established by the city.

(Ord. No. C-17-26, § 4, 9-6-17)

Sec. 2-180. - Purchasing and related transactions.

- (a) Except as otherwise exempted or provided herein, or by state or federal law, the procurement of all goods, supplies, material, equipment, services and combinations of goods and services by or on behalf of the city, including those transactions through which the city shall receive revenue, in an amount equal to or in excess of the mandatory commission approval amount, shall be solicited by a competitive selection process, such as: the competitive sealed bidding (ITB) process, competitive sealed proposal (RFP) process, the request for qualifications (RFQ) process, or the competitive negotiations (ITN) process, or other methods, as determined by the chief procurement officer.
- (b) The use of electronic media, including acceptance of electronic signatures, is authorized consistent with F.S. Ch. 668, as may be amended, for use of such media, when practical or appropriate.
- (c) Evaluation and negotiation teams shall be considered dissolved upon award or rejection by the city for any specific competitive solicitation.
- (d) The city manager is delegated the authority to execute contracts for purchases that have been approved by the city commission.
- (e) The city manager or any of the following city manager's designees, to wit, deputy city manager, assistant city manager, director of finance, or procurement and contracts manager, is delegated the authority to execute contracts for purchases described in subsections 2-176(e) and 2-181(f), containing terms acceptable to the city manager or the city manager's designee, subject to the city attorney's or an assistant city attorney's approval as to form.

(Ord. No. C-17-26, § 4, 9-6-17; Ord. No. C-19-11, § 5, 6-4-19)

Sec. 2-181. - Methods of procurement.

The chief procurement officer shall determine the appropriate method of source selection for each procurement, including but not limited

to the following:

(a) *Competitive sealed bid process.*

- (1) Invitation to bid. The invitation to bid (ITB) solicitation document shall include the specifications and all contractual terms and conditions applicable to the procurement.
- (2) ITBs may include pricing for the life cycle cost of items and shall be awarded to the lowest responsive and responsible bidder, considering all pertinent qualifications of the recommended awardee.

(b) *Competitive sealed proposal process.*

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

(c) *Request for qualifications (RFQ) process.*

- (1) Consultants' Competitive Negotiation Act.
 - a. The services of professional architects, engineers, landscape architect, surveyors, and mapping services shall be acquired in accordance with F.S. § 287.055, and as further delineated in the Procurement Manual.
 - b. Continuing contracts for these services may be solicited and entered into on a rotational basis between at least three (3) firms, in accordance with F.S. § 287.055(2)(g), as may be amended, and as further delineated in the Procurement Manual.
- (2) Competition among qualified proposers. When it is in the city's best interest to choose a qualified provider of professional services other than those encompassed by the Consultants' Competitive Negotiation Act, the City may issue a request for qualifications and thereby attain a pool of qualified providers. Fees are established via a competitive sealed bid process among the qualified providers.

(d) *Competitive negotiations process.*

- (1) When the chief procurement officer determines that the use of competitive negotiations is advantageous to the city, the competitive negotiations process may be used. An invitation to negotiate (ITN) may be the solicitation method.

- (2) The goal of an ITN is to obtain proposals from interested and qualified firms so that the city may enter into negotiations with the firm or firms determined most capable of providing the required supplies and services.
 - (3) The ITN document will supply the firms with information necessary to understand the need; however, the terms, scope of work, price, method of delivery, conditions of performance, and approaches of the project may be open to consideration and negotiations, including simultaneous negotiations with the most qualified firms.
 - (4) ITNs may not be used for procuring professional services addressed by F.S. Ch. 287.055 (CCNA).
- (e) *Request for information process.*
- (1) When it is considered impractical to prepare a purchase description to support an award based on price or detailed scope of work, any competitive solicitation may be preceded by a request for information (RFI) requesting the submission of unpriced submittals, which will provide input for the specifications or scope of work to be included in a subsequent competitive solicitation.

Public notice of a competitive solicitation shall be published on the city's website for a reasonable period prior to bid opening or response due date.

The public notice shall state the place, due date, time for delivery or receipt, and the location of the public acknowledgement of receipt. Bids and responses received after the time and date specified in the solicitation document shall not be opened, but will be reported to the city manager. Only the city manager may authorize the opening of a late bid or proposal.

(f) *Alternative source selection.*

- (1) Small purchases. Any purchase for an amount less than the mandatory commission approval amount shall be made in accordance with those procedures promulgated in the Procurement Manual, provided, however, no purchase shall be artificially divided so as to constitute a small purchase under this section.
- (2) Sole source purchases. The chief procurement officer may make or authorize the procurement of goods and/or services, subject to the mandatory commission approval level stipulated in this article, without competitive solicitation when the director of the client department has documented in writing that such good or service is the only item that meets the need and is available through only one (1) source of supply, or when the intent to award through sole source is posted on the city's website for a reasonable time period, or when a documented research effort by the chief procurement officer or

designee fails to identify further competing sources of the goods or services. Such written determinations and supporting documentation shall be retained by the chief procurement officer for public inspection and auditing purposes. The sole source process shall be further delineated in the Procurement Manual.

- (3) Proprietary purchases. The chief procurement officer may make or authorize the procurement of goods and/or services, subject to the mandatory commission approval level stipulated in this article, without competitive solicitation when the director of the client department has documented in writing that such goods and/or services is proprietary in nature. Such written determination and supporting documentation shall be retained by the chief procurement officer for public inspection and auditing purposes. The proprietary purchase process shall be further delineated in the Procurement Manual.
- (4) Emergency purchases. The city manager and/or designee may make or authorize emergency purchases as defined herein.
 - a. In the event of an emergency, such as an equipment failure, catastrophic damage to city property, or other similar unexpected event, all normal procurement procedures and requirements directly related to such emergency shall be suspended; and with the approval of the city manager or designee, the head of any department may purchase any required emergency supplies, materials, equipment or services. The head of such department shall send to the chief procurement officer, a requisition and copy of the delivery record together with a full justification and circumstances of the emergency.
 - b. Records of emergency purchases shall be maintained by the chief procurement officer. A full report of emergency purchases exceeding the mandatory commission approval amount shall be submitted to the city commission at the earliest available commission meeting.

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

- (5) Cooperative purchases.
 - a. The city may purchase from any cooperative contract, including but not limited to, term contracts by the State of Florida, Federal General Services Administration, and other governmental or public entity and entities within and outside the State of Florida provided that the cooperative contract is established in compliance with the procurement procedures and requirements of the issuing body, entity, authority, or cooperative. If such other governmental or cooperative contract is utilized, the public notice requirements and the need to utilize the methods of selection

processes included in this article and the Procurement Manual are obviated.

- b. The city may purchase from (piggyback) a contract entered into by another governmental or public entity and a provider of supplies or services required by the city, if the chief procurement officer determines that it is practicable and advantageous for the city to employ this method of procurement. If such other governmental or public entity contract is utilized, the public notice requirements and the need to use the methods of selection processes included in this article and the Procurement Manual are obviated.
- c. Other governmental agencies may purchase from the city's contracts.
- d. The cooperative and piggyback procurement processes shall be further delineated in the Procurement Manual.

(6) Design-build services.

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

(7) Capital improvement and construction services. Construction services shall be acquired in accordance with the competitive selection process as determined by the chief procurement officer. Performance bonds and payment bonds shall be as stipulated in F.S. § 255.05, as may be amended. Public notice for competitive solicitations related to construction and capital improvement projects shall be in accordance with F.S. § 255.0525(2), as may be amended. The capital improvement and construction procurement process shall be further delineated in the Procurement Manual.

(8) Construction management and construction management at risk services. The procurement of construction management services shall be made in accordance with the request for proposal or request for qualifications process herein and as further delineated in the Procurement Manual.

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

(10) Job order contracting (JOC). The city may procure services by means of job order contracting. The job order contracting procurement process shall be further delineated in the Procurement Manual.

(Ord. No. C-17-26, § 4, 9-6-17; Ord. No. C-20-46, § 9, 1-5-21)

Sec. 2-182. - Dispute resolution and protests of awards and intents to award.

- (a) *Applicability.* This section shall apply to protests by bidders and proposers when the city manager or a designee recommends a purchase of goods, supplies, equipment, or services valued at or above the minimum competitive selection threshold as defined in the Procurement Manual.
- (b) *Procedure.*
 - (1) Any proposer or bidder who is not recommended for award of a contract and who alleges a failure by the city to follow the city's procurement ordinance or any applicable law may protest to the CPO by delivering a letter of protest to the CPO within five (5) days after a notice of intent to award is posted on the City of Fort Lauderdale's world wide web site. The date the letter of protest is received in the procurement office shall constitute the date of delivery.
 - (2) The calculation of days shall exclude Saturdays, Sundays, federal holidays, and holidays observed by the city.
 - (3) Service of a protest by mail or courier shall not expand the time period allowed for delivery of a protest. In computing any time period prescribed or allowed by this protest policy, the day of the act or event from which the designated time period begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, federal holiday, or holiday observed by the city, in which event the period shall run until the end of the next business day which is neither a Saturday, Sunday, federal holiday, nor a holiday observed by the city.
 - (4) The written protest shall state the specific facts and law or ordinance upon which the protest of the proposed award is based, and shall include all relevant documents and evidence.
 - (5) A written protest may not challenge the relative weight of evaluation criteria or a formula for assigning points.
 - (6) The letter of protest must be accompanied by a non-refundable protest application fee in an amount equal to one percent (1%) of the protestor's bid or five thousand dollars (\$5,000.00), whichever is less.
 - (7)

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

(c) *Authority to resolve protests.*

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

(d) *Timely submittal of a protest or appeal required.* Failure of a party to submit timely a written protest to the CPO within the time provided in this section shall constitute a waiver of such party's right to protest pursuant to this section.

(e) *Costs.* Any and all costs incurred by a protesting party in connection with a protest pursuant to this section shall be the sole responsibility of the protesting party.

(Ord. No. C-17-26, § 4, 9-6-17; Ord. No. C-19-11, § 6, 6-4-19)

Sec. 2-182.1. - Protests of solicitations.

(a) *Applicability.* This section shall apply to protests of specifications contained in solicitations for the purchase of goods, supplies, equipment, or services.

(b) *Procedure.*

- (1) Any person may protest the specifications contained in a solicitation issued by the city by delivering a letter of specification protest to the CPO between the date of the electronic release of the solicitation and five (5) days prior to the date the bids or proposals are due, excluding Saturdays, Sundays, and holidays observed by the city. The date on which the letter of protest is

received in the office of the CPO shall constitute the date of delivery.

- (2) The written protest shall state with particularity the specific facts and any law or ordinance on which it is based, and shall include any and all pertinent documents and evidence.

(c) *Authority to resolve protests.*

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

(d) *Timely submittal of a protest or appeal required.* Failure of a person to submit timely a written protest or a notice of appeal to the CPO within the time provided in this section shall constitute a waiver of such person's right to do so.

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

(f) *Costs.* Any and all costs incurred by a protesting party in connection with a protest pursuant to this section shall be the sole responsibility of the protesting party.

(Ord. No. C-19-11, § 7, 6-4-19)

Sec. 2-183. - Suspension and debarment.

- (a) *Authority.* The chief procurement officer may suspend or debar, for cause, the right of a vendor to be included on a vendor database, and prohibit such vendor to bid or propose on any city competitive solicitation, and any bid or response from that vendor shall be rejected; provided however, the commission shall have the power to waive or lift such suspension or debarment.
- (b) *Suspension.* A vendor may be suspended for a period not to exceed two (2) years as determined by the chief procurement officer and approved by the city manager based upon the following:
 - (1) Vendor has terminated, defaulted, failed to perform, or failed to fully comply with the conditions, time frames, performance, specifications, drawings, or terms of a contract with the city; or
 - (2) Vendor commits any fraud or misrepresentation in connection with any competitive solicitation or contract with the city; or
 - (3) Vendor or its officer(s) is charged by a court of competent jurisdiction with a criminal offense in an incident related to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract; or
 - (4) Vendor is charged by a court of competent jurisdiction with any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which is determined to currently, seriously, or directly affects responsibility as a city government contractor. If charges are dismissed or the vendor found not guilty, the suspension shall be lifted upon written notification and proof of final court disposition provided by the vendor to city; or
 - (5) Vendor becomes insolvent, has proceedings in bankruptcy instituted or, compounds its debts, or assigns over its estate or effects for payment thereof, or has a receiver or trustee appointed over its property; or
 - (6) Vendor violates the ethical standards set forth in local, state or federal law; or
 - (7) Vendor fails to comply with the local business preference or M/WBE participation requirements of an awarded contract; or
 - (8) Any other cause the chief procurement officer determines to be so serious and compelling as to materially and adversely affect responsibility of a business as a city contractor, including but not limited to suspension.
- (c) *Debarment.* A vendor may be permanently debarred for the following:
 - (1) Termination, default, failure to perform, or fully comply with the conditions, time frames, performance, specifications, drawings, or terms of a contract with the city two (2) times within any ten (10) year period; or
 - (2) Conviction by, or judgment obtained, in a court of competent jurisdiction for those offenses in connection with the vendor's

commercial enterprise stated in section 2-183(b)(3) of this article. If the conviction or judgment is reversed through the appellate process, the debarment shall be removed upon written notification and proof of final court disposition; or

(3) Conviction of a public entity crime as defined by F.S. § 287.133, shall result in debarment to transact business with the city.

(4) Debarment of any vendor shall require city commission approval.

(d) *Process.* After the chief procurement officer has determined there is cause to suspend or debar a vendor, and the city manager has approved the recommended suspension or debarment, the CPO shall notify the vendor in writing of the debarment or the period of suspension and the reasons for the action taken. The suspension or debarment shall be final and conclusive unless the suspended or debarred vendor initiates written protest proceedings pursuant to this article within five (5) business days after the date of notification.

(Ord. No. C-17-26, § 4, 9-6-17)

Sec. 2-184. - Inspection and tests.

(a) The chief procurement officer or designee may inspect, or arrange for the inspection of all deliveries of supplies, materials, equipment or contractual services to determine conformance with specifications or the scope of work set forth in the purchase order or contract.

(b) Any client department which has the staff and facilities for adequate inspection may be authorized by the chief procurement officer or designee to inspect deliveries.

(c) The chief procurement officer or designee shall have the authority to require chemical and/or physical tests or samples submitted with competitive solicitations and demonstrations of items or services which are necessary to determine their quality and conformance with the specifications. For such tests, the chief procurement officer shall have the authority to make use of laboratory facilities of an agency of the city or any outside laboratory. Should the product fail such testing, the city may require the vendor to pay the city for any expense incurred in testing, and/or the chief procurement officer may initiate suspension or debarment proceedings as appropriate.

(Ord. No. C-17-26, § 4, 9-6-17)

Sec. 2-185. - Equal opportunity for disadvantaged business enterprises.

- (a) The city shall use its best efforts to ensure that disadvantaged business enterprises have an equitable opportunity to participate in the city's procurement process, and that no firm shall be excluded from participation in, denied benefits of, or otherwise discriminated against in connection with the award and performance of any contracts with the city on the grounds of race, color, national origin, gender, gender identity or expression, disability, religion, or sexual orientation.
- (b) The city, in accordance with the provisions of Title VII of the Civil rights Act of 1964, as amended, the Florida Civil Rights Act of 1992, as amended, and other federal, state, and county discrimination statutes, prohibits discrimination on the basis of race, color, gender, gender identity or expression, age, national origin, religion, disability or sexual orientation.
- (c) The city strongly supports disadvantaged firms having full opportunity to submit bids and proposals in response to solicitation documents issued by the city and commits that bidders and proposers will not be discriminated against on the basis of gender, gender identity or expression, race, color, national origin, religion, disability, sexual orientation or other protected status.
- (d) Disadvantaged business enterprise preference program
 - (1) Definitions
 - a. The term "disadvantaged class 1 enterprise" shall mean any disadvantaged business enterprise that has established and agrees to maintain a permanent place of business located in a non-residential zone, staffed with full-time employees within the limits of the city, and provides supporting documentation of its City of Fort Lauderdale business tax and disadvantaged certification as established in the city's Procurement Manual.
 - b. The term "disadvantaged class 2 enterprise" shall mean any disadvantaged business enterprise that has established and agrees to maintain a permanent place of business within the limits of the city with a full-time employees and provides supporting documentation of its City of Fort Lauderdale business tax and disadvantaged certification as established in the city's Procurement Manual.
 - c. The term "disadvantaged class 3 enterprise" shall mean any disadvantaged business enterprise that has established and agrees to maintain a permanent place of business located in a non-residential zone, staffed with full-time employees within the limits of the Tri-County area and provides supporting documentation of its City of Fort Lauderdale business tax and disadvantaged certification as established in the City's Procurement Manual.
 - d. The term "disadvantaged class 4 enterprise" shall mean any disadvantaged business enterprise that does not qualify as a Class A, Class B, or Class C business, but is located in the State of Florida and provides supporting documentation of its

disadvantaged certification as established in the City's Procurement Manual.

(2) Conditions. Notwithstanding subsection (1) above:

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

(3) Preference. For those purchases of goods and services in excess of the mandatory commission approval amount via competitive solicitation, after completion of the final ranking, local vendors shall receive the following preferences:

- a. Disadvantaged Class 1 enterprise: ten (10) percent preference;
- b. Disadvantaged Class 2 enterprise: seven and one-half (7.5) percent preference;
- c. Disadvantaged Class 3 enterprise: five (5) percent preference;
- d. Disadvantaged Class 4 enterprise: two (2) percent preference;

(4) Exceptions.

- a. Notwithstanding anything contained in this section to the contrary, the disadvantaged business enterprise preference provided for in this section shall not be applied in any one (1) or more of the following circumstances:
 - i. The business submits a proposal that exceeds the projected budget cost;
 - ii. The price proposed or bid is in excess of one million dollars (\$1,000,000);
 - iii. State or federal law or applicable county ordinance prohibits the use of local preferences;
 - iv. The work is funded in whole or in part by a governmental entity, and laws, rules, regulations, grant, or policies prohibit the use of local preferences;
 - v. Emergency purchases;

- vi. Sole source purchases;
 - vii. Cooperative purchasing agreements or use of other agency contracts;
 - viii. The city's chief procurement officer or commission has determined that the business is unqualified to perform the work.
- b. Notwithstanding anything contained in this section to the contrary, DBE preference, when combined with local business preference, shall not exceed ten (10) percent.

(Ord. No. C-17-26, § 4, 9-6-17; Ord. No. C-20-46, § 9, 1-5-21)

Sec. 2-186. - Local business preference.

(a) *Definitions.*

- (1) The term "Class A business" shall mean any business that has established and agrees to maintain a permanent place of business located in a non-residential zone, staffed with full-time employees within the limits of the city, and shall maintain a staffing level for the proposed work of at least fifty percent (50%) who are residents of the City of Fort Lauderdale.
- (2) The term "Class B business" shall mean any business that has established and agrees to maintain a permanent place of business located in a non-residential zone, staffed with full-time employees within the limits of the city, or shall maintain a staffing level for the proposed work of at least fifty percent (50%) who are residents of the City of Fort Lauderdale.
- (3) The term "Class C business" shall mean any business that has established and agrees to maintain a permanent place of business located in a non-residential zone, staffed with full-time employees within the limits of Broward County.
- (4) The term "Class D business" shall mean any business that does not qualify as a Class A, Class B, or Class C business.

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

- (1) A business can only qualify for one (1) class preference level.
- (2) A business with outstanding liens, fines or violations with the city shall not be eligible to qualify for Class A, Class B, or Class C status.
- (3) A business that operates through the use of a post office box, mail house or a residential/home address shall not be eligible to qualify as either a Class A or Class B business, with respect to the business's location.

- (4) A business may receive a conditional classification as a Class A or Class B business if that business certifies in writing to the city that it will meet the requirements of the specific class within three (3) months of entering into a contract with the city.
- (c) *Preference.* For those purchases of goods and services in excess of the mandatory commission approval amount via competitive solicitation, after completion of the final ranking, local vendors shall receive the following preferences:
- (1) Class A business. Ten percent (10%) preference;
 - (2) Class B business. Seven and one-half percent (7.5%) preference;
 - (3) Class C business. Five percent (5%) preference.
- (d) *Exceptions.*
- (1) Notwithstanding anything contained in this section to the contrary, the local preference provided for in this section shall not be applied in any one (1) or more of the following circumstances:
 - a. The business submits a proposal that exceeds the projected budget cost;
 - b. The price proposed or bid is in excess of one million dollars (\$1,000,000.00);
 - c. State or federal law or applicable county ordinance prohibits the use of local preferences;
 - d. The work is funded in whole or in part by a governmental entity, and laws, rules, regulations, grant, or policies prohibit the use of local preferences;
 - e. Emergency purchases;
 - f. Sole source purchases;
 - g. Cooperative purchasing agreements or use of other agency contracts;
 - h. The city's chief procurement officer or commission has determined that the business is unqualified to perform the work.
 - (2) Notwithstanding anything contained in this section to the contrary, local preference when combined with DBE preference, shall not exceed ten (10) percent.

(Ord. No. C-17-26, § 4, 9-6-17; Ord. No. C-19-11, § 8, 6-4-19; Ord. No. C-20-46, § 9, 1-5-21)

Sec. 2-187. - Non-discrimination by city contractors.

- (a) Contractors doing business with the city shall not discriminate against their employees based on the employee's race, color, religion, gender, gender identity, gender expression, marital status, sexual orientation, national origin, age, disability or any other protected classification as defined by applicable law.
- (b) Except as otherwise provided by state or federal law or by grant agreement, the city will enter into contracts for the purchase of goods or services exceeding one hundred thousand dollars (\$100,000.00) only with vendors that offer the same health benefits to the domestic partners of their employees as are offered their employees' spouses or that offer their employees the cash equivalent of such health benefits because the vendor is unable to provide health benefits to employees' domestic partners.
 - (1) For the purpose of this section, the term "domestic partner" is defined as an unmarried natural person who is at least eighteen years of age who is not a party to an incestuous relationship, including those described in F.S. § 741.21, (2018), as may be amended or revised, and who shares a residence with the vendor's employee as evidenced by (i) the same residential address on a valid driver license or state identification card; or (ii) joint ownership of Florida homestead property as joint tenants with right of survivorship with both owners having been granted a homestead exemption on that property, or the equivalent under the laws of another state or territory of the United States; or (iii) joint ownership of Florida homestead property as tenants in common with both owners having been granted a homestead exemption on that property or the equivalent under the laws of another state or territory of the United States; or (iv) a lease showing the domestic partners as co-lessee residents of residential real property.
 - (2) For the purpose of this section, the term "cash equivalent" is defined as the amount of money paid to an employee with a domestic partner rather than providing benefits to the employee's domestic partner. The cash equivalent is equal to the employer's direct expense of providing benefits to an employee's spouse.
- (c) *Contracts.* Every contract exceeding one hundred thousand dollars (\$100,000.00), or in the case of a term contract, exceeding one hundred thousand dollars (\$100,000.00) per term, not otherwise exempt from this section shall contain language that obligates the contractor to comply with the applicable provisions of this section. The contract shall include provisions for the following:
 - (i) The contractor certifies and represents that it will comply with this section during the entire term of the contract.
 - (ii) The failure of the contractor to comply with this section shall be deemed to be a material breach of the contract, entitling the city to pursue any remedy stated below or any remedy provided under applicable law.
 - (iii) The city may terminate the contract if the contractor fails to comply with this section.

- (iv) The city may retain all monies due or to become due until the contractor complies with this section.
- (v) The contractor may be subject to debarment or suspension proceedings. Such proceedings will be consistent with the procedures in section 2-183 of this code.
- (d) The chief procurement officer may waive the provisions of subsection (b) and subsection (c) to the extent subsection (c) requires domestic partner parity contract language, for purchases enumerated in subsection 2-176(e).
- (e) The city commission may waive by resolution the provisions of subsection (b) and subsection (c) to the extent subsection (c) requires domestic partner parity contract language, upon a finding by the city commission that it would be in the city's best interest to do so.

(Ord. No. C-17-26, § 4, 9-6-17; Ord. No. C-18-33, § 1, 10-23-18)

Sec. 2-188. - Ethics, standards of conduct and conflict of interest.

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

(Ord. No. C-17-26, § 4, 9-6-17)