

1 PROCUREMENT DEPARTMENT

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27 **Sec. 2-220. - Short title.**

28 This Article shall be known and may be cited as the "Procurement Ordinance of the City
29 of Plantation".

30

31 **Sec. 2-221. - Authority.**

32 The provisions of this Article are based upon the authority granted to the Mayor and City
33 Council of the City of Plantation, Florida (the City), by the Florida Constitution, Florida Statutes
34 and the Charter of the City of Plantation, Florida.

35

36 **Sec. 2-222. - Purpose.**

37 The City wishes to provide for the purchase of the highest quality and best value of goods
38 and services at the most reasonable cost, and ensure the fair and equitable treatment of persons
39 doing business with the City. The City's procurement function shall operate pursuant the rules,
40 laws, and polices set-forth herein which will enable the City to:

- 41 (a) Establish policies governing all purchases and contracts;
- 42 (b) Encourage and promote fair and equal opportunity for all persons doing business with
43 the City;
- 44 (c) Obtain goods and services of good quality and appropriate quantity at reasonable cost
45 for the City;
- 46 (d) Permit the continued development of procurement policies and procedures through
47 the preparation the Procurement Manual containing administrative regulations and
48 internal processes of the Procurement Department;
- 49 (e) Foster effective broad-based competition within the free enterprise system; and,
- 50 (f) Provide safeguards for the maintenance of a purchasing system of quality and
51 integrity.

52 **Sec. 2-223. - Definition of terms.**

53 For the purpose of this Article, the following definitions shall apply unless the context
54 clearly indicates or requires a different meaning.

- 55 (a) AGREEMENT. All types of contracts, included in the course of dealing, performing,
56 and usage of trade. See "Contract" for additional information.
- 57 (b) AMENDMENT. Any written alteration issued to modify or amend a contract or
58 purchase order accomplished by mutual agreement of the parties to the contract.

- 59 (c) AS TO FORM. Legal sufficiency and format of documents and agreements that are
60 reviewed by an attorney prior to their execution, while not commenting on the
61 business merits of their contents.
- 62 (d) AWARD. The selection of a bidder, proposer, quoter, or offeror prior to issuance
63 of a purchase order or contract.
- 64 (e) BEST INTEREST OF THE CITY. A judgmental assessment, made in accordance with
65 this Article, of what will result in a maximum benefit being conferred upon the
66 City.
- 67 (f) BEST VALUE. A procurement method that emphasizes value as much as, or more
68 than, price. Best value may be based on, but not be limited to the following: the
69 competitive solicitation evaluation criteria, subsequent discussions,
70 presentations, demonstrations, negotiations, past performance, project
71 management experience, prime contractor qualifications, sub-contractor
72 qualifications, similar projects completed, adequacy of facilities or equipment,
73 technology, location, sustainability, diversity, contract terms and conditions,
74 project completion time, technical solutions, and pricing.
- 75 (g) BID. A formal written price offer by a vendor offering to furnish specific goods or
76 services to the City in response to an Invitation for Bids.
- 77 (h) BUSINESS. Any bidder, proposer, offeror, or quoter, whether owned individually
78 or collectively. The term "business" shall also mean a person, sole proprietorship,
79 firm, partnership, company, corporation, joint-venture, or other private legal
80 entity.
- 81 (i) BUSINESS LOCATION. Means a permanent office or other use of property in which
82 a vendor operates, conducts, engages in or carries on all or a portion of its
83 business, provided that the mere use of a post office box shall not be sufficient to
84 constitute a business location under this provision.
- 85 (j) CAPITAL IMPROVEMENT PROJECT. Construction as defined herein.
- 86 (k) CHANGE ORDER. A written bilateral (agreed to by all parties) or unilateral
87 (government orders a contract change without the consent of the contractor)
88 alteration that is used to modify or amend a contract and that directs the
89 contractor to make changes to the contracted scope of work or specifications. In
90 reference to contracts, it relates primarily to changes caused by unanticipated
91 conditions encountered during the work not covered by the original specifications
92 of the project.
- 93 (l) CHIEF PROCUREMENT OFFICER (Procurement Director). In accordance with the
94 provisions of this Article, the Chief Procurement Officer shall serve as the principal
95 public procurement official for the city and is responsible for the procurement of
96 supplies and services in accordance with applicable federal, state, and local laws,
97 ordinances, rules and regulations.

- 98 (m) CITY. The City of Plantation.
- 99 (n) COMPETITIVE SOLICITATION. Competitive purchasing via any of the following
100 procurement solicitation documents: Informal competitive solicitation, Invitation
101 to Bid, Multi-step Competitive Solicitation/Request for Information, Request for
102 Proposals, Request for Qualifications, and Invitation to Negotiate which are used
103 to competitively select vendors to provide the delivery of goods and services to
104 the City.
- 105 (o) CONSTRUCTION. The process of constructing any road, bridge pedestrian
106 pathway, building, and altering, repairing, improving, renovating, or demolishing
107 any structure, building, road, bridge or other improvements of any kind to any real
108 property. It does not include the routine operation, routine repair, or routine
109 maintenance of existing structures, buildings, or real property.
- 110 (p) CONSTRUCTION MANAGER (CM). The firm or individual, acting as a general
111 contractor on behalf of the City, that is contracted to advise the designer and
112 builder of a City project. The CM shall also deliver a project within a guaranteed
113 maximum price (GMP).
- 114 (1) The Construction Manager shall also coordinate with the City's project
115 manager where applicable to take advantage of direct material purchases to
116 save tax dollars.
- 117 (q) CONSULTANT. A firm or person providing professional services for the City.
- 118 (r) CONSULTANTS' COMPETITIVE NEGOTIATION ACT (CCNA). Fla. Stat. § 287.055, as
119 amended, pertaining to the acquisition of architects, engineers, land surveyors,
120 landscape architect, and/or mapping services.
- 121 (s) CONTINUING CONTRACT. A type of contract, as defined in Fla. Stat. § 287.055 as
122 amended, for professional services between the City and a firm whereby the firm
123 provides professional services to the City for projects in which the estimated
124 construction cost of each individual project under the contract does not exceed
125 the amount specified in Florida Statutes, for study activity if the fee for
126 professional services for each individual study under the contract does not exceed
127 the amount as currently specified in Florida Statues, or for work of a specified
128 nature as outlined in the contract required by the City, with the contract being for
129 a fixed term or with no time limitation except that the contract must provide a
130 termination clause. Firms providing professional services to the City under
131 continuing contracts may be required to bid against one another.
- 132 (t) CONTRACT. All types of agreements, including purchase orders, for the
133 procurement of supplies, services, and construction, regardless of what these
134 agreements may be called.
- 135 (u) CONTRACTOR. Any person having a contract with the City.

- 136 (v) CONTRACTUAL SERVICES. Any services provided to the City via contract or
137 purchase order, and includes, but shall not be limited to, security, maintenance
138 and cleaning services; and the repair or maintenance of equipment and machinery
139 or other City-owned personal property.
- 140 (w) COOPERATIVE PURCHASING. The action taken when two (2) or more public
141 entities combine their requirements to obtain advantages of volume purchases
142 including administrative savings and other benefits. A variety of arrangements
143 whereby two (2) or more public entities purchase from the same supplier or
144 multiple suppliers using a single ITB or RFP.
- 145 (x) DEBARMENT. Permanent prohibition of a vendor, contractor, consultant, or firm
146 from doing business with the City.
- 147 (y) DEPARTMENT. Any department, division, board, committee, dependent district,
148 or other unit in the City government using supplies or procuring services as
149 provided for in this Article.
- 150 (z) DESIGN-BUILD. A delivery method for construction projects that combines the
151 architectural, engineering, and construction services required by a project into a
152 single contractual agreement.
- 153 (aa) DESIGNEE. A duly authorized representative of a person holding a position of
154 authority.
- 155 (bb) EMERGENCY PURCHASE. Purchases made during a determined state of emergency
156 or high threat of terrorism or in response to natural disaster, war, or terrorism
157 threats or occurrences. Usually formal competitive bidding procedures are
158 waived.
- 159 (cc) EX PARTE COMMUNICATION. Any oral or written communication relative to a
160 solicitation, evaluation, award or contract controversy that occurs outside of an
161 advertised public meeting or occurs with someone other than the Chief
162 Procurement Officer or designee, subject to the exclusions identified in Ex Parte
163 Communication Section 2-239. of this Article.
- 164 (dd) FIRM. Any company, corporation, partnership, individual, sole proprietorship,
165 joint-stock company, joint venture, governmental body or similar legal entity.
- 166 (ee) GOODS. Anything purchased other than services or real property.
- 167 (ff) INVITATION TO BIDS (ITB). The solicitation document used for soliciting
168 competitive sealed bids for goods or services.
- 169 (gg) INVITATION TO NEGOTIATE (ITN). All solicitation documents, regardless of
170 medium, whether attached to or incorporated by reference in solicitations for
171 responses from firms which invites proposals from interested and qualified firms
172 so the City may enter into negotiations with the firm or firms determined most
173 capable of providing the required goods and services.

- 174 (hh) LEGALLY SUFFICIENT. The designation that a public contract or document on its
175 face is legal, valid and binding.
- 176 (ii) LOCAL BUSINESS OR QUALIFIED LOCAL BUSINESS. Means a vendor, contractor,
177 consultant or firm who has paid its local business tax to the City of Plantation at
178 least six (6) months prior to bid or proposal opening date; does business in the city
179 community by providing goods, services, or construction; and maintains a physical
180 business address located within the jurisdictional limits of the city in an area zoned
181 for the conduct of such business from which the vendor or contractor operates or
182 performs business on a day-to-day basis. Post office boxes shall not be used for
183 the purpose of establishing said physical address.
- 184 (jj) MANDATORY CITY COUNCIL APPROVAL AMOUNT. The minimum purchasing
185 amount at which City Council approval is required. The mandatory City Council
186 approval amount shall be greater than fifty thousand dollars (\$50,000.00) total
187 expenditure for the initial contract term. Purchases not exceeding the mandatory
188 City Council approval amount shall be made in accordance with this Article.
- 189 (kk) MAY, SHOULD and CAN mean the permissive.
- 190 (ll) MAYOR. The person holding that title. The official elected to serve as chief
191 executive officer of the City.
- 192 (mm) PROCUREMENT. All functions pertaining to buying, purchasing, renting, leasing,
193 contracting for, or otherwise acquiring any goods, supplies, services, professional
194 services, capital improvement and construction projects, including description of
195 requirements, solicitation and selection of sources, negotiations, preparation,
196 award and execution of contracts and orders. Procurement may also include the
197 combined functions of purchasing, inventory control, receiving, inspection,
198 storekeeping, salvage and disposal operations.
- 199 (nn) PROCUREMENT MANUAL. The administrative regulations and the internal
200 procurement procedures that describe rules, regulations, policies and procedures
201 approved by the Mayor or their designee to be followed by the Procurement
202 Department and the departments it serves.
- 203 (oo) PROFESSIONAL SERVICES. Services, the value of which is substantially measured
204 by the professional competence of the person performing them, and which are
205 not susceptible to realistic competition by cost of services alone, rendered by
206 members of a recognized profession or possessing a special skill. Such services are
207 generally acquired to obtain information, advice, training, or direct assistance.
208 Professional services shall include, but not be limited to, services customarily
209 rendered by architects, landscape architects, engineers, surveyors, mappers,
210 certified public accountants, financial experts, attorneys, information technology
211 firms, insurance related services, planning, legislative, and management
212 consultants.

- 213 (pp) PROPOSAL. The response to a competitive solicitation that addresses a proposer's
214 experience, qualifications, approach and other factors that may be required by the
215 City in the solicitation documents.
- 216 (qq) PURCHASE ORDER. A document by which the City acquires goods and services at
217 a stated price, formalizing all the terms and conditions of a proposed transaction,
218 such as a description of the requested items, delivery schedule, terms of payment,
219 and transportation. Such document may be a unilateral contract until acted upon
220 by the vendor, or a binding contractual agreement wherein the City accepts a
221 priced offer from a vendor.
- 222 (rr) QUALIFIED LOCAL BUSINESS. Means a local business that satisfies the
223 requirements under the bid or proposal guidelines to perform the services or
224 goods requested.
- 225 (ss) REQUEST FOR INFORMATION (RFI). A non-binding method whereby the City
226 publishes via newspaper, internet, or direct mail its need for input from interested
227 parties for an upcoming solicitation. A procurement practice used to obtain scopes
228 of work, specifications, comments, feedback or reactions from potential suppliers
229 (contractors); often occurs prior to the issuing of a solicitation. Feedback may
230 include best practices, industry standards, technology options, preferred
231 timeframes, budgetary cost, etc.
- 232 (tt) REQUEST FOR PROPOSALS (RFP). The solicitation document used for soliciting
233 competitive sealed proposals to determine the best value among proposals for
234 goods or services for which price may not be the prevailing factor in award of the
235 contract, and/or the scope of work, specifications or contract terms and
236 conditions may be difficult to define, or utilization of this method serves the best
237 interest of the City. Such solicitation will consider the qualifications of the
238 proposers along with evaluation of each proposal using identified weighted
239 evaluation criteria. RFPs will include price criteria whenever feasible, at the
240 discretion of the City.
- 241 (uu) REQUEST FOR QUALIFICATIONS (RFQ). The solicitation document utilized for
242 requesting statements of qualifications in order to determine the most qualified
243 proposer for professional services as defined in Fla. Stat. § 287.055, as amended.
244 An RFQ shall not include price as a criterion for evaluation purposes.
- 245 (vv) RESPONSIBLE. Refers to a person, consultant, contractor, vendor or firm who is
246 fully capable of meeting all requirements of the solicitation and subsequent
247 contract. The respondent must possess the full capability, including financial and
248 technical, ability, business judgment, experience, qualifications, licenses, facilities,
249 equipment, integrity, capability, and reliability, in all respects to perform fully the
250 contract requirements and assure good faith performance as determined by the
251 City. Criteria to be considered in meeting this determination may include, but are
252 not limited to, the following:

- 253 (1) The ability, capacity and skill of the firm to perform the contract or provide the
254 services required;
- 255 (2) Whether the firm can perform the contract or provide the service promptly,
256 or within the time specified, without delay or interference;
- 257 (3) The character, integrity, reputation, judgement, experience, and efficiency of
258 the firm;
- 259 (4) The quality of performance of previous contract or services;
- 260 (5) The previous and existing compliance by the firm with laws and ordinances
261 relating to the contract or services;
- 262 (6) The sufficiency of the financial resources and ability of the firm to perform the
263 contract or provide the service;
- 264 (7) The quality, availability and adaptability of the supplies or contractual services
265 to the particular use required;
- 266 (8) The ability of the firm to provide future maintenance and service; and
- 267 (9) The number and scope of non-conforming conditions attached to the
268 proposal.
- 269 (ww) RESPONSIVE. Refers to a person or firm who has submitted a bid, proposal, offer,
270 quote, or response which conforms in all material respects to the competitive
271 solicitation documents and all of its requirements at the time of opening the
272 responses. Determination of whether an omission, error or failure to conform is
273 material is at the sole discretion of the city.
- 274 (xx) SERVICES. The furnishing of labor, time, skill, expertise, or effort by a consultant,
275 firm, vendor or a contractor rather than providing specific goods and
276 commodities. Such services may include, but not be limited to: general
277 consultations, construction, operation, cleaning, repairs and maintenance of City
278 personal property, equipment and real property, studies, reports and findings of
279 consultants engaged thereunder, and technical and social services. This term shall
280 not include employment agreements or collective bargaining agreements, for
281 purposes of this Ordinance.
- 282 (yy) SHALL, MUST, and WILL mean the imperative.
- 283 (zz) SMALL PURCHASE. Any purchase not exceeding a given upper monetary limit, as
284 established by the City's Procurement Manual.
- 285 (aaa) SOLE/SINGLE SOURCE. An item that is the only one that will produce the desired
286 results, or fulfill the specific need, and the item is available from only one source
287 of supply. Therefore, there is an inability to obtain competition. Due diligence

288 must be performed to verify an item is truly a sole/single source, and the original
289 justification documentation shall be properly maintained.

290 (bbb) SPECIFICATIONS. A precise description of the physical or functional characteristics
291 of a good, service, or construction item. It may include a description of any
292 requirement for inspecting, testing, or preparing a supply or service for delivery.
293 It may also include a reference to a specific name brand name, model, or equal.

294 (ccc) STANDARDIZATION. The adoption of a single product, brand, or group of products
295 to be used by the City. Standardization may be achieved through the competitive
296 solicitation process, the single/sole source process, the Request for Information
297 (RFI) process, or other processes as detailed in this Article.

298 (ddd) SUPPLIES. All tangible items purchased and consumed by the City.

299 (eee) SUSPENSION. The temporary prohibition of a vendor, firm, consultant or
300 contractor to do business with the City for a period not to exceed two (2) years.

301 (fff) TASK ORDER. A contract order against an indefinite delivery/indefinite quantity
302 contract for services that provides for the issuance of orders for services during
303 the contract period.

304 (ggg) TERM CONTRACT. An agreement between the City and a supplier, contractor,
305 firm, consultant, or vendor that sets out the terms of the relationship between
306 them. The contract will specify the goods or services to be supplied, the price, the
307 delivery schedule, and any other terms and conditions of the agreement. The
308 contract may be for a specific period of time, or it may be open-ended.

309 (hhh) VENDOR or SUPPLIER. An actual supplier or potential supplier of goods and/or
310 services.

311 (iii) VENDOR DATABASE. The compilation of vendor information via technology which
312 provides the ability to prepare a written and electronic list of those vendors who
313 have indicated an interest in doing business with the City by category (commodity
314 code). This list is commonly known as a Bidder List.

315

316 **Sec. 2-224 - Application and exclusions.**

317 Application. The competitive selection process provisions of this Article shall apply to
318 every purchase by the Mayor and the departments which are under the control of the Mayor,
319 irrespective of their funding source, including State and Federal assistance monies and grants,
320 except as otherwise specified in City Ordinance, City Charter, or by Federal, State or local laws or
321 grant terms and conditions. In cases where state or federal funds are being used to fund a project
322 or program, the guidelines contained therein for procurement shall be followed, in addition to
323 the City's requirements.

- 324 (a) Exclusions. The competitive solicitation and selection processes stipulated in this
325 Article shall not apply to the following:
- 326 (1) Emergency purchases as defined in Sec. 2-230. (f)(3);
 - 327 (2) Sole/Single source purchases as defined in Sec. 2-230. (f)(2);
 - 328 (3) Contracts with, and purchases from, other public entities;
 - 329 (4) Utilities, including water, wastewater, sewer, gas, electrical, etc.;
 - 330 (5) Cable, digital, and satellite television providers;
 - 331 (6) Magazine subscriptions and/or periodicals and publications;
 - 332 (7) Membership dues for trade or professional organizations;
 - 333 (8) Travel and training expenses for employees;
 - 334 (9) Items purchased for resale, to include accessories, apparel, food, beverages
335 and equipment;
 - 336 (10) Advertising: radio, newspapers, magazines, professional organizations,
337 television, and any other related media;
 - 338 (11) Postage, including overnight delivery services;
 - 339 (12) Copyrighted materials or patented works/materials, including books, maps,
340 periodicals, testing or instructional materials;
 - 341 (13) Governmental fees;
 - 342 (14) Licenses and permits;
 - 343 (15) Real estate, including:
 - 344 a. Real property (land and/or buildings) purchase, lease or rental;
 - 345 b. Closing/processing fees;
 - 346 c. Abstracts of titles;
 - 347 d. Title insurance;
 - 348 e. Real Estate Appraisers; or
 - 349 f. Professional Real Estate Services
 - 350 (16) Medically prescribed equipment or apparatus;
 - 351 (17) Professional services, including:
 - 352 a. Court reporter services;

- 353 b. Medical services, such as Medical Director service for Fire Rescue;
- 354 c. Veterinarian services;
- 355 d. Legal services;
- 356 e. Expert witnesses;
- 357 f. Teachers, speakers and specialized instructors;
- 358 g. Recreational program instructors; and
- 359 h. Professional services when utilized by the City in the settlement and
360 administration of workers' compensation and liability claims, such as:
- 361 1. Private investigators; or
- 362 2. Expert witnesses.
- 363 (18) Entertainment and entertainment-related services/goods for City sponsored
364 events including, but not limited to, face painting artist, petting zoos, props,
365 decorations, bounce houses DJs and musicians;
- 366 (19) Where repairs, maintenance or renovations are required for existing
367 equipment, machinery, facilities or other improvements (including utilities
368 facilities) and such repairs or renovations can best be done, due to
369 warranties or the nature of such equipment, or machinery, or improvements
370 by authorized dealers;
- 371 (20) Maintenance and support of existing software/hardware, and equipment,
372 such as annual maintenance agreements for City-owned
373 software/hardware;
- 374 (21) Purchases of information technology and information technology systems,
375 where such purchases do not entail the custom design of the technology (as
376 distinguished from the configuration and installation of such). (Information
377 technology means equipment, hardware, software, firmware, programs,
378 systems, networks, infrastructure, media, and related material used to
379 automatically, and electronically collect, receive, access, transmit, display,
380 store, record, retrieve, analyze, evaluate, process, classify, manipulate,
381 manage, assimilate, control, communicate, exchange, convert, converge,
382 interface, switch, or disseminate information or data of any kind or form.
383 Information technology systems means any transmission, emission, and
384 reception of signs, signals, writings, images, and sounds of intelligence of any
385 nature by wire, radio, optical, or other electromagnetic systems and includes
386 all facilities, equipment, hardware, software, firmware, operations,
387 integration, and networking.);

- 388 (22) Where the City has competitively awarded a contract to a private sector
389 contractor and the contractor has abandoned the project before completion
390 or the city terminated the contract;
- 391 (23) Direct material purchases also called Owner Direct Purchases, such as
392 purchases of materials, equipment, prefabricated elements and
393 components, appliances, furniture, fixtures, and other goods, pursuant to a
394 program contained in a construction contract that has been awarded in
395 accordance with any provision of this Ordinance, whereby the City makes
396 such purchases directly from a vendor, subcontractor or material supplier by
397 using a City purchase order;
- 398 (24) Services provided by institutions of higher learning, not-for-profit
399 organizations, non-profit organizations, state sponsored institutions, and
400 other governmental and public agencies;
- 401 (25) Purchases from contracts established by local, state, or national cooperative
402 purchasing organizations, Federal GSA, and State of Florida term contracts,
403 if the Chief Procurement Officer determines that it is practicable and
404 advantageous for the City to employ this method of purchase;
- 405 (26) Purchases utilizing an active contract(s) or agreement(s) entered into by
406 another governmental, the city or public entity and a provider of supplies or
407 services required by the City, which contracts or agreements were based
408 upon an advertised competitive bid or proposal process, and which
409 purchases use city approved forms or contract documents; if the Chief
410 Procurement Officer determines that it is practicable and advantageous for
411 the City to employ this method of purchase;
- 412 (27) Petty cash purchases and reimbursements;
- 413 (28) Purchasing Card (P-Card) purchases;
- 414 (29) Employment contracts;
- 415 (30) Purchases of art for public places;
- 416 (31) Purchases of food and drink for city-sponsored programs or events on public
417 property, hotels, motels, restaurants or similar facilities;
- 418 (32) Products purchased from the blind, and other severely impaired persons
419 (RESPECT) in accordance with Fla. Stat. § 413.036, as amended;
- 420 (33) Products purchased from the Prison Rehabilitative Industries and Diversified
421 Enterprises, Inc. (PRIDE), in accordance with Fla. Stat. § 946.515, as
422 amended;
- 423 (34) Publications from publishers or exclusive distributors of such publications;

- 424 (35) Processed media: books, movies, slides, videos, and other from processor,
425 producer or exclusive distributor;
- 426 (36) Contracts for Private Property expending Community Development Block
427 Grant (CDBG), Neighborhood Stabilization (NSP), HOME Incentive
428 Partnership, or State Housing Initiative Partner (SHIP) funds, or other similar
429 programs: Contracts for contractual services for the rehabilitation of private
430 property that are funded from CDBG, NSP, HOME Incentive Partnership, or
431 SHIP funds or other similar programs, so long as these expenditures are in
432 compliance with the program requirements of Housing and Urban
433 Development (HUD), the Code of Federal Regulations (CFR), City policies and
434 guidelines, and Council-approved program documents;
- 435 (37) The purchase, care and boarding of service animals to include police canines,
436 patrol horses and other animals that require specialized training and
437 behavior characteristics that must be evaluated and tested for a period of
438 time prior to acceptance;
- 439 (38) Purchase of groceries;
- 440 (39) Where the delay attendant with the competitive procurement procedures is
441 not practical in view of an emergency making time of the essence in
442 obtaining necessary repair, renovation, service, or is otherwise found to be
443 desirable for acquisition by the city without competitive procurement;
- 444 (40) Auditing services that are not subject to the requirements of F.S. Chapter
445 218, Part III;
- 446 (41) No bid/proposals received. Where no bid/proposal has been received after
447 public publication of a bid/proposal; however, such purchases in excess of
448 \$50,000.00 require a formal, written contract approved by the city council;
449 and
- 450 (42) Any services identified in F.S. § 287.057(3)(e), as may be amended from time
451 to time, as being exempt from competitive bid/request for proposal
452 requirements.

453 With respect to the excluded items, the City will make its best efforts to acquire these
454 items and services at reasonable prices from qualified or specified sources.

455

456 **Sec. 2-225 - Mandatory city council approval requirements.**

457 The Mandatory City Council approval amount is defined as the minimum purchasing
458 amount at which City Council approval is required. Such purchases must be approved by the City
459 Council prior to the city's execution of the contract or purchase order.

- 460 (a) City Council approval of an award recommendation does not constitute a binding
 461 contract with the recommended vendor, contractor, firm, or consultant until
 462 execution of a purchase order or contract by the City.
- 463 (b) City Council approval is required for all the following circumstances prior to
 464 execution of the contract or purchase order by the city:
- 465 (1) Council approval for purchases or award of contracts solicited via
 466 competitive solicitation greater than fifty thousand dollars (\$50,000.00)
 467 total expenditure for the initial contract term;
- 468 (2) Council approval for purchases or award of contracts for items delineated
 469 as Exclusions per Section 2-224 greater than fifty thousand dollars
 470 (\$50,000.00) total expenditure for the initial contract term;
- 471 (3) Change Orders or amendments that cumulatively exceed fifty thousand
 472 dollars (\$50,000.00) of the previously-approved City Council procurement
 473 amount shall be presented to the City Council for consideration and
 474 approval; and
- 475 (4) Council approval for task orders against continuing contracts issued for
 476 professional services greater than fifty thousand dollars (\$50,000.00).
- 477 (c) Contract duration and term contracts:
- 478 (1) For calculation purposes, initial contract term is the duration first agreed
 479 to by both parties, prior to renewal options. This is typically one year, but
 480 in the case of longer initial term (i.e. two-year initial terms), value is
 481 calculated by adding the values of the years comprising the initial term.
- 482 (2) Contract amendments for term or continuing contracts do not require City
 483 Council approval and shall be made in accordance with the Procurement
 484 Manual, unless proposed amendment increase cost(s) whereby the new
 485 proposed total may cumulatively exceed fifty thousand dollars
 486 (\$50,000.00).
- 487 (d) Purchases, awards, change orders, and contract amendments not exceeding the
 488 mandatory City Council approval amount shall be made in accordance with the
 489 Procurement Manual.

490

491 **Sec. 2-226. - Organization.**

- 492 (a) Procurement Department. The Procurement Department shall conduct all of the
 493 City's procurement and contracting for supplies, goods, equipment, contractual
 494 services, professional and consultant services, capital improvements and
 495 construction and/or any combination of goods and services that is equal to or
 496 exceeds fifty thousand dollars (\$50,000.00). All procurement and contracting for

497 supplies, goods, equipment, contractual services, professional and consultant
498 services, capital improvements and construction and/or any combination of goods
499 and services that is less than fifty thousand dollars (\$50,000.00) shall be in
500 accordance with the Procurement Manual.

501 (b) The Chief Procurement Officer shall have the following duties, responsibilities,
502 authorizations, and accountabilities:

503 (1) Administer the procurement and contracting function for the City;

504 (2) Determine conditions and procedures for further delegation(s) of
505 purchase authority to Procurement Staff and other Department Heads
506 within the authority delegated to the Chief Procurement Officer by the
507 Mayor or their designee;

508 (3) Determine the conditions and procedures for the use of source selection
509 methods authorized by this Ordinance, including determination of
510 sole/single source purchases;

511 (4) Maintain, or arrange for maintenance of, a current vendor database of
512 possible sources of supply for all goods and services purchased by the City;

513 (5) Provide for the preparation and establishment of Procurement Manual.
514 Such procedures and processes shall be in compliance with this Article and
515 may not conflict with the thresholds or approval requirements set forth in
516 this Ordinance. The Procurement Manual, as approved by the Mayor or
517 their designee shall define the minimum threshold amounts at which
518 competitive quotes and other competitive solicitations under the
519 mandatory City Council approval amount shall be required by the City;

520 (6) As permitted within the Procurement Manual, award competitive
521 solicitations and sign, on behalf of the City, all contractual agreements,
522 purchase orders, task orders, amendments and change orders for the
523 purchase of goods and/or services required by the City of less than the
524 mandatory City Council approval amount and as otherwise stipulated in
525 this Article;

526 (7) As permitted within the Procurement Manual, award, and sign contractual
527 agreements, purchase orders, task orders, and change orders, for the
528 purchase of goods and/or services required on behalf of the City, that
529 exceed the mandatory City Council approval amount after award approval
530 by the City Council, and as otherwise stipulated in this Article;

531 (8) Determine the use and amount of bid security, payment bonds,
532 performance bonds, public construction bonds, and other securities in
533 connection with all solicitation documents and contracts for supplies,
534 services, and capital improvements and construction, as limited in Fla. Stat.
535 § 255.05, as amended;

- 536 (9) Reject bids or proposals which are nonresponsive or non-responsible,
537 including those due to late submittal;
- 538 (10) Negotiate the best terms and conditions for any purchase where only one
539 (1) responsive and responsible bid or proposal is received;
- 540 (11) Standardize, to the extent possible, the terms and conditions and
541 contractual clauses of all solicitation documents, contracts, and purchase
542 order boilerplate;
- 543 (12) Authority to extend an agreement one (1) time, provided, that such
544 extension does not exceed the duration of the latest term of the
545 agreement, and where the extension permits the city to cancel the
546 agreement without cause with ninety (90) days prior notice of such
547 cancellation, and where the fee structure and rates of agreement remain
548 the same as last term during the extension period;
- 549 (13) Take all necessary action to further the objectives of the City with regard
550 to the promotion and encouragement of local, minority owned, and
551 women owned businesses' participation in the procurement process;
- 552 (14) Make final determinations of the day-to-day activities and functions for
553 procurement related matters not specifically addressed in this Ordinance;
- 554 (15) Establishing a selection committee for competitive procurement related
555 activities, and
- 556 (16) Perform other duties as directed by the Mayor or their designee.

557

558 **Sec. 2-227 - Delegation of authority by chief procurement officer to City staff.**

559 The Chief Procurement Officer may delegate rights, powers, and authority vested in them
560 through the Procurement Manual to subordinate Procurement Department employees, or other
561 City staff, when deemed necessary by the Chief Procurement Officer, provided such staff shall
562 comply with all applicable laws, rules and procedures established by the City.

563

564 **Sec. 2-228 - Unauthorized purchases and prohibitions.**

565 (a) It shall be prohibited for any city officer or employee to make an unauthorized
566 purchase as defined herein. Except in cases of emergency as specified herein, no
567 officer of the City shall issue any oral or written purchase order, contract, or
568 conduct open market purchases in any manner unless specifically authorized by
569 this Ordinance.

570 (b) The City shall not be bound by any purchase order or contract made contrary to
571 the provisions hereof.

- 572 (c) An unauthorized purchase includes any item(s) or service(s) that is:
- 573 (1) Received prior to receiving an executed contract or purchase order;
- 574 (2) Binding the City regarding the purchase of goods or services without
575 written consent from Mayor or their designee;
- 576 (3) Purchased in the following manner:
- 577 a. Obtaining items under contract from suppliers other than those
578 holding exclusive City contracts for those specific items;
- 579 b. Providing the Procurement Department false information such as false
580 bids/ quotes;
- 581 c. An "add-on" to a previously approved contract or purchase order
582 without first obtaining approval from the Procurement Department; or
- 583 d. Splitting orders of the same or like materials/requirements into two or
584 more individual purchases with the intention of circumventing the
585 competitive solicitation requirements.
- 586 (4) Prohibition against subdivision. No contract or purchase shall be
587 subdivided to avoid the requirements of this Article and/or the
588 Procurement Manual.

589 **Sec. 2-229. - Source selection and best value.**

- 590 (a) Except as otherwise exempted or provided herein, or by State or Federal law, the
591 purchase of all goods, supplies, material, equipment, services and combinations
592 of goods and/or services by or on behalf of the City, including those transactions
593 through which the City shall receive revenue, in an amount equal to or in excess
594 of one-hundred thousand dollars (\$100,000.00), shall be solicited by a competitive
595 selection process, such as: the competitive sealed bidding (ITB) process,
596 competitive sealed proposal (RFP) process, the Request for Qualifications (RFQ)
597 process, or the competitive negotiations (ITN) process, as specifically provided
598 herein, as determined by the Chief Procurement Officer.
- 599 (b) The Chief Procurement Officer may renew purchase orders and/or contracts with
600 vendors/contractors originally selected with or without a competitive selection
601 process, provided such renewal is within the scope of the original purchase order
602 or contract, or from the direct purchase of goods, materials or equipment for
603 inclusion in a capital improvement project whose cost has been incorporated as
604 part of a bid awarded in a competitive bidding process provided for herein.
- 605 (c) The Chief Procurement Officer may extend an agreement one (1) time, provided,
606 that such extension does not exceed the duration of the latest term of the
607 agreement, and where the extension permits the city to cancel the agreement
608 without cause with ninety (90) days prior notice of such cancellation, and where

609 the fee structure and rates of agreement remain the same as last term during the
610 extension period.

611 (d) The use of electronic media, including acceptance of electronic signatures, is
612 authorized consistent with Fla. Stat. Ch. 668, as amended, for use of such media,
613 so long as such guidance provides for:

614 (1) Appropriate security to prevent unauthorized access to the competitive
615 solicitation, approval, award, and contracting process; and

616 (2) Accurate retrieval or conversion of electronic forms of such information
617 into a medium which permits inspection and copying in accordance with
618 Fla. Stat. §§ 119.07 and 119.071.

619 **Sec. 2-230. - Methods of procurement.**

620 The Chief Procurement Officer shall determine the appropriate method of source
621 selection for each procurement method, among the following:

622 (a) Competitive Sealed Bid Process.

623 (1) Invitation to Bid. The Invitation to Bid (ITB) process shall be the preferred
624 method of procurement and shall be awarded to the lowest, responsive,
625 and responsible bidder. The ITB solicitation document shall include the
626 specifications and all contractual terms and conditions applicable to the
627 procurement.

628 (2) Public notice of the ITB shall be published on a publicly accessible website
629 for a reasonable period prior to bid opening. For construction projects,
630 advertisements will be processed in compliance with Fla. Stat. § 255.0525
631 (2), where applicable, and will include the location of the bid opening. The
632 public notice shall state the place, due date and time for delivery/receipt.
633 Bids received after the time and date specified in the ITB document shall
634 not be accepted for consideration. ITBs may include pricing for the life
635 cycle cost of items and shall be awarded to the lowest, responsive, and
636 responsible bidder, considering all pertinent qualifications of the
637 recommended awardee.

638 (3) The Chief Procurement Officer shall have the authority to accept or reject
639 any portions of bids or all bids; to waive informalities and minor
640 irregularities; and to cancel and resolicit the requirement at any time prior
641 to execution of a purchase order or contract for the solicitation.

642 (4) The competitive sealed bid process shall be further delineated in the
643 Procurement Manual and the City's ITB solicitation document.

644

645

- 646 (b) Competitive Sealed Proposal Process.
- 647 (1) Request for Proposals. When it is determined by the Chief Procurement
648 Officer that the use of competitive sealed bidding is either not practical,
649 not advantageous to the City due to the technical or specialized nature of
650 the goods and/or services sought, or best value procurement will result in
651 selection of the best qualified vendor/contractor at a reasonable price, the
652 City may utilize the competitive sealed proposal process. A Request for
653 Proposals (RFP) shall be used as the solicitation document.
- 654 (2) Public notice of the RFP shall be published on the City's website for a
655 reasonable period prior to RFP opening, but at a minimum of fourteen (14)
656 calendar days. The public notice shall state the place, due date and time
657 for delivery/receipt. Proposals received after the time and date specified
658 in the RFP document shall not be accepted for consideration.
- 659 (3) The Chief Procurement Officer shall have the authority to accept or reject
660 any portions of proposals or all proposals; to waive informalities and minor
661 irregularities; and cancel and resolicit the requirement at any time prior to
662 execution of a purchase order or contract for the solicitation.
- 663 (4) The RFP process shall be further delineated in the Procurement Manual
664 and the City's RFP solicitation document.
- 665 (c) Request for Qualifications (RFQ) Process.
- 666 (1) When it is determined by the Chief Procurement Officer to be the best
667 method of procurement and for the procurement of services in accordance
668 with Fla. Stat. § 287.055, as amended, for professional architects,
669 engineers, landscape architect, surveyors, and mapping services, the City
670 may utilize the competitive qualification process. A Request for
671 Qualifications (RFQ) shall be used as the solicitation document.
- 672 (2) Continuing contracts for these services may be solicited and entered into,
673 in accordance with Fla. Stat. § 287.055(2)(g), as amended, and as further
674 delineated in the Procurement Manual. The master contracts may have an
675 expiration date, but in accordance with Fla. Stat. § 287.055(2)(g), as
676 amended, may have no time limitation except that the master contract
677 shall provide a termination clause. Services shall be authorized via issuance
678 of Task Orders.
- 679 (3) Public notice of the RFQ shall be published on the City's website for a
680 reasonable period prior to RFQ opening. The public notice shall state the
681 place, due date and time for delivery/receipt. Submittals received after the
682 date and time specified in the RFQ document shall not be accepted for
683 consideration.

- 684 (4) The Chief Procurement Officer shall have the authority to accept or reject
685 any portions of submittals or all submittals; to waive informalities and
686 minor irregularities; and cancel and resolicit the requirement at any time
687 prior to execution of a purchase order or contract for the solicitation.
- 688 (5) The RFQ process shall be completed in accordance with Fla. Stat. §
689 287.055, as amended, and further delineated in the Procurement Manual
690 and the City's RFQ solicitation document.
- 691 (d) Competitive Negotiations Process.
- 692 (1) When the Chief Procurement Officer determines that the use of
693 competitive negotiations would be advantageous to the City, the
694 competitive negotiations process may be used. An Invitation to Negotiate
695 (ITN) shall be the solicitation document.
- 696 (2) The goal of an ITN is to obtain proposals from interested and qualified
697 firms so that the City may enter into negotiations with the firm or firms
698 determined most capable of providing the required supplies and services.
- 699 (3) The ITN document will supply the firms with information necessary to
700 understand the need; however, the terms, scope of work, price, method
701 of delivery, conditions of performance, and approaches of the project may
702 be open to consideration and negotiations, including simultaneous
703 negotiations with the most qualified firms.
- 704 (4) ITNs may not be used for procuring professional services addressed by Fla.
705 Stat. § 287.055, as amended (CCNA).
- 706 (5) Public notice of the ITN shall be published on the City's website for a
707 reasonable period prior to the due date/time but at a minimum of
708 fourteen (14) calendar days. The public notice shall state the place, due
709 date and time for delivery/receipt. Submittals received after the
710 designated time and date shall not be accepted for consideration.
- 711 (6) The Chief Procurement Officer shall have the authority to accept or reject
712 any portions of submittals or all submittals; to waive informalities and/or
713 minor irregularities; and cancel and resolicit the requirement at any time
714 prior to execution of a purchase order or contract for the solicitation.
- 715 (7) The competitive negotiations process shall be further delineated in the
716 Procurement Manual and the ITN solicitation document.
- 717 (e) Multi-Step Competitive Solicitation / Request for Information (RFI) Process.
- 718 (1) When it is considered impractical to initially prepare a purchase
719 description to support an award based on price or detailed scope of work,
720 any competitive solicitation may be preceded by a Request for Information
721 (RFI) requesting the submission of information, which will provide input

- 722 for the specifications or scope of work to be included in a subsequent
723 competitive solicitation.
- 724 (2) The RFI process shall be further delineated in the Procurement Manual and
725 the RFI document.
- 726 (3) As determined by the Chief Procurement Officer, the Multi-Step
727 Competitive Solicitation can also be used for source selection by combining
728 the elements of both competitive sealed bids and sealed proposals. The
729 Multi-Step process shall be further delineated in the Procurement Manual
730 and the solicitation document.
- 731 (f) Alternative source selection.
- 732 (1) Informal Competitive Solicitation. Any purchase for an amount less than
733 one-hundred thousand dollars (\$100,000.00) shall be made in accordance
734 with those procedures set forth in the Procurement Manual, provided,
735 however, no purchase shall be artificially divided so as to constitute a small
736 purchase under this section.
- 737 (2) Sole/Single source purchases.
- 738 a. The Chief Procurement Officer may make or authorize the
739 purchase of goods and/or services, subject to the mandatory City
740 Council approval level stipulated in this Ordinance, without
741 competitive solicitation when the intent to award via sole/single
742 source is posted on the City's website for a reasonable time period
743 but at a minimum of fifteen (15) calendar days, or when a
744 documented research effort by the Chief Procurement Officer fails
745 to identify further competing sources of the goods or services. Such
746 written determinations and supporting documentation shall be
747 retained by the Chief Procurement Officer for public inspection and
748 auditing purposes.
- 749 b. Where standardization is determined by the Chief Procurement
750 Officer to be appropriate, and negotiation of such standard items
751 is appropriate, a sole/single source determination is justified.
- 752 c. The sole/single source process shall be further delineated in the
753 Procurement Manual.
- 754 (3) Emergency purchases or Time of the essence purchases. The Mayor or
755 their designee, or Chief Procurement Officer, if delegated in the
756 Procurement Manual, may make or authorize emergency or time of the
757 essence purchases as defined herein.
- 758 a. In the event of an emergency, such as a declaration of emergency
759 pursuant to applicable law, by the Governor, by the County or City,

760 an equipment failure, catastrophic damage to City property, or
761 other similar unexpected event, all formal competitive bidding
762 procedures are waived, and normal procurement procedures and
763 requirements directly related to such emergency shall be
764 suspended; and with the approval of the Mayor or their designee
765 in writing, the head of any department may purchase any required
766 emergency supplies, materials, equipment or services. The head of
767 such department shall send to the Chief Procurement Officer a full
768 justification and circumstances of the emergency.

769 b. Records of emergency or time of the essence purchases shall be
770 maintained by the Chief Procurement Officer and the requesting
771 client department.

772 c. A record listing of all emergency or time of the essence purchases
773 exceeding the mandatory City Council approval amount shall be
774 submitted to the City Council within ninety (90) days of said
775 purchase for acknowledgment.

776 d. The emergency purchase or time of the essence process shall be
777 further delineated in the Procurement Manual.

778 (4) Cooperative purchases and use of other governmental or public entity
779 contracts.

780 a. The City may purchase from any cooperative contract, including
781 but not limited to: term contracts by the State of Florida, Federal
782 General Services Administration, and other governmental
783 cooperatives and entities within and outside the State of Florida if
784 the Chief Procurement Officer determines that it is practicable and
785 advantageous for the City to employ this method of purchase, and
786 such contracts specify that they are cooperative procurements at
787 the time of solicitation or the governmental entity Procurement
788 official otherwise agrees to the use of such contract in writing.. Any
789 such contracts equal to or in excess of fifty thousand dollars
790 (\$50,000) shall go to the City Council for approval.

791 b. The City may utilize a contract entered into by another
792 governmental or public entity, if the Chief Procurement Officer
793 determines that it is practicable and advantageous for the City to
794 employ this method of purchase, and such contracts specify that
795 they are cooperative procurements at the time of solicitation or the
796 governmental entity Procurement official otherwise agrees to the
797 use of such contract in writing. Any such contracts equal to or in
798 excess of fifty thousand dollars (\$50,000) shall go to the City
799 Council for approval.

- 800 c. Other governmental agencies are authorized to utilize the City's
- 801 contracts.
- 802 d. If such other governmental or cooperative contract is utilized, the
- 803 public notice requirements and the need to utilize the methods of
- 804 selection processes included in this Article are obviated.
- 805 e. The cooperative purchasing process shall be further delineated in
- 806 the Procurement Manual.
- 807 (5) Design-build services.
- 808 a. The City may use a design criteria professional as defined in Fla.
- 809 Stat. § 287.055, as amended to prepare a design-criteria package.
- 810 b. The design-build process shall be further delineated in the
- 811 Procurement Manual.
- 812 (6) Capital improvement and construction services. The contracting and
- 813 purchase of construction services shall be acquired in accordance with the
- 814 competitive sealed bidding process or, when determined to be in the City's
- 815 best interest by the Chief Procurement Officer, the competitive sealed
- 816 proposal process, for projects that exceed the monetary threshold(s) set
- 817 forth in FL Statutes 255.20. Performance bonds and payment bonds or
- 818 Public Construction Bonds shall be in the maximum amounts stipulated in
- 819 Fla. Stat. § 255.05, as amended. The capital improvement and construction
- 820 contracting process shall be further delineated in the Procurement Manual
- 821 and the solicitation document.
- 822 (7) Construction Management at Risk Services. The procuring of Construction
- 823 Management at Risk service shall be acquired in accordance with the
- 824 Request for Qualifications process. The Construction Management at Risk
- 825 shall be further delineated in the Procurement Manual and the RFQ
- 826 document.
- 827 (8) Negotiated purchases. Negotiation of contracts and pricing via any method
- 828 of selection process identified herein, shall be by means promulgated in
- 829 the Procurement Manual.

830

831 **Sec. 2-231 - Public-private partnerships.**

- 832 (a) Purpose and scope; applicability.
- 833 (1) This Section creates a uniform process for private entities and the City to
- 834 engage in a public-private partnership (P3) consistent with the P3 Statute,
- 835 F.S. § 255.065, as amended from time to time.

- 836 (2) When considering a public project, the City may elect to: follow this P3
837 process if consistent with the P3 Statute; follow any other legally available
838 project delivery process; or not pursue the project.
- 839 (3) The procurement of P3 agreements by the City shall follow the provisions
840 of this Section. Requirements of other sections or articles of this Code shall
841 not apply to procurements under this Section unless such requirements
842 are expressly included or incorporated by reference in the procurement
843 documents.
- 844 (4) The City may develop and maintain a separate administrative P3 policy
845 containing more detailed procedures and requirements for entering into
846 P3 agreements, consistent with this Section.
- 847 (5) When the City procures stand-alone professional services, as defined in the
848 Consultants' Competitive Negotiation Act, codified in F.S. § 287.055, or
849 when it procures professional services for a design-build project outside
850 the context of a P3 project, the City will not follow the P3 process, but will
851 instead continue to comply with F.S. § 287.055 and relevant provisions of
852 this Code.

853 (b) Definitions.

854 For purposes of this Section, the following terms shall have the meanings set forth
855 below. Where the context permits, other terms defined in the P3 Statute that are
856 used in this Section shall have the meanings set forth in the P3 Statute.

- 857 (1) *City* means the City of Plantation, Florida.
- 858 (2) *Conceptual proposal* means an unsolicited proposal that includes
859 conceptual information sufficient for the City to determine whether the
860 proposed ideas are attractive enough to justify investment of City
861 resources to undertake a process that may lead to formation of a contract
862 to implement the ideas.
- 863 (3) *Detailed proposal* means a proposal (solicited or unsolicited) that contains
864 detail beyond a conceptual level sufficient for the City to compare the
865 proposal competitively to others.
- 866 (4) *P3* means a public-private partnership, which is an agreement between the
867 City and a private entity that allows for greater private sector participation
868 in the delivery of a City qualifying project, and additional benefits to the
869 public beyond traditional City procurement processes.
- 870 (5) *P3 Statute* means F.S. § 255.065, as amended from time to time, or any
871 successor in function regarding public-private partnerships.
- 872 (6) *Private entity* means any natural person, corporation, general partnership,
873 limited liability company, limited partnership, joint venture, business trust,
874 public benefit corporation, nonprofit entity, or other private business

875 entity. To be eligible to enter into a P3 with the City, a private entity must
876 meet the minimum standards contained in the City's guidelines for
877 qualifying professional services and contracts for traditional procurement
878 projects.

879 (7) *Proposal review fee* means the fee paid by the private entity submitting an
880 unsolicited conceptual proposal or a detailed proposal.

881 (8) *Qualifying project* means a facility or project that serves a public purpose,
882 or a facility or infrastructure that is used or will be used by the public or in
883 support of a public purpose or activity, as defined in the P3 Statute.

884 (9) *Solicitation* means a city-initiated procurement process seeking offers
885 (bids, proposals, or otherwise) for City projects, which may include
886 processes authorized by: section 2-230; F.S. §§ 255.20 or 287.055; or any
887 other law or the City's home rule powers.

888 (10) *Unsolicited proposal* means a conceptual proposal or a detailed proposal
889 that a private entity submits to the City on its own initiative, and not in
890 response to a solicitation.

891 (c) Unsolicited conceptual proposal.

892 (1) A private entity may submit an unsolicited conceptual proposal to the City,
893 to gauge the City's potential interest in pursuing the proposed project as a
894 P3. A conceptual proposal is not required. A private entity may forego
895 submitting a conceptual proposal and submit an unsolicited detailed
896 proposal.

897 (2) A private entity must tender a proposal review fee of \$5,000.00 with its
898 conceptual proposal. The City will not review a conceptual proposal that is
899 not accompanied by the payment of this fee. Payment must be made by
900 cash, cashier's check, or other noncancelable instrument. Personal or
901 business checks will not be accepted.

902 (3) A conceptual proposal must contain information sufficient to inform the
903 City about the overall character of the proposed qualifying project, the
904 general experience of the private entity, and the general strategies to
905 ensure successful project delivery.

906 (4) Within 30 business days after receipt of the conceptual proposal, the City,
907 through the City's Chief Administrative Officer or designee, will either
908 summarily reject the conceptual proposal and return the proposal review
909 fee or accept the conceptual proposal for substantive review and notify
910 the private entity of the anticipated time required for the City to complete
911 the review of the conceptual proposal. The City's Chief Administrative
912 Officer may seek City Council input and direction whether the City should
913 accept a conceptual proposal for substantive review.

- 914 (5) If the City decides to accept the conceptual proposal for substantive
915 review, the City will preliminarily assess whether: the proposed project is
916 a qualifying project; the proposed project delivery model offers
917 advantages over traditional models, for example, lower cost, shorter
918 schedule, increased investment, etc.; the proposed project is reasonably
919 likely to satisfy the criteria established by the P3 Statute.
- 920 (6) Upon completion of review of the conceptual proposal, the City will notify
921 the private entity in writing of the City's position regarding the proposed
922 project. The City may:
- 923 a. Decide not to pursue the proposed project;
- 924 b. Decide to pursue the proposed project, or a similar project, using
925 other procurement methods (in which, if open to private companies,
926 the private entity may compete if otherwise qualified); or
- 927 c. Decide to continue considering the proposed project as a P3 project
928 and request the private entity to submit a detailed proposal (which
929 request shall not constitute a formal solicitation).
- 930 (7) The Chief Administrative Officer may seek input and direction from City
931 Council regarding the City's position for the conceptual proposal.
- 932 (8) The City's disposition of a conceptual proposal does not limit its discretion
933 or authority with respect to future projects, whether solicited or
934 unsolicited.
- 935 (d) Unsolicited detailed proposals.
- 936 (1) A private entity may submit an unsolicited detailed proposal to the City to
937 initiate the City's consideration of whether to deem the proposed project
938 as a qualifying project and whether to pursue it further as a P3 project. The
939 City is not obligated to pursue a project as a P3 project, even if the project
940 satisfies the definition of a qualifying project. The Chief Administrative
941 Officer may seek input and direction from City Council whether to
942 undertake a review of an unsolicited detailed proposal pursuant to this
943 Section.
- 944 (2) A private entity must tender a proposal review fee of \$25,000.00 with its
945 detailed proposal, unless the private entity has already paid a fee for
946 review of a substantially similar conceptual proposal, in which case the
947 proposal review fee is \$20,000.00. The City will not review an unsolicited
948 detailed proposal that is not accompanied by the payment of this fee.
949 Within 30 business days after receipt of the unsolicited detailed proposal
950 and proposal review fee, the City, through the Chief Administrative Officer
951 or designee, will either summarily reject the unsolicited detailed proposal
952 and return the proposal review fee or accept the unsolicited detailed
953 proposal for substantive review. Unless the City chooses to summarily

954 reject an unsolicited detailed proposal prior to conducting a substantive
955 review, the proposal review fee is non-refundable. Payment must be made
956 by cash, cashier's check, or other noncancelable instrument. Personal or
957 business checks will not be accepted.

958 (3) If the initial proposal review fee is insufficient to cover the City's costs to
959 evaluate the proposal, the City will request, in writing, the additional
960 amounts required. As permitted by the P3 Statute, the City's evaluation
961 costs include, but are not limited to, reasonable attorney's fees and fees
962 for financial and technical advisors or consultants, and for other necessary
963 advisors or consultants. If the private entity does not tender the additional
964 requested amount with 30 days of the written request, the City may, in its
965 sole discretion, stop its review of the proposal.

966 (4) An unsolicited detailed proposal must contain information sufficient to
967 inform the City about: the detailed quality and character of the proposed
968 qualifying project; the detailed experience and capacity of the private
969 entity; and the detailed financial and implementation strategies to ensure
970 successful project delivery. This information should include the following:

- 971 a. A description of the private entity, including name, address, type
972 of organization, and legal structure.
- 973 b. Name and complete contact information of the primary point of
974 contact for the unsolicited detailed proposal.
- 975 c. Names and experience of proposed key project personnel.
- 976 d. Type of support needed, if any, from the City, for example,
977 facilities, equipment, materials, personnel, financial resources,
978 etc.
- 979 e. Identification of any proprietary data used and the manner in
980 which it is used.
- 981 f. Identification of any outside entities or professionals the private
982 entity has or intends to consult with respect to the project.
- 983 g. The names of any other federal, state, or local agencies receiving
984 a similar proposal from the private entity.
- 985 h. A complete discussion of the objective of the project, the method
986 of approach, the nature of the anticipated results, and the
987 characteristics that make it a qualifying project worthy of pursuit
988 by the City.
- 989 i. A detailed overview of the proposed business arrangements,
990 including the plan for the development, financing, and operation
991 of the project.
- 992 j. A preliminary project schedule.

- 993 k. A detailed financial analysis of the proposed project.
- 994 l. Specification as to when the pricing or terms of the proposal will
- 995 expire.
- 996 (5) In considering an unsolicited detailed proposal, the City may require from
- 997 the private entity a technical study, such as a financial analysis or feasibility
- 998 study, prepared by a nationally recognized expert with experience in
- 999 preparing such analyses and studies for bond rating agencies. In evaluating
- 1000 the technical study, the City may rely upon internal staff reports prepared
- 1001 by personnel familiar with the operation of similar facilities or the advice
- 1002 of external advisors or consultants who have relevant experience.
- 1003 (6) Within 90 business days after receipt of the unsolicited detailed proposal,
- 1004 the City will notify the private entity in writing of the City's decision either
- 1005 to reject the unsolicited detailed proposal, proceed with the unsolicited
- 1006 detailed proposal for competitive review as set forth in subsection (f), or
- 1007 proceed with the unsolicited detailed proposal as set forth in subsection
- 1008 (g), unless this timeframe is extended as described below. During this
- 1009 period, the City may meet with the private entity to gain a deeper
- 1010 understanding of the unsolicited detailed proposal, and the City may
- 1011 request that the private entity submit additional information. These
- 1012 meetings will be preliminary in nature, and will not include or constitute
- 1013 substantive negotiation of agreement terms. In considering whether to
- 1014 accept the unsolicited detailed proposal for competitive review, the City
- 1015 will assess whether: the proposed project is a qualifying project; the
- 1016 proposed project delivery model offers advantages over traditional
- 1017 models, for example, lower cost, shorter schedule, increased investment,
- 1018 etc.; the proposed project is reasonably likely to satisfy the criteria
- 1019 established by the City for P3 projects. The City may determine that it
- 1020 requires more than 90 business days to complete its review of the
- 1021 unsolicited detailed proposal and this assessment, in which case it will
- 1022 notify the private entity in writing of how much time will be required. The
- 1023 Chief Administrative Officer may seek input and direction from City Council
- 1024 whether to reject an unsolicited detailed proposal or proceed with an
- 1025 unsolicited detailed proposal as set forth in this Section.
- 1026 (7) An unsolicited detailed proposal may be rejected by the City at any time.
- 1027 The City has complete discretion and authority to reject any unsolicited
- 1028 proposal it receives.
- 1029 (8) If an unsolicited detailed proposal involves architecture, engineering or
- 1030 landscape architecture, the City will engage licensed professionals for
- 1031 review and evaluation of the initial and any subsequent proposals, in
- 1032 accordance with the P3 Statute.

- 1033 (e) Solicited detailed proposals.
- 1034 (1) The City may on its own initiative determine to issue a solicitation inviting
1035 private entities to submit detailed proposals for any opportunity that the
1036 City has identified as a qualifying project.
- 1037 (2) Any solicitation that the City issues under the authority of the P3 Statute
1038 will identify the P3 Statute, this Section, and the City's other related Code
1039 Sections as the governing procurement process. The solicitation
1040 documents will specify information necessary for interested parties to
1041 understand and respond to the solicitation.
- 1042 (3) If a solicitation for a P3 project includes design work, the solicitation will
1043 include a design criteria package prepared by a licensed architect,
1044 landscape architect, or engineer engaged by the City in accordance with
1045 the P3 Statute.
- 1046 (4) The City is not obligated to proceed under the P3 Statute and this Section
1047 when soliciting proposals, and may follow any legally available
1048 procurement process, regardless of whether the project qualifies as a
1049 qualifying project and regardless of whether the ultimate transaction may
1050 be characterized as a P3.
- 1051 (f) Competitive review of detailed proposals.
- 1052 (1) If the City Council gives direction to proceed with an unsolicited detailed
1053 proposal for competitive review, the City will advertise the potential
1054 opportunity and receive competing detailed proposals.
- 1055 a. The advertisement will include: a general description of the
1056 qualifying project; an invitation to submit a competing detailed
1057 proposal for the qualifying project, which may propose the
1058 identical project, a functionally equivalent project, or an alternative
1059 project that achieves the same purpose or uses the same City
1060 resources as the proposed project; information about how to
1061 obtain more detailed information; and a due date for responding,
1062 which ordinarily will be 45 days after initial publication, but which
1063 may be up to 120 days as the circumstances warrant.
- 1064 b. The City will advertise the potential opportunity in the Florida
1065 Administrative Register at least once a week for two consecutive
1066 weeks; in a newspaper of general circulation within the City at least
1067 once a week for two weeks, the first of which shall be published at
1068 least 21 days prior to the due date for competing proposals; on the
1069 City's website and in the same manner as competitive solicitations;
1070 and at City Hall in the same manner as other public notices issued
1071 by the City.

- 1072 (2) Whether received in response to a solicitation under the P3 Statute and
1073 this Section, or in response to a competitive review advertisement
1074 concerning an unsolicited detailed proposal, within 30 days after the
1075 receipt of all competing detailed proposals the Chief Administrative
1076 Officer, with the assistance of staff, will undertake review of the proposals
1077 and coordinate negotiations concerning the qualifying project. The Chief
1078 Administrative Officer may rely on subject matter experts and staff for
1079 information gathering and administrative work, but the Chief
1080 Administrative Officer alone will possess and exercise authority for all
1081 recommendations to City Council concerning the detailed proposals.
- 1082 (3) The Chief Administrative Officer, with the assistance of staff, will review
1083 the detailed proposals and determine whether to allow initial oral
1084 presentations, interviews, or discussions for the purpose of gaining deeper
1085 understanding of the detailed proposals. The Chief Administrative Officer
1086 is not required to entertain initial oral presentations, interviews, or
1087 discussions with a private entity. Any oral presentations, interviews, or
1088 discussions will be limited to reviewing and discussing information
1089 contained in the detailed proposals, and will not include or constitute
1090 substantive negotiations related to any detailed proposal or the qualifying
1091 project.
- 1092 (4) Within 90 days after receipt of proposals, or after the final oral
1093 presentation, interviews or discussions, whichever is later, the Chief
1094 Administrative Officer will rank the detailed proposals in order of
1095 preference. The Chief Administrative Officer may use any reasonable
1096 method to rank the detailed proposals, and is not required to numerically
1097 score them. In ranking the detailed proposals, the Chief Administrative
1098 Officer will consider the private entity team members' professional
1099 qualifications and experience, the proposed general business terms,
1100 innovative project delivery terms (including finance, design, construction,
1101 maintenance, and operation, as applicable to the particular circumstance),
1102 and any other factors indicated in the advertisement or solicitation.
- 1103 (5) Following the ranking of detailed proposals, the Chief Administrative
1104 Officer will present the highest-ranking proposal to City Council for further
1105 consideration pursuant to the procedures set forth in subsections in (g)
1106 and (h).
- 1107 (g) Additional procedures for detailed unsolicited proposals.
- 1108 (1) The City may also choose to proceed with a detailed unsolicited proposal
1109 without engaging in the competitive review process set forth in
1110 subsection (f) above, by following the steps as set forth herein:
- 1111 (2) The City shall hold a duly noticed public meeting at which the unsolicited
1112 proposal is presented and affected public entities and members of the
1113 public will be able to provide comment on the unsolicited proposal. For an

1114 unsolicited proposal that City Council chooses to undergo a competitive
1115 review process pursuant to subsection (f), this first public meeting shall
1116 occur after the competing proposals are submitted, reviewed, and ranked
1117 by the Chief Administrative Officer, and direction is given by;

1118 (3) After the first public meeting, the City shall hold a second duly noticed
1119 public hearing for City Council to determine whether the unsolicited
1120 proposal is in the public's interest. In making this determination, the City
1121 must consider all of the following factors:

1122 a. The benefits to the public;

1123 b. The financial structure of, and the economic efficiencies achieved
1124 by the proposal;

1125 c. The qualifications and experience of the private entity that
1126 submitted the proposal and such entity's ability to perform the
1127 project;

1128 d. The proposed project's compatibility with regional infrastructure
1129 plans;

1130 e. Public comments submitted at the prior meeting, including a
1131 statement of findings explaining why the proposal should proceed
1132 and addressing the public's comments.

1133 (4) If the City chooses to proceed with an unsolicited detailed proposal
1134 pursuant to this section and does not undergo the competitive advertising
1135 and review process set forth in subsection (f), the City shall publish in the
1136 Florida Administrative Register for at least seven days a report that
1137 includes all of the following:

1138 a. The public interest determination required by subsection b. above;

1139 b. The factors considered in making such public interest
1140 determination; and

1141 c. The City's findings based on each considered factor.

1142 (h) Negotiation and approval of interim and comprehensive agreements.

1143 (1) Whether in response to a solicitation under the P3 Statute and this Section,
1144 or once City Council has undergone the first public hearing set forth in
1145 subsection a. for an unsolicited proposal, following direction to proceed by
1146 City Council the Chief Administrative Officer, with the assistance of staff,
1147 may commence negotiations with the private entity responsible for the
1148 selected proposal in accordance with the P3 Statute and this Section. The
1149 Chief Administrative Officer may seek City Council input and direction on
1150 whether to commence negotiations with the private entity responsible for
1151 the selected proposal.

- 1152 (2) The Chief Administrative Officer may recommend to City Council that the
1153 City and the private entity enter into an interim agreement as described in
1154 the P3 Statute.
- 1155 (3) The Chief Administrative Officer may recommend to City Council that the
1156 City and the private entity enter into a comprehensive agreement as
1157 described in the P3 Statute.
- 1158 (4) In deciding whether to enter into a comprehensive agreement, the City
1159 Council will consider and determine all reasonable factors, including but
1160 not limited to:
- 1161 a. Whether the proposed project is a qualifying project.
- 1162 b. Whether the qualifying project is in the public's best interest. For
1163 an unsolicited proposal, City Council's determination will be as set
1164 forth pursuant to the procedures and requirements of subsection
1165 (g).
- 1166 c. Whether the qualifying project involves a facility that is owned by
1167 the City or for a facility for which ownership will be conveyed to the
1168 City. For an unsolicited proposal where ownership will not be
1169 conveyed to the City within ten years after initial public operation
1170 begins, the public benefits apart from ownership must be identified
1171 and stated by the City in the public interest determination as set
1172 forth pursuant to subsection (g) and subsection (4)b. above.
- 1173 d. Whether the comprehensive agreement has adequate safeguards
1174 in place to ensure that additional costs or service disruptions are
1175 not imposed on the public in the event of material default by the
1176 private entity or cancellation of the qualifying project by the City.
- 1177 e. Whether the comprehensive agreement has adequate safeguards
1178 in place to ensure that the City or the private entity has the
1179 opportunity to add capacity to the qualifying project or other
1180 facilities serving similar predominantly public purposes.
- 1181 f. For a solicited proposal, whether the qualifying project will be
1182 owned by the City upon completion or termination of the project
1183 and payment of amounts financed.
- 1184 g. Whether there is a public need for or benefit derived from the
1185 qualifying project.
- 1186 h. Whether the estimated cost of the qualifying project is reasonable
1187 in relation to similar facilities.
- 1188 i. Whether the comprehensive agreement will result in the timely
1189 acquisition, design, construction, improvement, renovation,
1190 expansion, equipping, maintenance, or operation of the qualifying
1191 project.

1192 (5) Before entering into a comprehensive agreement, the City shall have
1193 considered the finance plan, the qualifying project cost, revenues by
1194 sources, available financing, major assumptions, internal rate of return on
1195 private investments, if governmental funds are assumed in order to deliver
1196 a cost-feasible, and a total cash-flow analysis beginnings with the
1197 implementation of the project and extending for the term of the
1198 comprehensive agreement, and any other matters which are set forth in
1199 the P3 Statute.

1200 (a) Public records.

1201 (1) If a private entity believes that any information it submits to the City is
1202 exempt from the public records law under any additional statutory
1203 exemptions, the private entity must expressly identify the statutory basis of
1204 the claimed exemption and segregate the exempt information.

1205

1206 **Sec. 2-232. - Dispute resolution and protests.**

1207 (a) Any actual or prospective bidder or proposer who is allegedly aggrieved in
1208 connection with a solicitation issued by the City and pending award in the amount
1209 of fifty thousand dollars (\$50,000) or more may submit a written protest to the
1210 Chief Procurement Officer, provided such bidder or proposer may have been
1211 awarded the contract but for the aggrieved action, and shall be consistent with
1212 this section.

1213 (b) A formal written protest must be received (time and date stamped) no later than
1214 4:30pm., local time, within five (5) business days after the date of the prospective
1215 award determination (the date the city council gives administrative direction on
1216 whom to award the contract). The acceptable methods providing a formal written
1217 protest to the City shall be by hand delivery to the City Clerk's officer, certified
1218 mail or other express mail service.

1219 (c) The calculation of days shall exclude Saturdays, Sundays, and holidays observed
1220 by the City. The day of the prospective award determination shall be included in
1221 the calculation. Service of a protest by mail or courier shall not expand the time
1222 period allowed for delivery of a protest.

1223 (d) The formal written protest shall:

1224 (1) Identify the protestant and the solicitation involved;

1225 (2) Include a clear statement of the grounds on which the protest is based;

1226 (3) Refer to the statutes, laws, codes, or other legal authorities which the
1227 protestant deems applicable to such grounds; and,

1228 (4) Request the specific relief to which the protestant deems itself entitled.

- 1229 (e) Any grounds not stated in the protest shall be deemed waived.
- 1230 (f) Protest fee: The formal protest must be accompanied by a protest application fee
1231 in the amount of five percent (5%) of the total amount of the recommended
1232 purchase award; or if no dollar amount is included in the purchase award
1233 recommendation, a protest application fee must be in the amount of one
1234 thousand five hundred dollars (\$1,500.00). The maximum (cap) amount of the
1235 protest application fee for any protest shall be fifteen thousand dollars
1236 (\$15,000.00). The protest application fee must be in the form of a cashier's check,
1237 or certified check payable to the City of Plantation. Cash is not acceptable.
- 1238 (g) The written protest may not challenge the relative weight of the evaluation
1239 criteria or any formula for assigning points in a competitive solicitation.
- 1240 (h) The protestant shall by certified mail or other express mail service a copy of the
1241 formal written protest to the firm or firms recommended for award, and shall
1242 provide the Chief Procurement Officer with evidence of such mailing. Notice must
1243 be given to the firm or firms within four (4) calendar days after the formal protest
1244 deadline. Notice shall have been deemed given when the protestant certifies that
1245 a copy of the written protest was delivered for mailing. Within four (4) calendar
1246 days after the protest deadline, the protestant shall file a statement certifying that
1247 notice was given to affirm or firms as required by this subsection, and identifying
1248 to whom such notice was addressed. Failure to file such statement or failure to
1249 provide notice to firm or firms within the time prescribed herein shall constitute a
1250 waiver of the right to continue the protest. All firms to whom notice is to be given
1251 pursuant to this section shall be deemed "parties" to protest proceedings.
- 1252 (i) A written protest is considered filed with the City when it is received by the office
1253 of the City Clerk within the timeframe specified above along with the required
1254 protest fee.
- 1255 (j) Failure to file a written protest along with the required protest fee within the time
1256 period specified shall result in wavier of all rights of protest by the vendor and
1257 abrogation of any further protest proceedings.
- 1258 (k) The protest procedures herein shall be the sole remedy for challenging a
1259 competitive solicitation. Any and all costs incurred by a protesting party in
1260 connection with a protest pursuant to this Article shall be the sole responsibility
1261 of the protesting party.
- 1262 (l) Bidders and proposers are prohibited from attempts to influence, persuade or
1263 promote through any other channels or means. Such attempts shall be cause for
1264 suspension in accordance with Sec. 2-233. of this Article.
- 1265 (m) The Chief Procurement Officer, in consultation with the Mayor or their designee
1266 and City Attorney, shall attempt to resolve the protest in a fair and equitable
1267 manner. The judicial rules of evidence shall not apply and the Chief Procurement

- 1268 Officer shall base their decision on such information presented in the course of
 1269 the proceeding upon which reasonable persons rely in the conduct of their affairs.
 1270 The Chief Procurement Officer may direct the City Attorney to render a written
 1271 decision to the protestant via certified U. S. mail.
- 1272 (n) The protestant may appeal such decision to City Council by delivering written
 1273 notice to the Chief Procurement Officer within three (3) business days of the
 1274 vendor's receipt of the written decision by the Chief Procurement Officer.
- 1275 (o) Upon receipt of a timely notice of appeal, the Chief Procurement Officer will
 1276 request that the Mayor or their designee schedule the appeal for consideration by
 1277 the City Council, which may affirm, reverse, or modify the Chief Procurement
 1278 Officer's decision.
- 1279 (p) The Chief Procurement Officer's consideration of a timely protest shall stay the
 1280 execution of an agreement or issuance of a purchase order with the exception of
 1281 actions taken pursuant to section 2-232(q).
- 1282 (q) The Mayor or their designee reserves the right to instruct the Chief Procurement
 1283 Officer to proceed with the execution of an agreement or issuance of a purchase
 1284 order based on the original approval of City Council without delay as necessary to
 1285 protect substantial interests of the City. In that case, the City Council may, in its
 1286 sole discretion, dismiss the appeal, to comply with actions stated herein
- 1287 (r) Nothing in this section is intended to affect the existing powers of the City Council
 1288 to settle actions pending before the Courts. In the event of a court upholding the
 1289 protestant's claim, the court awarded damages on behalf of the protestant shall
 1290 be solely limited to bid/proposal preparation costs, and reimbursement of the
 1291 amount of the protest application fee as stipulated herein.
- 1292 (s) The dispute resolution and protest process may be further delineated in the
 1293 Procurement Manual.

1294

1295 **Sec. 2-233. - Suspension and debarment.**

- 1296 (a) Authority. The Chief Procurement Officer may suspend or debar, for cause, the
 1297 right of a vendor to be included on a vendor database and any bid or response
 1298 from that vendor shall be rejected; provided however, the Mayor or their
 1299 designees shall have the power to waive or lift such suspension or debarment.
- 1300 (b) Suspension. A vendor may be suspended for a period not to exceed two (2) years
 1301 as determined by the Chief Procurement Officer based upon the following:
- 1302 (1) Vendor has been terminated for cause, defaulted, failed to perform, or
 1303 failed to fully comply with the conditions, time frames, performance,
 1304 specifications, drawings, or terms of a contract with the City; or

- 1305 (2) Vendor has provided an item(s) which failed testing.
- 1306 (3) Vendor commits any fraud or misrepresentation in connection with any
1307 competitive solicitation or contract with the City; or
- 1308 (4) Vendor is convicted by a court of competent jurisdiction with a criminal
1309 offense in an incident related to obtaining or attempting to obtain a public
1310 or private contract or subcontract, or in the performance of such contract
1311 or subcontract; or
- 1312 (5) Vendor is convicted by a court of competent jurisdiction with any of the
1313 following: embezzlement, theft, forgery, bribery, falsification or
1314 destruction of records, receiving stolen property, or any other offense
1315 indicating a lack of business integrity or business honesty which is
1316 determined to currently, seriously, and/or directly affect responsibility as
1317 a City government contractor; or
- 1318 (6) Vendor becomes insolvent, has proceedings in bankruptcy instituted, or
1319 compounds its debts, or assigns over its estate or effects for payment
1320 thereof, or has a receiver or trustee appointed over its property; or
- 1321 (7) Vendor has been adjudicated or otherwise found in violation of the ethical
1322 standards set forth in local, state statutes or federal law; or
- 1323 (8) Vendor fails to comply with the local business preference requirements of
1324 an awarded contract; or
- 1325 (9) Any other cause the Chief Procurement Officer determines to be
1326 sufficiently serious and compelling as to materially and adversely affect
1327 responsibility of a business as a City contractor, including but not limited
1328 to suspension by another governmental entity for substantial cause.
- 1329 (c) Debarment. A vendor may be permanently debarred for the following:
- 1330 (1) Termination for cause, default, failure to perform, or fully comply with the
1331 conditions, time frames, performance, specifications, drawings, or terms of
1332 a contract with the City two (2) times within any ten (10) year period; or
- 1333 (2) Conviction by, or judgment obtained, in a court of competent jurisdiction
1334 for those offenses in connection with the vendor's commercial enterprise
1335 stated in Sec. 2-233. (b) of this Ordinance. If the conviction or judgment is
1336 reversed through the appellate process, the debarment shall be removed
1337 upon written notification and proof of final court disposition; or
- 1338 (3) Conviction of a public entity crime as defined by Fla. Stat. § 287.133, as
1339 amended, shall result in debarment to transact business with the City to the
1340 extent as specified therein.

1341 (4) Permanent debarment by another federal, state or local governmental
1342 agency.

1343 (d) Process. After the Chief Procurement Officer has determined they have cause to
1344 suspend or debar a vendor, he or she shall notify the vendor in writing of the
1345 debarment or the period of suspension and the reasons for the action taken. The
1346 suspension or debarment shall be final and conclusive unless the suspended or
1347 debarred vendor initiates written protest proceedings pursuant to Sec. 2-233. of
1348 this Article within five (5) business days after the date of notification.

1349

1350 **Sec. 2-234. - Inspection, tests and right to audit.**

1351 (a) The Chief Procurement Officer may inspect or arrange for the inspection of all
1352 deliveries of supplies, materials, equipment or contractual services to determine
1353 conformance with specifications or the scope of work set forth in the purchase
1354 order or contract.

1355 (b) Any client department which has the staff and facilities for adequate inspection
1356 may be authorized by the Chief Procurement Officer to inspect deliveries.

1357 (c) The Chief Procurement Officer shall have the authority to require chemical and/or
1358 physical tests or samples submitted with competitive solicitations and
1359 demonstrations of items or services which are necessary to determine their
1360 quality and conformance with the specifications. For such tests, the Chief
1361 Procurement Officer shall have the authority to make use of laboratory facilities
1362 of an agency, the City, or any outside laboratory. Should the product fail such
1363 testing, the City may require the vendor to pay the City for any expense incurred
1364 in testing, and/or the Chief Procurement Officer may initiate suspension or
1365 debarment proceedings as appropriate.

1366 (d) The City reserves the right to audit a vendor's records as such records relate to
1367 purchases between the City and the vendor. Records should be maintained in
1368 accordance with law.

1369

1370 **Sec. 2-235. – Sale of Surplus Property.**

1371 This section sets for a standardized method for sale of all City-Owned surplus property,
1372 other than real property, that the original cost was in excess of \$5,000.00. Surplus Property refers
1373 to assets that are determined to be no longer required to meet the needs or responsibilities of
1374 the City or any of its departments.

1375 Notwithstanding which method mentioned below is selected, no action shall be taken
1376 until a fully executed Asset Disposal Form has been fully executed and provided to the Chief
1377 Procurement Officer.

- 1378 (a) Sale of surplus property. The City may sell, trade or otherwise dispose of surplus
 1379 and obsolete personal property belonging to the city, either by sale, barter or
 1380 exchange, by competitive sealed bid, public auction, trade-in, via internet or any
 1381 other means of disposal as may be appropriate and in the best interests of the
 1382 city.
- 1383 (1) Chief Procurement Officer shall be responsible determining the method
 1384 and process for sale of all surplus property.
- 1385 (b) Donation of surplus property. Except as provided for below, surplus property may
 1386 be donated only after it is determined that it will not sell by any other methods
 1387 (sale, barter, or exchange, by competitive sealed bid, public auction,
 1388 cannibalization, trade in and via internet). The Mayor or their designee may
 1389 donate surplus property to (i) charitable or non-profit organizations that have tax
 1390 exemption status; or (ii) any department, State, or Municipal Government, or
 1391 Federal Government.
- 1392 (c) Sale of Surplus Property to other Governmental Entities. The City may sell surplus
 1393 property to other governmental entities for fair market value. If one or more
 1394 governmental entities is interested in surplus property, it shall be sold to the entity
 1395 making the highest offer.
- 1396 (d) Sale of Surplus Property to Non-Profit 501(C)(3) organizations. The City may sell
 1397 surplus property to a Non-Profit 501(C)(3) organization for fair market value.
- 1398 (e) All proceeds from direct sales, or auction will be recorded and sent to the Financial
 1399 Services Department. The Financial Services Department will be responsible for
 1400 depositing proceeds in accordance with its policy and procedures.
- 1401 (f) Scrapping of Surplus Property. If surplus property is not in salvageable condition
 1402 and client department determines it to be scrap, the client department shall
 1403 dispose of scrap pursuant to City policy.

1404

1405 **Sec. 2-236. - Equal opportunity for minority and women-owned business enterprises.**

- 1406 (a) The City shall use lawful efforts to ensure that local, disadvantaged, small,
 1407 minority and women-owned businesses shall have an equitable opportunity to
 1408 participate in the City's procurement process and that no business shall be
 1409 excluded from participation in, denied benefits of, or otherwise discriminated
 1410 against in connection with the award and performance of any contracts with the
 1411 City on the grounds of race, color, national origin, gender, or physical impairment.
- 1412 (b) The City, in accordance with the provisions of Title VII of the Civil Rights Act of
 1413 1964, as amended, the Florida Civil Rights Act of 1992, as amended, and other
 1414 federal and state discrimination statutes, prohibits discrimination on the basis of
 1415 race, color, national origin, gender, or physical impairment.

1416

1417 **Sec. 2-237. - Local business preference.**

1418 (a) Procedure. Notice of option to resubmit their bid matching the price of the lowest
1419 non-local vendor response. The city shall give a preference to a qualified local
1420 business that responds to competitive procurement in the following manner:

1421 (1) If a qualified local business submits a response to one (1) of the city's
1422 competitive procurement processes set forth in section 2-230, or informal
1423 purchases in excess of five thousand dollars (\$5,000.00), and the original
1424 response of the qualified local business is within five (5) percent of the
1425 lowest response, then the city shall give the qualified local business the
1426 opportunity to revise their bid price matching the price of the non-local
1427 vendor. The order of preference by which the qualified local business shall
1428 be given the opportunity to revise their bid price shall be from the lowest
1429 to the highest response, as long as the initial response was within five (5)
1430 percent of the low response.

1431 (2) The city shall give the qualified local business written notice of the
1432 opportunity to revise their bid price matching the price of the lowest
1433 response within five (5) business days of determining the lowest response.
1434 There shall only be one (1) valid notice of an opportunity to revise their bid
1435 price matching the price of the lowest response outstanding at any one
1436 (1) point in time. Notice shall be deemed received by the qualified local
1437 business by mailing or otherwise transmitting the notice to the address,
1438 email, facsimile or otherwise that was supplied by the qualified local
1439 business at the time of responding to the solicitation.

1440 (3) The qualified local business to whom a written notice has been mailed or
1441 otherwise transmitted must respond to the city in writing. If the qualified
1442 local business fails to file a response to the notice with the city within two
1443 (2) business days of the mailing or transmission of the notification of the
1444 option to revise their bid price matching the price of the lowest response,
1445 then the failure to respond shall be deemed to be a denial of the
1446 opportunity to revise their bid price matching the price of the lowest
1447 response. Should the qualified local business choose to revise their bid
1448 price matching the price of the price of the lowest response, then the city
1449 shall award the contract to the qualified local business. If no qualified local
1450 business accepts the option to revise their bid price matching the price of
1451 the low response, then the contract shall be offered to the lowest
1452 responder.

1453 (b) Disclosure. The requirements of the city's local preference policy shall be disclosed
1454 in all the city's competitive procurement processes to which this preference
1455 applies to informal purchases in excess of thousand five dollars (\$5,000.00).

- 1456 (c) Exceptions. The procurement preference set forth in this section shall not apply
 1457 to any of the following purchases or contracts:
- 1458 (1) Goods or services provided under a cooperative purchasing agreement or
 1459 interlocal agreement;
- 1460 (2) Purchases or contracts which are funded, in whole or in part, by a
 1461 governmental entity where the laws, regulations, or policies governing
 1462 such funding prohibit or prevent the application of the preference;
- 1463 (3) Purchases made or contracts let under emergency or noncompetitive
 1464 situations;
- 1465 (4) Purchases with an estimated cost of less than the amount stipulated for
 1466 informal bids, (which is currently five thousand-dollars (\$5,000.00));
- 1467 (5) Purchases or contracts procured utilizing requests for proposals (except
 1468 where the procurement documents in a request for proposals expressly
 1469 indicates that the local business preference created by this section will
 1470 apply), requests for qualifications, design build projects, intent to
 1471 negotiate, and multi-step competitive solicitation / request for
 1472 information; and
- 1473 (6) Notwithstanding the above, any purchase using any of the available
 1474 procurement processes in this Code wherein the procurement documents
 1475 expressly indicate that the local business preference set forth in this
 1476 section shall not be available.
- 1477 (d) The application of local preference to a particular purchase, contract, or category
 1478 of contracts for which the City Council is the awarding authority may be waived
 1479 upon written justification and recommendation by the Mayor and approval of the
 1480 City Council.
- 1481 (e) The preference established in this section does not prohibit the right of the City
 1482 Council or the Mayor to compare quality or fitness for use of supplies, materials,
 1483 equipment and services proposed for purchase and compare qualifications,
 1484 character, responsibility and fitness of all persons, firms, or corporations
 1485 submitting bids or proposals.
- 1486 (f) The response preference established in this section does not prohibit the City
 1487 Council, or Mayor, from giving any other preference permitted by law in addition
 1488 to the preference authorized in this section.

1489

1490 **Sec. 2-238. - Ethics, standards of conduct and conflict of interest.**

- 1491 (a) In accordance with Fla. Stat. § 112.313, as amended, neither the Chief
 1492 Procurement Officer nor any member of his or her staff, nor any other employee

1493 of the City engaged in the request for, or actual purchase of goods and/or services,
1494 shall have a financial interest or have any personal beneficial interest, directly or
1495 indirectly, in any purchase or contract of any supplies, materials, equipment, or
1496 services used by, or furnished to, the City. Such conflict of interest may include,
1497 but may not be limited to an individual or ownership, in whole or in part, of a firm
1498 seeking to contract with the City.

1499 (b) The Chief Procurement Officer, every member of his or her staff, and any other
1500 employee of the City engaged in the requisition or purchase of goods and/or
1501 services are prohibited from accepting or receiving from any person, firm or
1502 corporation to which any purchase or contract may be awarded any money,
1503 rebate, gift (including meals), gift cards, or anything of value or any promise,
1504 obligation or contract for future reward or compensation.

1505 (c) If necessary, financial disclosure per Fla. Stat. § 112.3145, as amended, shall be
1506 submitted on an annual basis by the appropriate City staff.

1507

1508 **Sec. 2-239. - Ex parte communication prohibited.**

1509 (a) Adherence to procedures which ensure fairness is essential to the maintenance of
1510 public confidence in the value and soundness of the important process of public
1511 procurement. Therefore, any ex parte communication between a bidder,
1512 proposer, contractor or protestant (or its employees, agents or representatives)
1513 and the City (its members, employees, agents, contractors, or representatives)
1514 during the selection process and award is strictly prohibited. Ex parte
1515 communication is prohibited during the following periods:

1516 (1) From the date of advertising of the solicitation through award of a
1517 contract; and

1518 (2) From initiation of a protest of an award or contract through resolution for
1519 the parties involved in the protest.

1520 (b) Exclusions. This requirement shall not prohibit:

1521 (1) Pre-Bid and Pre-Proposal Meetings: Meetings called or requested by the
1522 Chief Procurement Officer and attended by bidders or proposers for the
1523 purpose of discussing a solicitation, evaluation or selection process
1524 including, but not limited to, substantive aspects of the solicitation
1525 document. Such meetings may include, but are not limited to, pre-bid or
1526 pre-proposal meetings, site visits to the City's facilities or property, site
1527 visits to bidders' or proposers' facilities, interviews/ negotiation sessions
1528 as part of the selection process, and presentations by proposers or
1529 submitting firms. Such authorized meetings shall be limited to topics
1530 specified by the Chief Procurement Officer;

- 1531 (2) Solicitation documents may provide for communications from bidders or
1532 proposers to designated Procurement Department staff or discussion at
1533 meetings called or requested by the City pursuant to this subsection;
- 1534 (3) Addressing the City Council regarding non-procurement topics at public
1535 meetings;
- 1536 (4) The filing and processing of a written protest to any proposed award to
1537 be made pursuant to the solicitation, evaluation and selection process.
1538 Protest proceedings shall be limited to open public meetings, with no ex
1539 parte communications outside those meetings;
- 1540 (5) Contact by the City's current contractors but only in regard to:
- 1541 a. any work being performed on City projects unrelated to the
1542 solicitation, or
- 1543 b. any City projects under the prohibited ex parte communications for
1544 which the current contractors do not intend to submit a response
1545 or have not submitted a response to any solicitation documents for
1546 those projects;
- 1547 (6) Communications between the Chief Procurement Officer or other City
1548 representatives and the bidder or contractor for routine matters arising
1549 from ongoing projects or contracts previously awarded;
- 1550 (7) Contact by bidders and proposers (actual or potential) and the City
1551 regarding other projects unrelated to the purchase for which the bidders
1552 or proposers (actual or potential) may intend to submit a response or have
1553 submitted a response to any competitive solicitation;
- 1554 (8) Communications between the Chief Procurement Officer and bidders
1555 and/or proposers (actual or potential) for matters regarding pending
1556 purchases. Written questions shall be made to the named contact person;
- 1557 (9) Addressing the City Council during the designated agenda item public
1558 comment portion of a meeting where the Council is considering award or
1559 permission to negotiate on solicitation that a bidder or proposer submitted
1560 on.
- 1561 (c) Violation of this provision shall be grounds to: disqualify the violator from the
1562 award of the purchase, void any award to or contract with the violator, and/or
1563 temporarily suspend or permanently debar the violator from future contracts with
1564 the City.

1565 **Sec. 2-240.-2.-265. – Reserved.**