

CITY OF MAITLAND, FLORIDA



PURCHASING POLICY

Policy Administration:

Finance Department

“There is hardly anything in the world that some man cannot make a little worse and sell a little cheaper, and the people who consider price only are this man’s lawful prey.

“It is unwise to pay too much, but it is worse to pay too little.

“When you pay too much, you lose a little money. That is all.

“When you pay too little, you sometimes lose everything, because the thing you bought was incapable of doing the thing it was bought to do.

“The common law of business balance prohibits paying a little and getting a lot. It cannot be done.

“If you deal with the lowest bidder, it is well to add something for the risk you run. And if you do that, you will have enough to pay for something better.”

Thomas Ruskin

1819-1900

THE CITY OF MAITLAND, FLORIDA PLEDGES...

- To comply with all applicable federal and state laws and regulations related to the procurement of goods and services.
- To obtain and purchase all goods and services at the lowest possible *total end-use cost*, considering the guidelines of price, service, quality and delivery.
- To afford all bidders and proposers an equal opportunity to quote and compete on equal terms.
- To initiate and maintain effective and professional, public, vendor and agency relationships.
- To provide for the purchase of materials, supplies, and services, with the objective that they will be available at the proper time, in the proper place, in quantity, quality and price consistent with the needs of the City.
- To buy from suppliers who maintain adequate financial strength, high ethical standards, a record of adhering to specifications, and who will maintain integrity in terms, delivery, and a full measure of service.
- To question the quality and types of materials requested in order that the best interests of the City may be served.
- To avoid becoming obligated to any supplier or to engage in any City transaction from which personal benefit may be directly or indirectly derived.

CITY OF MAITLAND, FLORIDA
PURCHASING POLICY
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SECTION 1 – DEFINITIONS

As used throughout this Purchasing Policy, the words and terms defined in this section shall have the meanings set forth below unless the context in which they are used clearly requires a different meaning or a different definition as prescribed for a particular section or portion thereof. For words and terms not specifically defined in this section the definitions specified in Florida Statutes Chapter 287, as amended from time to time, shall apply.

1. **BID BOND** – A form of bid security executed by the bidder as principal and by a surety to guarantee that the bidder will enter into the contract within a specified time and furnish any required performance bond.
2. **BID DEPOSIT** – A sum of money or certified/cashier's check deposited by a bidder to guarantee that the bidder will enter into the contract within a specified time and furnish any required performance bond.
3. **BUSINESS** – Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or any other legal entity through which business is conducted.
4. **BUSINESS DAY** – Any day the City Hall offices of the City are open for normal business.
5. **CITY** – The City of Maitland, Florida and shall include the City Council, any department, board, committee, institution, agency or other establishment or official of the government of the City.
6. **COMMODITY** – Any of the various supplies, materials, goods, merchandise, food, equipment, and other personal property acquired by the City for any public purpose.
7. **COMPETITIVE SEALED BIDS or COMPETITIVE SEALED PROPOSALS** – Receipt of two or more sealed bids or proposals submitted by responsive and qualified bidders or offerors and may include bids or proposals transmitted by electronic means in lieu of or in addition to written bids or proposals as may be specified or required in the invitation to bid or request for proposals.
8. **CONFIDENTIAL INFORMATION** – Any information which is available to a person only because of said person's status as an employee of the City and which is not a matter of public knowledge or available to the public upon request.
9. **CONSTRUCTION** – The process of building or demolishing any structure, building, roadway, or other improvements of any kind to any real property. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.
10. **CONTINUING CONTRACT** – A contract for professional services entered into in accordance with this Policy between the City and a firm whereby the firm provides professional services to the City for projects in which construction costs do not exceed \$500,000, for study activity when the fee for such professional service does not exceed

\$25,000, or for work of a specified nature as outlined in the contract required by the City, with no time limitation except that the contract must provide a termination clause.

11. **CONTRACT** – All types of City agreements, regardless of what they may be called, for the purchase or disposal of supplies or services. It includes contracts for a fixed price, cost, cost plus a fixed fee, or incentive contracts; design-build contracts; contracts providing for the issuance of job or task orders; leases; letter contracts; and, purchase orders. It also includes supplemental agreements with respect to any of the foregoing.
12. **CONTRACTOR** – Any person having a contract with the City.
13. **COOPERATIVE PURCHASING** – Procurement conducted by or on behalf of more than one public procurement entity.
14. **DATA** – Recorded information regardless of form or characteristic.
15. **DEBARMENT** – Disqualification of a person to receive invitations for bids or requests for proposals or the award of contracts by the City for a specified period of time commensurate with the gravity of the offense or the failure or inadequacy of performance.
16. **DESIGN-BUILD FIRM** – A partnership, corporation, or other legal entity that:
 - Is certified under F.S. 489.119 to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or
 - Is certified under F.S. 471.023 to practice or to offer to practice engineering; certified under F.S. 489.219 to practice or to offer to practice architecture; or certified under F.S. 481.319 to practice or to offer to practice landscape architecture.
17. **DESIGN-BUILD CONTRACT** – A single contract with a design-build firm for the design and construction of a City construction project.
18. **DESIGN CRITERIA PACKAGE** – Concise, performance-oriented drawings or specifications of a City construction project the purpose of which is to furnish sufficient information to permit design-build firms to prepare a bid or a response to a City request for proposal or to enter into a negotiated design-build contract. The package must specify performance-based criteria for the City construction project, including the legal description of the site, survey information, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements any or all as they may be applicable to the project.
19. **DESIGN CRITERIA PROFESSIONAL** – A firm holding a current certificate of registration under F.S. 481 to practice architecture or landscape architecture or a firm who holds a current certificate as a registered engineer under F.S. Chapter 471 to practice

engineering and who is employed by or under contract to the City for the providing of professional architect services, landscape architect services, or engineering services in connection with the preparation of the design criteria package.

20. **DESIGNEE** – A duly authorized representative of a person holding a superior position.
21. **DIRECTOR** – The Director of Finance and head of purchasing and materials management for the City.
22. **EXCEPTIONAL PURCHASE** – Any purchase of commodities or contractual services excepted by law or this Policy from the requirements for competitive solicitation or acquisition, including but not limited to, purchases from a single source; purchases upon receipt of less than two responsive quotes, bids or proposals; and exceptions granted by the City Manager upon receipt of written justification from the requesting department.
23. **EXCESS SUPPLIES** – Supplies having a remaining useful life, but which are no longer required by the using agency in possession of said supplies.
24. **FINANCIAL INTEREST** –
 - Ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the last year has received or is presently or in the future may receive any financial benefit.
 - Ownership of any interest in any business except publicly held stock.
 - Holding a position in a business, such as an officer, director, trustee, partner, employee or similar position or holding any position of management.
24. **INVITATION TO BID** – All documents including those attached or incorporated by reference utilized for soliciting bids. Invitations to bid will be used when the City is capable of specifically defining the scope of work for which a contractual service is required or when the City is capable of establishing precise specifications defining the actual commodity or group of commodities required. A written invitation to bid includes a solicitation published and/or transmitted by electronic means.
25. **PERFORMANCE BOND** – A bond of a contractor/vendor in which a surety guarantees to the City that the work/services will be performed in accordance with the contract documents and may, in the discretion of the City, include a letter of credit issued by a financial institution both of which must be acceptable to the City.
26. **PERSON** – Any business, individual, union, committee, club or other organization or group of individuals.
27. **PRE-QUALIFIED CONTRACTORS** – Bona fide licensed construction contractors selected through a competitive sealed proposal selection process to later provide construction

or construction related services on a project-by-project basis for no less than a 12-month period and no more than a 36-month period.

28. **PROCUREMENT** – Buying, purchasing, renting, leasing, or otherwise obtaining any supplies, services, construction or any other item(s). It also includes all functions that pertain to the obtaining of any supplies, services, construction or any other item(s), including description of requirements, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration.
29. **PROCUREMENT OFFICER** – The Director of Finance and any other person in the City duly authorized to enter into and administer contracts and make written determinations with respect thereto.
30. **PROFESSIONAL SERVICES** – Services within the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of Florida or those so performed in connection with said professional employment or practice. All such services are subject to procurement under F.S. 287.055 known as the “Consultants’ Competitive Negotiation Act.”
31. **PROJECT** – A fixed capital outlay study or planning activity
32. **PURCHASING CATEGORIES** – The following purchase categories are hereby created:
 - **CATEGORY ONE** – Single item purchases of commodities or contractual services less than \$1,000 or total such purchases less than \$5,000.
 - **CATEGORY TWO** – Single item purchases of commodities or contractual services exceeding \$999.99 but less than \$25,000 or total such purchases exceeding \$4,999.99 but less than \$25,000.
 - **CATEGORY THREE** – Single item purchases of commodities or contractual services or total such purchases of \$25,000 or more.
 - **CATEGORY FOUR** – Single contracted construction projects with an estimated basic contract cost of less than \$75,000.
 - **CATEGORY FIVE** - Single contracted construction projects with an estimated basic contract cost of \$75,000 or more.
33. **REQUEST FOR PROPOSALS** – All documents including those attached or incorporated by reference utilized for soliciting proposals. A written solicitation includes a solicitation published and/or transmitted by electronic means. A request for proposals is to be used when the City is incapable of specifically defining the scope of work for which the commodity, group of commodities, or contractual service is required and when the City is requesting that a qualified offeror propose a commodity, group of commodities, or contractual service to meet the specifications of the solicitation document. Requests for proposals shall state the

relative importance of price and any other evaluation criteria but need not do so in any rank order.

34. **REQUEST FOR QUALIFICATIONS** – All documents including those attached or incorporated by reference utilized for soliciting qualifications from potential vendors/suppliers.
35. **RESPONSIBLE BIDDER OR PROPOSER** – A person who has the required qualifications and the capability in all respects to perform fully the contract requirements and the integrity and reliability, which will assure good faith performance.
36. **RESPONSIVE BIDDER OR PROPOSER** – A person who has submitted a bid or proposal which conforms in all material respects to the invitation to bid or request for proposals or qualifications and which is submitted on the correct forms with all required information, signatures and notarizations.
37. **SELECTION TEAM** – At least three employees having experience and knowledge in the specific area shall be appointed by the City Manager to evaluate all proposals or bids received through a competitive process. In certain cases, the City Council may appoint elected officials or members of the community to serve on a selection team.
38. **SERVICES** – The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term includes “Professional Services”, except professional architectural, engineering, landscape architectural, and land surveying services but does not include employment agreements or collective bargaining agreements.
39. **SPECIFICATIONS** – Any description of the physical or functional characteristics, or of the nature of a supply or service item. It may include a description of any requirement for inspection, testing, or preparing a supply or service item for delivery.
40. **SURETY** – An organization which, for a consideration, promises in writing to make good the debt or default of another. The surety must hold a certificate of authority as an acceptable surety on federal bonds as published in the current Circular 570, U.S. Department of the Treasury, and the Federal Register effective July 1 annually, as amended.
41. **SURPLUS PROPERTY** – Any supplies, vehicles, equipment, or other personal property no longer having any use to the City. This includes obsolete supplies or equipment, scrap materials, and non-expendable supplies that have completed their useful life cycle and those items turned over by the Maitland Police Department for disposition.
42. **SUSPENSION** – The disqualification of a person to receive invitations to bid or requests for proposals/qualifications or the award of a contract by the City for a given period.
43. **USING AGENCY** – Any department, board, committee, institution, authority or other establishment or official of the City, which utilizes any supplies, services, or any other item procured under this Policy.

SECTION 2 – PURPOSES, RULES OF CONSTRUCTION, INTERPRETATION

This Policy shall be liberally construed and applied to promote its underlying purposes and policies and:

1. To simplify and clarify the law, rules, guidelines and procedures governing procurement by the City.
2. To make as consistent as possible the procurement laws among the various departments and agencies of the City.
3. To provide for increased public confidence in the procedures used in public procurement.
4. To secure the advantages of a centralized procurement and materials management process when indicated and considered appropriate.
5. To insure fair and equitable treatment to all who deal with the procurement system of the City.
6. To provide increased economy and to maximize to the fullest extent practical, the purchasing value of public funds of the City.
7. To promote effective broad based competition within the free enterprise system.
8. To provide adequate internal safeguards for the maintenance of a quality procurement system.
9. To permit the continued development of procurement policies and practices.

SECTION 3 – SUPPLEMENTARY GENERAL PRINCIPLES OF LAWS APPLICABLE

Unless specifically displaced by particular provisions of this Policy, the principles of law and equity, the Uniform Commercial Code, the Law Merchant, and the law relative to capacity to contract, principal and agent, fraud, misrepresentation, duress, coercion, mistake or bankruptcy shall supplement the provisions of this Policy.

SECTION 4 – REQUIREMENT OF GOOD FAITH; BACKGROUND INVESTIGATION

This Policy requires all parties involved in the bidding, proposing, negotiation, performance, or administration of City contracts to act in good faith. As part of the evaluation process, the City may conduct a background investigation, including a record check by the Maitland Police Department, of bidders and proposers. Submission of a bid or proposal constitutes acknowledgment of this process and consent to such investigation.

SECTION 5 – APPLICATION

This Policy applies only to contracts solicited or entered into after the effective date of this Policy. Unless exempted in accordance with Section 9 of this Policy or by specific action by the Maitland City Council, this Policy shall apply to all expenditures of public funds by the City.

SECTION 6 – CONSTRUCTION AGAINST IMPLICIT REPEALER

This Policy is intended to provide uniform coverage of its subject matter. No part of the Policy shall be deemed to be impliedly repealed by subsequent legislation, if such construction of the subsequent legislation can be reasonably avoided.

SECTION 7 – AUTHORITY OF THE CITY MANAGER AND THE DIRECTOR OF FINANCE

1. **PRINCIPAL CONTRACTING OFFICER** – The City Manager, or lawful designee, shall have the authority to award contracts for any lawfully budgeted construction project or service with a dollar amount up to and including \$25,000. Contracts in excess of said amount shall be presented to the City Council for final award. The City Manager shall have the authority to sell, trade, donate, destroy, transfer or otherwise dispose of surplus supplies or other personal property regardless of dollar amount with records of such dispositions maintained in the Finance Department. The City Manager shall also have the authority to participate in cooperative purchasing when such is deemed to be in the best interests of the City.
2. **PROCEDURE** – Subject to review and approval by the City Manager, the Director of Finance shall promulgate operational procedures outlining forms and procedures to be utilized by the various Using Agencies.
3. **DUTIES** – Except as otherwise specifically provided in this Policy, the Director of Finance or his/her designee shall:
 - Procure or supervise the procurement of all supplies, services, or other items as needed by the City except as otherwise provided in this Policy.
 - Administer the policies related to supervision and control over inventories of supplies belonging to the City.
 - Sell, trade, donate, destroy, transfer or otherwise dispose of surplus personal property belonging to the City.
 - Establish and maintain programs for the inspection, testing and acceptance of supplies, services, etc.
 - Establish and maintain a program for the development and usage of standard specifications for common use supplies and services.

- Determine the lowest or highest responsible and responsive bidder/proposer, as the case may be.

SECTION 8 – DELEGATION OF AUTHORITY

Subject to policy approval by the City Council, the City Manager and/or the Director of Finance may, as needed, delegate authority to designees, departments, agencies, or officials as deemed appropriate in the individual circumstances.

SECTION 9 – EXEMPTIONS

Unless otherwise ordered by policy, the following supplies/services shall not be procured in accordance with the requirements of this Policy.

- Auto allowance
- Collective bargaining agreements
- Debt service requirements
- Donations
- Dues
- Land purchases or leases
- Legal advertising
- Pensions and other retirement plans
- Public art
- Salaries
- Sales of City-owned real estate (land, buildings, and infrastructure)
- Taxes
- Travel expenses
- Utilities (including but not limited to telephonic, cable, electricity, water, etc.)

SECTION 10 – APPEAL OF CITY MANAGER DECISION

1. Any actual or prospective bidder, proposer, offeror or contractor who is aggrieved in connection with a solicitation or award of a bid or contract may protest to the City Manager within seven (7) business days after such aggrieved person knows or should have known of facts giving rise thereto. Said protest shall be in writing and shall state with specificity the grounds therefore and also the action requested of the City Manager.
2. The City Manager shall attempt to settle or resolve protests, with or without a hearing at the option of the City Manager. The City Manager shall render a decision, in writing, within seven (7) business days following receipt of the protest.
3. Any person aggrieved by the decision of the City Manager may appeal to the City Council within seven (7) business days from the date of the City Manager's written decision. Said appeal shall be in writing and shall state with specificity the grounds therefore and also the action requested by the City Council. All appeals filed under this subsection shall be placed on the City Council agenda at the next available regularly scheduled meeting. All decisions of the City Council shall be final, considered conclusive, and shall represent the position of the City.
4. Timely filing of the protest and/or appeal is jurisdictional.
5. In the event of a timely protest and/or appeal, the City shall not proceed further with the solicitation or with the award of the bid/contract unless the City Manager, after consultation with the department head of the Using Agency, forwards to the City Council a written request to award the bid/contract without delay in order to protect the public health, safety or welfare and the City Council approves said request.

SECTION 11 – METHODS OF SOURCE SELECTION

1. It is the intent of this Policy that the City obtains the highest quality commodities and services at the best possible cost. Therefore, ***the City is not precluded from acquiring goods and services at amounts more than the lowest bid or proposed amount.*** Each agency head shall submit written justification *prior to* **CATEGORY TWO** purchases or award of contract for **CATEGORY THREE, CATEGORY FOUR, and CATEGORY FIVE** purchases/contracts when any commodity, service, or construction contract is recommended for purchase/award at other than the lowest bid or proposed amount.
2. ***Procurement of commodities and services under this Policy shall not occur prior to the execution and approval of an official City purchase order.*** Purchase orders are not required for any purchases made through valid City owned credit or electronic procurement cards. The use of blanket purchase orders for common, frequently used items that are obtained from the same vendor is strongly encouraged.

3. For purposes of this Policy, **CATEGORY ONE** purchases are single item purchases of commodities or services less than \$1,000 or total such purchases less than \$5,000. Obtaining price quotes for **CATEGORY ONE** purchases is encouraged but not required under this Policy. *The intentional splitting of purchases in order to fall under this purchasing category is specifically prohibited.*
4. For single item purchases of commodities or services of \$1,000 but less than \$25,000 or for total such purchases of \$5,000 but less than \$25,000 no less than three quotes shall be obtained from bona fide firms *prior to purchase authorization*. For purposes of this Policy, these are considered **CATEGORY TWO** purchases. *The intentional splitting of purchases in order to fall under this purchasing category is specifically prohibited.*
5. All purchases of commodities or services equal to or exceeding \$25,000 are considered **CATEGORY THREE** purchases and shall be made by competitive procedures except:
 - Where authorized by law or ordinance.
 - As specifically provided in Sections 18 through 20 of this Policy.
 - Where, for good cause shown and in the best interests of the City, the City Manager authorizes the procurement of goods or services without strict compliance with the provisions of this Policy in order to best serve the general public health, safety and welfare.
6. All contracted construction projects with an estimated basic contract cost of less than \$75,000 are considered **CATEGORY FOUR** purchases. For all such contracts awarded no less than three quotes shall be obtained from pre-qualified construction firms. If quotes can not be obtained from at least three pre-qualified construction firms, no less than five quotes shall be obtained from either non pre-qualified firms or a combination of non qualified firms and pre-qualified firms *prior to purchase authorization or recommendation for award*.

The City Manager is authorized to award contracts for **CATEGORY FOUR** purchases of \$25,000 or less. The City Council shall award contracts for **CATEGORY FOUR** purchases greater than \$25,000. *The intentional splitting of construction projects in order to fall under this purchasing category is specifically prohibited.* For purposes of this Policy, these requirements do not apply in the following circumstances.

- Where authorized by law or ordinance.
- As specifically provided in Sections 18 through 20 of this Policy.
- Where, for good cause shown and in the best interests of the City, the City Manager authorizes the procurement of goods or services without strict compliance with the provisions of this Policy in order to best serve the general public health, safety and welfare.

7. All contracted construction projects with an estimated basic contract cost of \$75,000 or more are considered **CATEGORY FIVE** purchases and shall be made by competitive bid or design-build procedures except:
- Where authorized by law or ordinance.
 - As specifically provided in Sections 18 through 20 of this Policy.
 - Where, for good cause shown and in the best interests of the City, the City Manager authorizes the procurement of goods or services without strict compliance with the provisions of this Policy in order to best serve the general public health, safety and welfare.

The intentional splitting of construction projects in order to fall under this purchasing category is specifically prohibited.

8. Where only one bid or proposal is received for **CATEGORY TWO** or **CATEGORY THREE** purchases, an award may be made to such bidder or proposer if the City Manager in consultation with the Director of Finance and the department head of the using agency, determines that:
- The price submitted is fair and reasonable;
 - Other prospective bidders or proposers had a reasonable opportunity to respond; **and**,
 - There is not adequate time for a re-solicitation.

Otherwise, the bid or proposal may be rejected pursuant to Section 21 of this Policy and the City Manager may:

- Cancel the proposed procurement;
- Solicit new bids or proposals; **or**,
- Proceed with procurement pursuant to Section 19 or Section 20 of this Policy as appropriate.

SECTION 12 – COMPETITIVE SEALED BIDDING

1. This section does not apply to the selection of professional architectural, engineering, landscape architectural, or land surveying services by the City or to the procurement of design-build contracts.
2. Where competitive sealed bidding is utilized, an Invitation to Bid shall be issued which shall include a purchase description and all contractual terms and conditions applicable to the procurement.
3. Public notice:
 - Adequate public notice of the Invitation to Bid shall be given a minimum of ten (10) Business Days prior to the date set forth therein for the opening of bids. Such notice may be electronic and/or include publication in a newspaper of general circulation or posting at City Hall a minimum of ten (10) Business Days prior to bid opening.
 - Where it can be demonstrated that an urgent requirement for supplies or services exists, the requirement for public notice may be waived by the City Manager.
3. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation to Bid. The amount of each bid, and such other relevant information as may be specified in the Invitation to Bid, together with the name of each bidder, shall be recorded. Bids and bid file shall be available for public inspection after opening.
4. Bids shall be unconditionally accepted, except as authorized in this Policy.
5. Correction or withdrawal of inadvertently erroneous bids shall be permitted up to the time of bid opening. After bid opening, no changes in bid prices or other provisions shall be permitted; however, the Director of Finance, after consultation with the department head of the Using Agency, shall have authority to waive minor irregularities.
6. Bids shall be evaluated based on the requirements set forth in the Invitation to Bid, which may include criteria to determine acceptability, such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs, etc. The Invitation to Bid shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the Invitation to Bid.

7. The contract shall be awarded to the bidder whose bid represents the lowest possible total end-use cost and is the most responsible and responsive bid meeting the requirements and criteria set forth in the Invitation to Bid. In determining the lowest responsible and responsive bidder, in addition to the bid evaluation criteria above, the following may be considered:
 - The ability and skill of the bidder to perform the contract.
 - Whether the bidder can perform the contract, provide the supplies/services promptly, without delay or within the time specified.
 - The quality of performance of previous contracts or services.
8. When it is considered impractical (due to insufficient data, uncertain requirements, etc.) to initially prepare a purchase description to support an award based on price, an invitation for proposals may be issued requesting the submission of un-priced offers to be followed by an Invitation to Bid limited to those bidders whose proposals have been qualified under the criteria set forth in the invitation for proposals.

SECTION 13 – COMPETITIVE SEALED PROPOSALS

1. This section does not apply to the selection of professional architectural, engineering, landscape architectural, or land surveying services by the City or to the procurement of design-build contracts.
2. When the Director of Finance determines that the use of competitive sealed bidding is either not practical or not advantageous to the City, due to existing market conditions or the type of service/supply required, a contract may be entered into through receipt of competitive sealed proposals. Competitive sealed proposals may also be used for the procurement of professional services.
3. Competitive sealed proposals shall be solicited through a request for proposals.
4. Public notice of the request for proposals shall be given in the same manner as provided for competitive sealed bidding.
5. Proposals shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Request for Proposals. The name of each proposer shall be recorded. Opened proposals shall be held in accordance with the Florida Public Records Law, Chapter 119, Florida Statutes as amended from time to time.
6. The request for proposals shall state all evaluation factors and the relative importance of each in the evaluation process.

7. As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably acceptable of being selected for award for the purpose of clarification and to assure full understanding of, and responsiveness to, the solicitation requirements. All offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submission prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors, except as may be required by Florida Public Records Law, Chapter 119, Florida Statutes as amended from time to time.
8. Award shall be made to the responsible offeror whose proposal is determined to be the most advantageous to the City, taking into consideration the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award was made.

SECTION 14 – COMPETITIVE SEALED BIDS AND PROPOSALS: MAJOR AND MINOR IRREGULARITIES

1. In evaluation of sealed bids and proposals, the Director of Finance may waive minor irregularities. Said minor irregularities may include, but not be limited to, the following.
 - Addendum not acknowledged when price not affected.
 - Delivery/payment terms not specified.
 - Failure to submit written evidence that the agent signing for an owner had authority to bind the bidder/proposer.
2. Irregularities considered to be major and not waivable shall include, but not be limited to, the following.
 - Correct number of copies not submitted.
 - References not provided at time of bid/proposal.
 - Unit prices not extended.
 - Bidder/proposer certification not submitted or submitted and not signed.
 - Bid bond not submitted or not valid.
 - Addendum not acknowledged when it affects price.
 - Samples or literature not submitted when specifically required in order to evaluate bid/proposal.
 - Bid or proposal not submitted on time.

- Bid pricing pages not submitted or submitted in blank.
- Substitution of required forms or bid

SECTION 15 – COMPETITIVE SELECTION AND NEGOTIATION

1. Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services shall be made in accordance with this Section. Where not specifically specified, the requirements of F.S. 287.055, as amended from time to time, shall be applied to the procurement of these professional services. Nothing in this section shall be construed to prohibit a continuing contract between a firm and the City.
2. Requirements of this section apply to the acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services related to specific construction projects when the basic construction costs are estimated to exceed \$250,000, or for a planning/study activity when the fee for professional services exceeds \$25,000 or when the City is desirous of entering into a continuing contract for the provision of such services.
3. The City shall publicly announce each occasion when it wishes to acquire professional services under this section. The public notice shall include a general description of the project or desired continuing professional services and must indicate how interested consultants may apply for consideration.
4. Any firm or individual desiring to provide professional services to the City must first be certified by the City as fully qualified to render the required services pursuant to law and the regulations of the City. Among the factors to be considered in making this determination include the capabilities, adequacy of personnel, past record, experience of the firm or individual or other factors determined by the City to be applicable to the construction project or services desired.
5. For each proposed project/desired services the City shall evaluate current statements of qualifications and performance data on file with the City, together with those that may be submitted by other firms regarding the proposed project/desired services and shall conduct discussions with no fewer than three firms regarding their qualifications, approach to the project, and ability to furnish the required services.
6. The City shall select, in order of preference, no fewer than three firms deemed to be the most highly qualified to perform the required services. Factors to be considered include the ability of professional personnel; past performance; willingness to meet time and budget requirements; location; recent, current, and projected workloads of the firms; and the volume of work previously awarded to each firm by the City. The objective of this is to equitably distribute contracts among qualified firms provided such distribution does not violate the principle of selection of the most highly qualified firms. No consideration of fees for services will be made until the City enters into competitive negotiations under this section.
7. The City shall negotiate a contract with the most qualified firm for professional services at compensation which the City determines is fair, competitive, and reasonable. In making this

determination the City shall analyze the cost of the professional services required in addition to their scope and complexity.

8. Should the City be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price the City determines to be fair, competitive, and reasonable, negotiations with that firm must be formally terminated. Negotiations will then be undertaken with the second most qualified firm. Failing accord with the second most qualified firm, the City must terminate negotiations with that firm and begin negotiations with the third most qualified firm.
9. The City shall select additional firms in the order of their competence and qualification and continue negotiations in accordance with this section until an agreement is reached if no agreement is reached with any of the three top ranked firms.
10. Each contract entered into by the City under this section must contain a prohibition against contingent fees as proscribed in F.S. 287.055 (6) (a) as amended from time to time.

SECTION 16 – DESIGN-BUILD CONTRACTS

1. A design criteria package must be prepared and sealed by a design criteria professional employed by or retained by the City. If the City elects to enter into a professional services contract for the preparation of the design criteria package, then the design criteria professional must be selected and contracted with under the provisions of Section 13 or Section 15 of this policy. A design criteria professional who has been selected to prepare the design criteria package is not eligible to render services under a design-build contract executed pursuant to the design criteria package.
2. Award of a design-build contract for any City project whereby the selected firm will subsequently establish a guaranteed maximum price (“GMP”) and guaranteed completion date shall be made in accordance with the competitive proposal selection process described in this section or through the use of a qualifications-based selection process as outlined in Section 15.
3. Procedures for the use of a competitive proposal selection must include at least the following:
 - Preparation of a design criteria package for the design and construction of the project.
 - Qualification and selection of no fewer than three design-build firms as the most qualified, based on the qualifications, availability, and past work of the firms, including the partners or members thereof.
 - Criteria, procedures, and standards for the evaluation of design-build contract proposals or bids, based on price, technical, and design aspects of the public construction project, weighted for the project.
 - Solicitation of competitive proposals, pursuant to a design criteria package, from those qualified design-build firms and the evaluation of the responses or bids submitted by

those firms based on the evaluation criteria and procedures established prior to the solicitation of competitive proposals.

- Consultation with the employed or retained design criteria professional concerning evaluation of the responses or bids submitted by the design-build firms, supervision or approval by the City of detailed working drawings of the project, and evaluation of the compliance of the project construction with the design criteria package by the design criteria professional.
4. Should the City desire to select a design-build firm using a qualifications-based selection process, the services of a licensed design professional appropriate to the project shall serve as the City's representative in the process.
 5. Notwithstanding any other provision of this section, there shall be no public notice requirement or utilization of the selection process as provided in this section for projects in which the City is able to reuse existing plans from a prior project of the City.

SECTION 17 – PRE-QUALIFICATION OF CONSTRUCTION CONTRACTORS

1. It is the intent of this section to allow the City operational flexibility and latitude in the procurement of CATEGORY FOUR purchases for contract construction or construction-related services.
2. When it is determined to be in the best interest of the City to make CATEGORY FOUR purchases for routine construction or construction related services efficiently and in a timely manner, a pool of pre-qualified properly licensed construction contractors may be utilized to provide such services.
3. Construction contractors shall be pre-qualified using the Competitive Sealed Proposal process outlined in Section 13 of this policy. Criteria to be used in evaluating interested contractors shall include, at a minimum, the following:
 - Contractor flexibility in material selection.
 - Construction techniques and utilization of state-of-the-art techniques and equipment.
 - Contractor availability in general and on short notice.
 - Unit pricing for desired materials or services.
 - Reputation of the contractor and results of reference checks.
 - Familiarity with the City's facilities, infrastructure and needs.
 - Experience in general and in specialized areas.
 - Previous performance on City projects.

4. Those contractors determined to be qualified as a result of this process shall be notified in writing within 10 business days of the completion of the pre-qualification process. Contracts shall be negotiated with each contractor so selected and shall be for no less than a period of 12 months and no more than a period of 36 months.
5. When desired or indicated, the City may solicit written quotes or proposals from pre-qualified contractors for project or task specific construction or construction related services. The City shall solicit such quotes or proposals by issuing a written request for such services to all, or all appropriate, pre-qualified contractors.
6. The written request shall include, at a minimum, a full description of the work to be performed; the location of the work/project; unit quantities and whether they are required or desired quantities; required special or specific brand materials; start and completion dates for the work/project; and, the date and time for submission of quotes or proposals.
7. All work to be performed under this section shall be done so pursuant to a valid and legal construction contract executed by proper City and contractor executives.

SECTION 18 – PURCHASE FROM FEDERAL, STATE, COUNTY, CITY AND OTHER GOVERNMENTAL AGENCY CONTRACTS

Any agency shall have authority to purchase directly from any federal, state, county, city or other governmental agency contract providing such contract was the result of a bona fide competitive process and is a current contract. A copy of any such contract shall be submitted to the Finance Director or his/her designee as additional documentation for such purchases.

SECTION 19 – SOLE SOURCE OR NEGOTIATED PROCUREMENT

A contract may be awarded for a supply, service or construction item without competition when the City Manager determines that there is only one source for the required service, supply or construction item or by negotiation where the procurement by competitive procedures is not feasible or practicable. Each Agency head shall submit such requests in writing to the Finance Director for review and then to the City Manager for approval.

SECTION 20 – EMERGENCY PROCUREMENT

Notwithstanding any other provision of this Policy, the City Manager or his/her designee may make or authorize others to make emergency procurement when there exists a threat to public health, welfare, or safety. Such emergency procurements are to be made with such competition as is practicable under the circumstances. A full written determination of the basis of the emergency and for the selection of the particular contractor shall be included in the emergency purchase documentation submitted to the City Manager for approval. Such documentation shall be filed as a permanent and public record of the purchase.

SECTION 21 – CANCELLATION OR REJECTION OF INVITATION TO BID OR REQUEST FOR PROPOSALS

An Invitation to Bid or a Request for Proposal may be delayed or cancelled or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation if it is determined by the City Council that such action is in the best interest of the City.

SECTION 22 – PREQUALIFICATION OF SUPPLIERS

Prospective suppliers may be required to be prequalified for particular types of supplies or services. All such prequalification processes shall be publicly noticed and the qualifications to be evaluated clearly delineated in the solicitation document.

SECTION 23 – APPROVAL OF CONTRACTS, BONDS, AND CERTIFICATES OF INSURANCE

All contracts under this Policy shall be subject to approval as to form and legality by the City Attorney or his/her designee. All bonds and certificates of insurance required by this Policy shall be subject to approval by the Director of Finance.

SECTION 24 – TYPES OF CONTRACTS

Firm fixed price contracting is the preferred method; however, any type of contract that will promote the best interests of the City may be used. A cost reimbursement contract may be used only when a determination has been made that such contract is likely to be less costly to the City than any other type or that it is impractical to obtain the supplies, services or construction required except under such a contract.

SECTION 25 – MULTITERM CONTRACTS

Unless specified by law, a contract for supplies or services may be entered into for any period of time deemed to be in the best interest of the City, provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contract. Payment and performance obligations for succeeding fiscal periods shall be subject to annual appropriation by the City Council. *The following statement shall be included in all such contracts: “The City of Maitland’s performance and obligation to pay under this contract are contingent upon an annual appropriation by the City Council.”*

When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be cancelled and the contractor shall be entitled to reimbursement for the reasonable value of any nonrecurring costs incurred but not advertised in the price of the supplies or services delivered under the contract or otherwise recoverable.

SECTION 26 – RIGHT TO INSPECT FACILITIES

The City may at reasonable times inspect the facility or place of business of a contractor or any subcontractor that is related to the performance of any contract awarded or to be awarded by the City.

SECTION 27 – RIGHT TO AUDIT RECORDS

The City shall be entitled to audit the books and records of a contractor or any subcontractor to the extent such books and records relate to the performance of such contract or subcontract. The contractor shall maintain such books and records for a period of three (3) years from the date of final payment under the prime contract and by the subcontractor for a period of three (3) years from the date of final payment under the subcontract unless a shorter period is otherwise authorized in writing.

SECTION 28 – REPORTING OF ANTI-COMPETITIVE PRACTICES

Where for any reason, collusion or other anti-competitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the City Attorney for investigation and appropriate action.

SECTION 29 – MODIFICATION OF CONTRACTS

1. Subject to review and approval by the City Attorney or his/her designee, the City Manager is authorized to promulgate and adopt regulations permitting or requiring the inclusion of clauses providing for or relating to change orders, modifications, or adjustments in prices, time of performance or other contract provisions.
2. Subject to review and approval by the City Attorney or his/her designee, the City Manager is authorized to promulgate and adopt regulations including, but not limited to, regulations permitting or requiring the inclusion in City contracts of clauses providing appropriate remedies covering the following subjects:
 - Liquidated damages as appropriate.
 - Specified excuses for delay or nonperformance.
 - Termination of the contract for default.
 - Termination in whole or in part for the convenience of the City.
 - Insurance requirements and/or “hold harmless” provisions.

SECTION 30 – CONTRACTUAL REMEDIES

1. After reasonable notice to the person(s) involved and reasonable opportunity for that person to be heard, the City Manager, after consultation with the City Attorney or his/her designee, shall have authority to suspend/debar a person from consideration for award of proposals, bids, or contracts if there is sufficient cause. The suspension shall not exceed a maximum period of one (1) year and the debarment shall not exceed a maximum period of three (3) years.
2. Causes for debarment or suspension include, but are not limited to the following:
 - Conviction or commission of a criminal offense incident to obtaining or attempting to obtain a public or private contract or subcontract or incident to performance of such contract or subcontract.
 - Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving of stolen property or any other offense indicating a lack of business integrity or business honesty which currently, seriously and directly affects responsibility as a City contractor or potential City contractor.
 - Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals.
 - Violation of bid/contract provisions of a character which is regarded by the City Manager to be so serious as to justify suspension or debarment.
 - Any other cause/material factor which adversely affects the responsibility of a person as a City contractor or potential City contractor, including suspension/debarment by another governmental entity for any of the causes listed in this section.
 - Refutation of a bid/contract by failure to provide bonds, insurance, or other required certificates within a reasonable time period.
 - Refusal to accept an addendum, agreement or contract, or to perform thereon provided such addendum, agreement or contract was issued timely and in conformance with the bid received.
 - Overall performance of a construction contract or other contract for the acquisition of commodities and/or services which has been evaluated in writing as “poor” or “unsatisfactory”.
 - Presence of principals or corporate officers in the business or concern, who were principals or corporate officers within another business at the time when the other business was suspended or debarred within the last five (5) years under the provisions of this section.
 - Violation of the ethical standards set forth in City, state and federal law.

3. A decision to suspend or debar shall be in writing and state the period of suspension/debarment, the reasons for the action taken, and inform the suspended/debarred person or his/her right to administrative or judicial review as provided in this section. Such notice shall be delivered to the suspended/debarred person via certified mail, return receipt requested, to the mailing address of the suspended/debarred person.
4. The Director of Finance shall maintain and update a list of debarred and suspended persons and such list shall be available to the public upon request.
5. A decision of the City Manager to debar/suspend may be appealed to the City Council by submitting a written request for a hearing to the City Clerk within seven (7) calendar days from receipt of the decision. Within thirty (30) calendar days from the receipt of the notice of appeal the City shall schedule a hearing before the City Council at which time the person making the appeal shall be given the opportunity to demonstrate why the decision of the City Manager should be overturned.
6. The City shall cause to be served upon the person a notice of hearing stating the time and place of the hearing. Such notice shall be sent certified mail, return receipt requested, to the mailing address of the person making the appeal. The person shall have the right to be represented by counsel, to call and examine witnesses, to introduce exhibits and to cross-examine opposing witnesses. Irrelevant, immaterial or unduly repetitious evidence shall be excluded in any hearing before the City Council. All other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible whether or not such evidence would be admissible in a trial in the courts of Florida.
7. Any decision under this section shall be final and conclusive upon the person. A copy of the City Council's decision under this section shall be mailed or otherwise furnished immediately to the person and any other affected party.
8. This section applies to controversies between the City and a contractor that arise under or by virtue of a contract between them. This includes, without limitation, controversy based upon breach of contract, mistake, misrepresentation or other cause for contract modification or rescission. The City Manager shall settle or resolve all such controversies and the procedure for appeal shall be as set forth above related to suspensions and debarments.
9. Nothing in this Policy shall be construed to restrict the City Manager from simultaneously resolving controversies arising under this section and suspending/debarring a contractor.
10. Nothing in this section shall limit the City from pursuing other legal or contractual rights or remedies against the person.