

ORDINANCE NO. 9460-21

AN ORDINANCE OF THE CITY OF CLEARWATER, FLORIDA, AMENDING THE CODE OF ORDINANCES BY REPLACING DIVISION 3 OF ARTICLE VI, CHAPTER 2, IN ITS ENTIRETY WITH A REVISED DIVISION 3 OF ARTICLE VI, CHAPTER 2; PROVIDING FOR DIVISION 3 PURCHASING; SUBDIVISION I. GENERALLY; SECTION 2.541 PURPOSE AND APPLICATION; SECTION 2.542 DEFINITIONS; SECTION 2.543 PUBLIC ACCESS TO PROCUREMENT INFORMATION; SECTIONS 2.544—2.547 RESERVED; SUBDIVISION II. PROCUREMENT ORGANIZATION; SECTION 2.551 PURCHASING AGENT; SECTION 2.552 ORGANIZATION OF PUBLIC PROCUREMENT; SECTION 2.553 PROCUREMENT PROCEDURES; SECTION 2.554 AUTHORITY FOR PURCHASES OF COMMODITIES, SERVICES, AND CONSTRUCTION; SUBDIVISION III. SOURCE SELECTION AND CONTRACT FORMATION; SECTION 2.561 METHODS OF SOURCE SELECTION; SECTION 2.562 DISQUALIFICATION, REJECTION, AND BID PROTEST; SECTION 2.563 EXCEPTIONS TO THE COMPETITIVE PROCESS; SECTION 2.564 SPECIFICATIONS PREPARATION; SECTION 2.565 AUTHORITY TO DEBAR OR SUSPEND; SECTION 2.566 INTEGRITY OF THE COMPETITIVE SOLICITATION PROCESS, NO-CONTACT PERIOD, PUBLIC RECORDS AND MEETINGS; SUBDIVISION IV. ETHICS IN PUBLIC PROCUREMENT; SECTION 2.571 STANDARDS OF CONDUCT; SECTIONS 2.601—2.608 RESERVED; AMENDING THE CODE OF ORDINANCES BY REPLACING DIVISION 4 OF ARTICLE VI, CHAPTER 2, IN ITS ENTIRETY WITH A REVISED DIVISION 4 OF ARTICLE VI, CHAPTER 2; PROVIDING FOR DIVISION 4 DISPOSAL AND DISPOSITION OF SURPLUS TANGIBLE PERSONAL PROPERTY; SECTION 2.621 DEFINITIONS; SECTION 2.622 SURPLUS SALES OFFICER; SECTION 2.623 DISPOSAL AND DISPOSITION OF SURPLUS TANGIBLE PERSONAL PROPERTY; SECTION 2.624 RESERVED; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Division 3 of Article VI, Chapter 2 governs the purchasing procedures for the acquisition of commodities, services, and construction, and the expenditure of those funds.

WHEREAS, Division 4 of Article VI, Chapter 2 governs the disposal and disposition of surplus personal property.

WHEREAS, these Divisions have not been updated, revised, or amended since 2006.

WHEREAS, this Ordinance is necessary to simply, clarify, modernize, and better organize the City's procurement and surplus code.

WHEREAS, this Ordinance replaces and revises both Divisions.

WHEREAS, the City Council determines that the adoption of this Ordinance to be in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEARWATER, FLORIDA, THAT:

Section 1: Division 3 of Article VI, Chapter 2, Code of Ordinances, is amended as follows:

DIVISION 3. PURCHASING

Subdivision I. Generally.

Sec. 2.541. Purpose and application.

- (1) Purpose. The purpose of this division is as follows:
 - (a) To simplify, clarify, and modernize procurement by the city.
 - (b) To permit the continued development of procurement policies and practices.
 - (c) To provide for increased public confidence in the procedures followed in public procurement.
 - (d) To ensure the fair and equitable treatment of all persons who deal with the procurement system of the city.
 - (e) To provide increased economy in the city's procurement activities and maximize the purchasing value of public funds of the city.
 - (f) To obtain in a cost effective and responsible manner the commodities, services, and construction required by the city to better serve this city's businesses and residents.
- (2) Application. This division shall apply to every expenditure of public funds, irrespective of their source, by the city for the procurement of commodities, services, and construction. It shall apply to the disposal and disposition of the city's tangible personal property. Nothing in this division shall prevent the city from complying with the terms of any grant, gift, bequest, or cooperative agreement.

Sec. 2.542. Definitions.

Terms not defined in this section shall have the meaning customarily assigned to them. Otherwise, the following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business means any individual, consultant, contractor, firm, sole proprietorship, partnership, corporation, joint stock company, joint venture, or any other private legal entity.

Commodity means any of the various supplies, materials, goods, merchandise, equipment, and other personal property purchased, leased, or otherwise contracted for by the city, unless included within the definition of construction or construction contracts. This term includes leases (as lessee) of structures on real property.

Construction means the process of building, altering, repairing, improving, or demolishing any public infrastructure facility, including any public structure, public building, or other public improvements of any kind to real property. It does not include the routine operation, routine repair, or routine maintenance of any existing public infrastructure facility, including structures, buildings, or real property.

Construction management at risk means a construction project delivery method involving the commitment by the construction manager at risk to deliver the project within a guaranteed maximum price (GMP). The construction management firm will provide professional services and act as a consultant in the design and construction phases. The construction management firm may provide some of the actual construction of the project depending on the availability of bidders and expertise of the firm. In addition to acting in the best interest of the city, the construction management firm must manage and control construction costs to not exceed the GMP. Any costs exceeding the GMP, including approved change orders, will be the financial responsibility of the construction management firm. A contingency for bid overages, reasonably inferred items, and other project related items that may arise during construction will be included in the GMP. The construction management firm will assume the risk of bidding.

Contract means all types of city agreements, regardless of what they may be called, for the procurement of commodities, services, or construction.

Design-build means a construction project delivery method or approach involving a single contract for both the design and construction of a project. Upon approval of the city council, the award of a single design-build contract may, in addition to the design and construction of the project, include the financing, operation, or maintenance of the project over the contractually defined period of time.

Designee means a duly authorized representative of a person holding a superior position.

Lowest responsive and responsible bid means the lowest bid or quotation received that best responds in quality, fitness, and capacity to the requirements of the proposed work or usage, as specified, from a vendor deemed responsive and responsible to the invitation to bid or solicitation for a quotation who has offered the most advantageous pricing or cost benefit and representing the best value to the city, based on the criteria stipulated in the bid documents. In determining the lowest responsive and responsible bid, the following shall be considered in addition to price:

- (1) The quality of commodities, services, or construction offered.
- (2) The ability, capacity, and skill of the vendor to perform the contract or provide the commodities, services, or construction required.
- (3) Whether the vendor can perform the contract or provide the commodities, services, or construction promptly, or within the time specified, without delay or interference.
- (4) The sufficiency of the vendor's financial resources and the effect thereof on the vendor's ability to perform the contract or provide the commodities, services, or construction.
- (5) The character, integrity, reputation, judgment, experience, and efficiency of the vendor.
- (6) The quality of vendor's performance on previous orders or contracts for the city.
- (7) Litigation by the vendor on previous orders or contracts with the city or with other public entities.
- (8) Compliance by the vendor with federal, state, and local laws and ordinances relating to the purchase or contract.
- (9) The ability of the vendor to provide future maintenance and service where such maintenance and service is essential.
- (10) Internal cost of vendor's proposal, including any additional expenditure required by the city to complete the project or purchase.
- (11) Life cycle costs, including costs of purchase, maintenance, and disposal, less residual value over the expected life of the product.

Micro purchase means the purchase of commodities or services with a value of two thousand five hundred dollars (\$2,500.00) or less.

Procurement means all activities related to the acquisition of any commodity, service, or construction, including, but not limited to, description of requirements, selection and identification of sources, preparation and award of contract, and all phases of contract administration.

Purchase means buying, renting, leasing, or otherwise acquiring any commodity, service, or construction. This term includes a lease.

Purchase description means the words used in a solicitation to describe the commodities, services, or construction to be purchased, and includes specifications attached to or made a part of the solicitation.

Purchasing agent means the city manager or any employee of the city to whom the city manager has delegated some of the duties of the office.

Responsible bidder or offeror means vendor who has the capability in all respects to fully perform the contract requirements, and the integrity and reliability that will assure good faith performance.

Responsive bidder or offeror means vendor that has submitted a bid, proposal, quotation, or response that conforms in all material respects to the solicitation.

Request for proposal (RFP) means a solicitation utilized to obtain proposals from potential vendors.

Request for qualification (RFQ) means a solicitation utilized to obtain the qualifications of potential vendors.

Service means the furnishing of labor, time, or effort by a vendor. This term shall not include employment agreements or collective bargaining agreements.

Signature means a manual signature or an electronic signature that meets the requirements of the Electronic Signature Act of 1996, F.S. § 668.001-6.

Small purchase means the purchase of commodities or services with a value of more than two thousand five hundred dollars (\$2,500.00) but less than or equal to fifty thousand dollars (\$50,000.00).

Solicitation means invitations to bid, requests for proposals, requests for qualifications, and requests for quotations. The term also includes re-advertising for bids, proposals, qualifications, and quotations.

Specification means a detailed description of the physical or functional characteristics of a commodity, service, or construction item. It may include a description of any requirement for inspecting, testing, preparing, or delivering a commodity, service, or construction item.

Vendor means any person or business who submits a bid, proposal, quotation, or response to the city for the sale of a commodity, service, or construction.

Sec. 2.543. Public access to procurement information.

Procurement information shall be a public record to the extent provided in F.S. Ch. 119 and shall be available to the public as provided in such statutes.

Sec. 2.544—2.547. Reserved.

Subdivision II. Procurement Organization.

Sec. 2.551. Purchasing agent.

The city manager is the purchasing agent for the city, with ultimate responsibility for all procurement, purchasing, and contracting functions. The city manager may delegate some or all purchasing authority, except the authority to make the final decision regarding administrative actions such as bid protests, to any city employee. The city manager shall have the authority to do as follows:

- (1) Serve as the chief procurement officer of the city.
- (2) Adopt operational procedures governing the internal function of the procurement division.
- (3) Purchase or contract for the purchase of commodities, services, or construction for the city.
- (4) Negotiate and recommend execution of contracts for the purchase of commodities, services, or construction.
- (5) Act to procure for the city the needed quality in commodities, services, or construction at best value.
- (6) Discourage uniform bidding and encourage full and open competition on all purchases.
- (7) Prepare revisions and amendments to the purchasing ordinances set forth herein, as necessary, and recommend such revisions and amendments to the city council.
- (8) Adopt policies and procedures governing the procurement, management, and control of commodities, services, and construction procured by the city.
- (9) Keep informed of current developments in the field of procurement, purchasing, prices, market conditions and new processes.

- (10) Prescribe and maintain such forms as may be reasonably necessary to the operation of the procurement division and other rules and regulations.
- (11) Establish and maintain programs for the inspection, testing, and acceptance of commodities, services, and construction purchased to ensure conformance with specifications.
- (12) Transfer surplus tangible personal property between city departments or facilities as needed.
- (13) Sell, trade, or otherwise dispose of surplus tangible personal property which has become unnecessary or unfit for the city's use.
- (14) Ensure compliance with this code and other policies and procedures by reviewing and monitoring procurements conducted by any designee, department, or city employee.

Sec. 2.552. Organization of public procurement.

- (1) Centralization of procurement authority. Except as otherwise provided in this division, all rights, duties, and authority relating to the procurement, management, and control of commodities, services, and construction, and the disposal and disposition of surplus tangible personal property now vested in or exercised by the city are hereby transferred to the city manager as purchasing agent.
- (2) Authority to contract for legal services. No contract for the services of legal counsel may be awarded without the approval of the city attorney.

Sec. 2.553. Procurement procedures.

- (1) Procedures. Procedures shall be promulgated in accordance with the applicable provisions of this code and other applicable laws, rules, regulations, and policies.
- (2) Submittal of requests to purchase commodities or services. Departments shall submit electronically requests to purchase commodities or services to the purchasing agent according to procedures prescribed by the purchasing agent.
- (3) Vendors list. The purchasing agent is authorized to maintain a vendor registration resource for the purpose of providing notices inviting bids or soliciting quotations. A vendor who desires to be included on the vendors list shall complete the applicable procedure prescribed by the purchasing agent. An additional list of "Pre-Qualified Contractors" may be maintained by the engineering department. Contractors desiring to be included on that list shall complete the applicable procedure prescribed by the engineering department. Inclusion on the vendors list or the Pre-Qualified Contractors list is solely for convenience. Inclusion does

not guarantee the award of any contract or purchase order nor are vendors and contractors not included excluded from participation in the procurement process.

Sec. 2.554. Authority for purchases of commodities, services, and construction.

(1) Generally.

- (a) All contracts or other documents related to the procurement of commodities, services, construction, or the obligation of city funds, shall be facilitated by or through the procurement division. The procurement division is authorized to establish procedures governing the processing of all contracts.
- (b) Purchases of commodities, services, construction, or the obligation of city funds, where the cumulative total value per fiscal year exceeds one hundred thousand dollars (\$100,000.00) per vendor, for similar commodities or services, shall be approved by the city council prior to the signing of any contract or other related documents.
- (c) Signature authority for all contracts or other documents specified in section 2.554(1)(b) shall be designated by the city council. Signature authority for the purchase of commodities, services, or construction where the cumulative total value per fiscal year is one hundred thousand dollars (\$100,000.00) or less is delegated to the city manager, as purchasing agent, or designee.
- (d) As set forth herein, the city council delegates limited authority to the city manager and department directors relating to the purchase of commodities, services, or construction for the city, in compliance with federal and state laws, city code, administrative rules, procedures, and guidelines.
- (e) All purchases, unless specifically authorized or delegated under this code, must be approved in advance by the city council. No person, unless specifically authorized or delegated under this code, may make any purchase or enter into any contract involving the use of city funds. Payment for any unauthorized purchase may be the responsibility of the person placing the order.
- (f) Multi-year contracts are encouraged when it is determined to be advantageous to the city. All multi-year contracts must contain a provision that allows the city to terminate the obligation with thirty (30) days' advance notice based on a limitation of funding availability, unless otherwise determined by the purchasing agent to be in the city's best interest.

(2) Purchasing agent. Authority is delegated to the city manager, as purchasing agent, or designee as follows:

- (a) The purchasing agent shall be responsible for the procurement of commodities, services, or construction for the city. All purchases shall comply with this code, applicable laws, rules, regulations, and policies.
 - (b) The purchasing agent may approve or reject the procurement of commodities, services, or construction when the total amount does not exceed one hundred thousand dollars (\$100,000.00) per vendor per fiscal year. The purchase of commodities, services, or construction exceeding one hundred thousand dollars (\$100,000.00) shall be approved by the city council.
 - (c) The purchasing agent shall have the authority to reject any or all bids, proposals, quotations, or responses to any competitive solicitation and re-compete or purchase the required commodities, services, or construction in any manner authorized by this division.
 - (d) In the absence or non-availability of the city manager, the deputy city manager, assistant city manager, or procurement manager shall be the city manager's designee.
- (3) Procurement manager. Authority is delegated to the procurement manager as follows:
- (a) Determine the appropriate and most cost-effective purchasing method of contract procurement, competitive solicitations, direct negotiations, or methods that allow the city to take advantage of value discounts and special pricing agreements, where appropriate.
 - (b) Retain responsibility for conducting the sourcing process to ensure an objective effort to identify sufficient competition or determine if there is no competition.
 - (c) Approve the evaluation criteria for procuring commodities, services, and construction, including any preference required or allowable by law or this code.
 - (d) Oversee and facilitate the competitive solicitation process in collaboration with the end user to create the competitive solicitation document; approve the specifications, terms, and conditions; select members of the evaluation committee; and receive, open, tabulate, and evaluate solicitations in accordance with the provisions of this code.
 - (e) Receive and process notices of protest and formal written protests for the purpose of determining whether the notices or written protests are timely and have timely and properly posted bond; and dismiss any invalid bid protests as determined by the legal department.

- (f) Approve and issue purchase orders for purchases made in accordance with this code.
 - (g) Oversee negotiations with vendors when appropriate.
 - (h) Establish a process by which vendors are determined to be responsive to the solicitation process and responsible with respect to their capability to perform the required work.
 - (i) Oversee the purchasing card (P-Card) program.
 - (j) Monitor delegated authority compliance.
- (4) Department directors. Department directors may issue and approve direct disbursements, utilize purchasing cards, or purchase commodities and services up to two thousand five hundred dollars (\$2,500.00) per purchase. Department directors may not divide the approval of the purchases of commodities or services to avoid this delegated monetary threshold.
- (5) Construction contracts. Contracts for construction projects exceeding one hundred thousand dollars (\$100,000.00) shall be awarded by the city council to the lowest responsive and responsible bidder. Contracts for construction projects of one hundred thousand dollars (\$100,000.00) or less shall be awarded by the city manager.
- (6) Change orders. Following the award of a contract by the city council, the city manager may approve and execute written change orders without city council approval, subject to the following:
- (a) The city manager may increase any contract up to a total award of one hundred thousand dollars (\$100,000.00).
 - (b) The city manager may approve any increase of contract up to a maximum of ten percent (10%) over the most recent award of the city council.
 - (c) No contract price increase shall be approved unless sufficient funds are available for such purpose.
 - (d) Contract price decreases may be approved without limitation.
 - (e) The time for completion may be extended up to ninety (90) days, in any one change or cumulatively for the same project, beyond the most recent city council approved completion time.

Subdivision III. Source Selection and Contract Formation.

Sec. 2.561. Methods of source selection.

- (1) Methods of source selection. Unless otherwise authorized by law, all city contracts shall be procured by one of the following methods:
 - (a) Competitive sealed bidding
 - (b) Competitive sealed proposals
 - (c) Request for qualifications
 - (d) Small purchases
 - (e) Professional services subject to CCNA
 - (f) Construction management at risk and design-build contracts
 - (g) Invitation to negotiate
 - (h) Job order contracting
 - (i) Reverse auctions
 - (j) Exceptions pursuant to section 2.563
- (2) Competitive sealed bidding. Except as otherwise provided in this division, the purchase of commodities, services, or construction of an estimated value over fifty thousand dollars (\$50,000.00) shall be by written contract with the vendor submitting the lowest responsive and responsible bid whose bid has been solicited, received, and approved pursuant to the following procedures:
 - (a) Invitation to bid (ITB). An invitation to bid shall be requested from three (3) or more vendors for commodities, services, or construction when the estimated value exceeds \$50,000.00. Award through this process is based solely on bids received and is not subject to negotiation following bid opening. The contract may not be divided to avoid this monetary threshold. An invitation to bid must include a purchase description of the commodities, services, or construction sought; the time and date for the receipt of bids and the public opening; and all contractual terms and conditions applicable to the procurement, including the criteria to be used in determining acceptability of the bid. If the city contemplates renewal of the contract, that fact must be stated in the ITB. In the alternative, the city council or designee may award to the responsive, responsible bidder offering the lowest cost as the primary awardee and the next responsive, responsible bidder offering the next lowest

cost as an alternate awardee(s), meeting all specifications, terms, and conditions. Nothing herein is meant to prevent multiple awards to the responsive and responsible bidders when such multiple awards are clearly stated in the bid solicitation documents. In the case of identical responsive and responsible bids, the decision as to the winning bid(s) must be made in accordance with the terms contained in the competitive solicitation.

- (b) *Notice inviting bids.* Notice for an invitation to bid shall be published at least twenty-one (21) days prior to the bid opening date. Publication may be accomplished on the city's website, a newspaper of general circulation, or other means.
- (c) *Notice inviting bids for construction projects.* Construction projects with an estimated cost of five hundred thousand dollars (\$500,000.00) or less shall be published at least twenty-one (21) days prior to the established opening date and at least five (5) days prior to any scheduled pre-bid conference. Construction projects exceeding five hundred thousand dollars (\$500,000.00) shall be published at least thirty (30) days prior to the established opening date and at least five (5) days prior to any scheduled pre-bid conference. Publication may be accomplished on the city's website, a newspaper of general circulation, or other means.
- (d) *Security (bid bonds).* When the estimated cost of a construction contract is one hundred fifty thousand dollars (\$150,000.00) or higher, or when otherwise deemed necessary by the city manager, security in the form of a bid bond issued by a surety company licensed to do business in Florida or a cash bond in an amount equal to ten percent of the bid shall be prescribed in the public notices inviting bids. A vendor shall forfeit a bid security upon a refusal or failure to execute the contract within ten days after the notice of award of contract has been posted on the city's website unless the city is solely responsible for the delay in executing the contract. The city council may, upon the refusal or failure of the vendor to execute the contract, award the contract to the next lowest vendor. In such event, the amount of the forfeited security shall be applied by the city to the contract price differential between the lowest bid and second lowest bid, and the surplus, if any, shall be returned to the forfeiting vendor.
- (e) *Performance and payment bonds.* A performance bond and a payment bond, or a "contract bond" combining the elements of a performance and a payment bond, issued by a surety company licensed to do business in Florida, may be required before entering in a contract, in an amount at least equal to the contract price or such higher amount as may be found necessary to protect the best interests of the city except in limited circumstances, such as incremental services contracts or blanket purchase orders, where it has been determined by the city manager that the potential liability resulting from the performance or payment under the contract is an amount less than the full

contract price. The city manager shall approve the requirement of a bond for less than the full contract price before proceeding with the bid process. If such bond is required, the form and amount of the bond shall be described in the notice inviting bids. Bonds required hereunder shall be subject to all other provision of this division and code.

- (f) Security in lieu of performance and payment bonds. In lieu of the bond required by this section, a vendor may file with the city, an alternative form of security in the form of cash, money order, certified check, cashier's check, irrevocable letter of credit, or a security of a type listed in F.S. Ch. 625. Any such alternative form of security shall be for the same purpose and be subject to the same conditions as those applicable to the bond required herein. The determination of the value of the alternative form of security shall be made by the purchasing agent or designee.
- (g) Bid opening procedures. Sealed written bids shall be returned to the city and identified as bids on the envelope, together with other information as may be specified in the invitation to bid. Bids shall be opened publicly, in the presence of one or more witnesses, on the time and at the time and place stated in the public notices. A tabulation of all bids received, including the amount of each bid, the name of each bidder, and such other relevant information as may be specified, shall made available to the public as required by law.
- (3) Competitive sealed proposals. Except as otherwise provided in this division, the purchase of commodities or services of an estimated value over fifty thousand dollars (\$50,000.00) shall be written contract with the vendor submitting the lowest responsive and responsible proposal whose proposal has been solicited, received, and approved pursuant to the following procedures:
 - (a) Request for proposals (RFP). Request for proposals shall be requested from three (3) or more vendors for commodities or services when the estimated value exceeds \$50,000.00. The purchase may not be divided to avoid this monetary threshold. A best value decision may result from this process where price is not the sole determinant for award. To procure commodities or services through an RFP, the procurement division must first determine that the use of an ITB is not practicable. The RFP must include a purchase description of commodities or services sought; the relative importance of price and other evaluation criteria; the time and date for the receipt of proposals and of the public opening; and all contractual terms and conditions applicable to the procurement, including the criteria to be used in determining responsiveness and acceptability of the proposal. In awarding to a vendor pursuant to an RFP, the city council or designee may award to one or more responsive, responsible vendor in accordance with the selection criteria published in the RFP.

- (b) Notice of proposals. Projects with an estimated cost of five hundred thousand dollars (\$500,000.00) or less shall be published at least twenty-one (21) days prior to the established opening date. Projects exceeding five hundred thousand dollars (\$500,000.00) shall be published at least thirty (30) days prior to the established opening date. Publication may be accomplished on the city's website, a newspaper of general circulation, or other means.
 - (c) Receipt of proposals. A register of proposals shall be prepared and shall be open for public inspection as required by law.
 - (d) Evaluation factors. The RFP shall state the relative importance of price and other factors and subfactors, if any.
 - (e) Discussions with responsible offerors and revisions to proposals. As provided in the RFP, discussions may be conducted with responsible offerors, who submitted proposals reasonably determined to be selected for award, to clarify and assure the full understanding and responsiveness to the RFP requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. When conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.
 - (f) Award. Award shall be made to the responsible offeror whose proposal conforms to the RFP and is determined in writing to be the most advantageous to the city taking into consideration best value and the evaluation factors set forth in the RFP. No other factors or criteria shall be used in the evaluation. Written notice of the award of a contract to the successful offeror shall be promptly given to all offerors.
- (4) Request for qualifications (RFQ). An RFQ is a qualifications-based selection process. Pursuant to F.S. § 287.055, an RFQ is required for the selection of professional services involving architecture, professional engineering, landscape architecture, or registered surveying and mapping. An RFQ may be issued to establish a roster of responsive and responsible firms utilized on an as-needed basis. Projects utilizing an RFQ shall follow the same procedures as set forth in section 2.561(3).
- (5) Small purchases. Purchases of commodities or services with a value of more than \$2,500.00 but less than or equal to \$50,000.000 require competition. Purchases may not be divided to avoid this monetary threshold. Small purchases will follow the following procedures:

- (a) Quotations. Quotations shall be obtained from at least three (3) vendors. Small purchases shall be awarded to the lowest responsive and responsible vendor whose quotation provides best value to the city.
 - (b) Notice inviting quotations. Quotations shall be solicited either by written request or orally. Acceptable means include but are not limited to facsimile transmissions, electronic mail, telephone, in person, internet, or through an approved electronic procurement or supplier relationship management system.
 - (c) Sealed written quotations. In the event the procurement manager determines that sealed written quotations are in the best interest of the city, quotations received shall be opened in public at the time and place designated in the notice inviting quotations.
 - (d) Award of contract. Except as otherwise provided in this subdivision, each contract shall be awarded to the lowest responsive and responsive vendor.
- (6) Professional services subject to CCNA. Professional services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping shall be procured in accordance with F.S. § 287.055, referred to as the Consultants' Competitive Negotiation Act (CCNA).
- (a) Public announcement. The public notice must include a general description of the project and must indicate how the interested firms may apply for consideration. Publication may be accomplished on the city's website, a newspaper of general circulation, or other means.
 - (b) Competitive selection. The city shall select in order of preference no fewer than three firms deemed to be the most highly qualified to perform the required services. In determining whether a firm is qualified, the city shall consider such factors as the ability of professional personnel; past performance; experience; capabilities; whether a firm is a certified minority business enterprise; willingness to meet time and budget requirements; location; recent, current, and projected workloads of the firms; and the volume of work previously awarded to each firm by the city. The city may request, accept, and consider proposals for the compensation to be paid under the contract only during competitive negotiations. If less than three firms respond to the solicitation, and every effort was made to comply with the requirements of F.S. § 287.055, the city may proceed with the evaluation process.
 - (c) Competitive negotiations. The city shall negotiate a contract with the most qualified firm for professional services at compensation which the city determines is fair, competitive, and reasonable. In making such determination, the city shall conduct a detailed analysis of the cost of the professional services required in addition to considering their scope and

complexity. Should the city be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price the city determines to be fair, competitive, and reasonable, negotiations with that firm must be formally terminated. The city shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the city must terminate negotiations. The city shall then undertake negotiations with the third most qualified firm. Should the city be unable to negotiate a satisfactory contract with any of the selected firms, the city shall select additional firms in the order of their competence and qualification and continue negotiations in accordance with this subsection until an agreement is reached.

The city shall require the firm receiving the award to execute a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any professional service contract under which such a certificate is required must contain a provision that the original contract price and any additions thereto will be adjusted to exclude any significant sums by which the city determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract adjustments must be made within 1 year following the end of the contract.

- (d) *Continuing contract.* Nothing in this section shall prohibit a continuing contract, as defined in F.S. § 287.055, between a firm and the city. The city may issue an RFQ to establish a roster of responsive and responsible firms utilized on an as-needed basis, pursuant to F.S. § 287.055.
- (7) *Construction management at risk and design-build contracts.* Construction management and design-build services, as defined in F.S. § 255.103 and § 287.055, respectively, shall be procured pursuant to the process defined in the CCNA, unless the purchasing agent or designee elects to bid construction management at risk and design-build contracts through an invitation to bid or request for proposal process, as provided in F.S. § 255.20(1), where price is considered in the award process. Contracts for construction management and design-build services shall follow the same procedures as set forth in section 2.561(6).
- (8) *Invitation to negotiate (ITN).* When procurement for commodities or services is not practicable through an ITB or an RFP, competitive sealed replies may be solicited through an ITN. The procurement division must first determine, in writing, why negotiation with one or more vendors may be necessary for the city to achieve specific goals or solve a particular problem and receive best value. Objective factors may include but are not limited to price, quality, design, and workmanship. The ITN must include a purchase description of the commodities or services sought, the time and date for the receipt of replies and of the public

meeting, including the criteria to be used in determining the acceptability of the reply. Typically, price is not an evaluation criterion and is not addressed until the negotiation phase of the procurement. Projects utilizing an ITN shall follow the same notice procedures as set forth in section 2.561(3).

- (9) *Job order contracting (JOC).* Job order contracting is a project delivery method utilized to get numerous, commonly encountered construction projects done quickly and easily through multi-year contracts for a wide variety of renovation, repair, and minor construction projects. A job order contract is a competitively bid, fixed price, multi-year construction contract based on established or published unit prices from a unit price book or a price list with a multiplier applied to the unit prices. The unit prices are used to price construction tasks associated with the scope of work. The contract is an IDIQ (indefinite delivery indefinite quantity) contract for on-call construction services and serves as an umbrella contract with a potential maximum amount of work over a specified term such as annual or multi-year term. JOC is an appropriate delivery method for any type of repetitive work, especially small renovation jobs. It allows for a longer relationship with the selected vendor. Projects may include, but not be limited to, electrical, mechanical, plumbing, painting, roofing, landscape improvements, data communication, audio visual, signing, flooring, etc. Firms shall be selected through one of the source selection methods as authorized in sections 2.561(2)-(4).
- (10) *Reverse auctions.* Reverse auction is a procurement method wherein bidders are invited to bid on specified commodities or services through real-time electronic bidding, with the award being made to the lowest responsive and responsible bidder. During the bidding process, bidders shall only be informed as to whether the bid is in the lead, meaning the lowest priced, or whether the bid is lagging. If a bid is lagging, the bidder is provided a good faith opportunity to modify the bid prices for the duration of the bidding period established at bid opening. Reverse auctions will not be used for construction.

Sec. 2.562. Disqualification, rejection, and bid protest.

- (1) *Disqualification of bids.* Any bid, proposal, quotation, or vendor response to a competitive solicitation may be disqualified and rejected if it is determined by the purchasing agent or designee that any of the following circumstances exist:
- (a) The bid, proposal, quotation, or vendor response did not strictly conform to the requirements set forth in the solicitation, provided, however, the city reserves the right to waive inconsequential deviations where a change does not result in an increase in price to the city.
 - (b) A vendor has demonstrated, through documented performance in the industry or through prior dealings with the city, to be unable to satisfactorily meet the responsibilities and capabilities of a successful vendor.

(c) A vendor's product has demonstrated, through documented performance in the industry or through prior dealings with the city, to be unable to satisfactorily meet the accepted demands placed upon the product.

(d) A vendor's product is different from the city's standard.

(2) Rejection of bids. The purchasing agent may:

(a) Reject any or all bids, proposals, quotations, or vendor responses to a competitive solicitation; or

(b) Reject all bids, proposals, quotations, or vendor responses, and re-advertise the solicitation, pursuant to the procedures prescribed in this division; or

(c) Reject all bids, proposals, quotations, or vendor responses, and direct that the project or service in question be performed by city forces upon determining that the project or service can be timely performed for an amount less than each of the solicitations submitted.

(3) Bid protest. A vendor who submitted a response to a competitive solicitation and was not selected may appeal the decision through the bid protest procedures, a copy of which shall be available in the procurement division. A protesting vendor must include a fee of one percent (1%) of the amount of the bid or proposed contract to offset the city's additional expenses related to the protest. This fee shall not exceed five thousand dollars (\$5,000.00) nor be less than fifty dollars (\$50.00). Full refund will be provided should the protest be upheld. No partial refunds will be made.

Sec. 2.563. Exceptions to the competitive process.

(1) The competitive bidding requirements set forth in this division may be waived when one of the following conditions exist:

(a) Single source. Commodities or services are available only from a single source.

(b) Micro purchases. Purchases of commodities or services with a value of \$2,500.00 or less do not require competition.

i) Departments will attempt to obtain the lowest price available, consistent with time and effort involved.

ii) Whenever possible, the purchase shall be made using a purchasing card or direct disbursement.

- iii) If necessary, a purchase order for a micro purchase may be requested through the procurement division.
- (c) Piggyback or cooperative purchasing. Purchases of commodities or services at or below the specified prices from contracts previously awarded by other governmental entities or to purchase commodities or services in cooperation with another governmental entities in Florida.
- (d) Non-competitive purchases. The purchasing agent or designee determines that the nature of the commodity or service is such that competitive bidding is impossible, impractical, or cannot be obtained.
- (e) CCNA professional services contracts. Professional service contracts for projects with an estimated cost less than the threshold amounts as set forth in F.S. § 287.055.
- (f) Professional services not subject to CCNA. Services for or rendered by medical, health, legal, appraisals, mediators, auditors, academics, artists, and lecturers, or services provided by persons with disabilities under not-for-profit corporations.
- (g) Legal. Commodities or services purchased by the city or its representatives when necessary to the prosecution or defense of any claim or lawsuit in which the city is a party or in which it is anticipated by the city attorney, the risk manager, or the third-party administrator of the city's self-insurance program that the city will become a party.
- (h) Workers' compensation. Commodities or services purchased by the city or its representatives to comply with F.S. Ch. 440, Florida Workers' Compensation, or when necessary to the defense of any workers compensation claim asserted against the city.
- (i) Insurance. Contracts for insurance, except when competitive bidding is required by statute.
- (j) Owner direct purchases (ODP). Purchase of construction materials included in the scope of an awarded construction contract to realize sales tax savings, pursuant to F.S. § 212.08(6).
- (k) Emergencies. The purchasing agent may authorize an emergency purchase of any commodity, service, or construction without competitive bidding. Procurement requirements may be suspended upon declaration of emergency by the city manager, or upon written certification by a department director to the purchasing agent that a threat exists to the public health, welfare, safety, or other interests of the city and that any delay because of competitive bidding would be detrimental to the interests of the city.

Emergency procurements exceeding one hundred thousand dollars (\$100,000.00) must be ratified by the city council at the next regular or special public meeting.

(l) *Copyrighted materials.* Purchases for copyrighted materials including, but not limited to, computer software, films, filmstrips, videotapes, dvds, recordings, reference books, or similar items when such materials are procured directly from the producer or publisher, the owner of the copyright, an exclusive agent within the state, governmental agency, or recognized educational institution.

(m) *Regulated utilities.* Procurement of regulated utilities or government-franchise services.

(n) *Resale commodities or services.* Commodities or services purchased for resale are excluded from the competitive bidding provisions of this division. The market survey or competitive price comparison approach will be used to determine best value. Award of contract for resale commodities or services shall be made by the department director with procurement manager approval. City council approval is not required.

(2) Competition is favored even though this section may allow an exemption. Such exemptions shall be submitted as a formal request from the requesting department director and include a detailed justification for the exemption. The purchasing division may establish procedures that support the competitive process regardless of the exemption status.

(3) Purchases over one hundred thousand dollars (\$100,000.00) made pursuant to this section shall be submitted to the city council for approval.

Sec. 2.564. Specifications preparations.

(1) *Specifications preparations.* Standards shall be established for the preparation, maintenance, and content of specifications for commodities, services, and construction for the city. The purchasing agent or designee shall monitor the use of specifications for commodities, services, and construction for the city.

(2) *Maximum practicable competition.* All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the city's needs and shall not be unduly restrictive.

(3) *Specifications prepared by those other than city personnel.* The requirements of this section regarding the purposes and non-restrictiveness of specifications shall apply to all specifications prepared by those other than city personnel, including, but not limited to, those prepared by architects, engineers, and designers.

Sec. 2.565. Authority to debar or suspend.

- (1) Debarment or suspension. After reasonable notice to the vendor involved and reasonable opportunity for that vendor to be heard, the purchasing agent is authorized to debar or suspend a vendor for cause from further consideration for award of contracts with the city. The debarment or suspension shall not be for a period of more than three (3) years.
- (2) The causes for debarment or suspension include one of the following:
 - (a) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.
 - (b) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which seriously and directly affects responsibility as a city vendor.
 - (c) Conviction under state or federal anti-trust statutes arising out of the submission of bids or proposals.
 - (d) Violation of contract provisions, as set forth below, of a character which is regarded by the purchasing agent to be so serious as to justify debarment action:
 - (i) Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; and
 - (ii) Recent failure to perform or unsatisfactory performance in accordance with the terms of one (1) or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the vendor shall not be considered to be a basis for debarment.
 - (e) Any other cause the purchasing agent determines to be so serious and compelling as to affect responsibility as a city vendor, including debarment or suspension by another governmental entity for any cause listed in this section.

Sec. 2.566. Integrity of the competitive solicitation process; no-contact period; public records and meetings.

- (1) From the time a competitive solicitation is posted until such time as the contract is awarded by the city or the solicitation is cancelled, all bidders, offerors, respondents, including their employees, representatives, and other individuals acting on their behalf, shall be prohibited from lobbying city officers, city

employees, and evaluation committee members. Violation of this section may result in rejection/disqualification from award of the contract arising out of the competitive solicitation. All questions regarding the competitive solicitation must be directed to the procurement manager or designee, who will respond in writing and post such response to ensure that all respondents receive the same information during the No-Contact Period. The penalty for violating the No-Contact Period may include suspension or debarment.

- (2) Pursuant to F.S. § 119.071(1)(b), sealed bids, proposals, or replies received in response to a competitive solicitation are exempt from F.S. § 119.07(1) and § 24(a), Article I of the State Constitution until such time as the city provides notice of an intended decision or until thirty (30) days after opening of the bids, proposals, or replies, whichever is earlier. If the city rejects all bids, proposals, or replies submitted in response to a competitive solicitation and provides notice of its intent to reissue the competitive solicitation, the rejected bids, proposals, or replies remain exempt until such time as the city provides notice of an intended decision concerning the reissued competitive solicitation or until the city withdraws the reissued competitive solicitation. A bid, proposal, or reply is not exempt for longer than 12 months after the initial city notice rejecting all bids, proposals, or replies.
- (3) Pursuant to F.S. § 286.0113, any portion of a meeting at which a negotiation with a vendor is conducted pursuant to a competitive solicitation, at which a vendor makes an oral presentation as part of a competitive solicitation, or at which a vendor answers questions as part of a competitive solicitation is exempt from F.S. § 286.011 and § 24(b), Article I of the State Constitution. Any portion of an evaluation committee meeting at which negotiation strategies are discussed is exempt from F.S. § 286.011 and § 24(b), Article I of the State Constitution. A complete recording shall be made of any portion of an exempt meeting. No portion of the exempt meetings may be held off the record.

Subdivision IV. Ethics in Public Procurement.

Sec. 2.571. Standards of conduct.

- (1) Code of ethics. The city is committed to a procurement process which promotes fair and open competition, implements the highest ethical standards, and maintains the confidence of the public. To achieve these objectives, all city officers and city employees who purchase commodities, services, construction, or otherwise involved in the procurement process for the city, shall be subject to the following:
 - (a) Regard public service as a trust and support the professional principles of public procurement.

- (b) Be governed by the highest ideals of honor and integrity in all public and personal relationships to merit the respect and inspire the confidence of the city and the public being served.
 - (c) Conduct procurements in good faith and demand honesty and ethical practices from all participants in the procurement process.
 - (d) Avoid unfair practices by granting all vendors equal consideration insofar as federal, state, and local laws require.
 - (e) Promote positive vendor relationships by affording vendor representatives courteous, fair, and ethical treatment.
 - (f) Avoid involvement in any transaction or activity considered to be a conflict between personal interest and the interests of the city.
 - (g) Strive to continually increase competition in vendor selection and endeavor to prevent any collusion among vendors.
 - (h) Avoid political considerations or other conflicting outside influences from entering relationships with vendors or their representatives.
- (2) Conflict of interest. It shall be a breach of ethical standards for any city officer or city employee to participate directly or indirectly in a procurement as follows:
- (a) The officer or employee, or any member of their immediate family, has a financial interest pertaining to the procurement; or
 - (b) The officer or employee, or any member of their immediate family, holds employment or contractual relationship with any business entity that has a financial interest pertaining to the procurement; or
 - (c) The officer or employee, or any member of their immediate family, is negotiating or has an arrangement concerning prospective employment with any vendor that is involved in the procurement.
- (3) Discovery of actual or potential conflict of interest and disqualification. Upon discovery of an actual or potential conflict of interest, an employee shall promptly file a written statement of disqualification and shall withdraw from further participation in the procurement involved.

Sec. 2.601—2.608. Reserved.

~~Subdivision I.—Generally~~

~~Sec. 2.541.—Definitions.~~

~~Terms not defined in this section shall have the meaning customarily assigned to them. Otherwise, the following words, terms and phrases, when used in this division, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Commodity* means any of the various supplies, materials, goods, merchandise, equipment, and other personal property purchased, leased or otherwise contracted for by the city, unless coming within the definition of Public works contracts. However, commodities purchased for resale are excluded from the bidding provisions of this division. Award of contract for resale commodities shall be made by the responsible department director.~~

~~*Design-build* means a construction project delivery method or approach involving a single contract for both the design and construction of a project. Upon approval of council, the award of a single design-build contract may, in addition to the design and construction of the project, include the financing, operation and/or maintenance of the project over the contractually defined period of time.~~

~~*Design-build contract* means a single contract with a design-build firm for, at a minimum, the design and construction of a public construction project.~~

~~*Design-build firm* means a partnership, corporation, or other legal entity which:~~

- ~~(1) Is certified under section F.S. § 489.119, to engage in contracting through a certified or registered building contractor as the qualifying agent; and~~
- ~~(2) Is certified under F.S. § 471.023, to practice engineering; certified under F.S. § 481.219, to practice or to offer to practice architecture; or certified under F.S. § 481.319, to practice or to offer to practice landscape architecture.~~

~~*Design criteria package or the design requirements* shall mean concise, performance-oriented drawings or specifications of the public construction project. The purpose of the design criteria package is to furnish sufficient information so as to permit design-build firms to prepare a bid or response to a request for proposal, or to permit the city to enter into a negotiated design-build contract. The design criteria package shall specify such performance-based criteria for the public construction project, including, but not limited to, the legal description of the site; survey information concerning the site; interior space requirements; material quality standards; schematic layouts and features, functions, characteristics and other conceptual design criteria of the project; cost and budget estimates for design, construction and, if applicable, operation and maintenance; anticipated schedule(s) of design and construction components, including durations and start and completion dates; site development requirements; provisions for utilities; storm water retention and disposal; and parking requirements as may be applicable to the project.~~

~~*Design criteria professional* means an individual or firm who holds a current certificate of registration under F.S. Ch. 481, to practice architecture or landscape architecture or a firm who holds a current certificate as a registered engineer under F.S. Ch. 471, to practice engineering and who is employed by or under contract to the city for the providing of professional architect services, landscape architect services, or engineering services in connection with the preparation of the design criteria package.~~

~~*Electronic coordination signature* means, with respect to the processing of a purchase requisition, the approval of the requisition by means of a password-protected and coded authorization transmitted by computer.~~

~~*Invitation to bid* includes invitations to bid, requests for proposals, and solicitations for quotations from vendors. The term also includes re-advertising for bids.~~

~~*Lowest responsible bid or lowest responsible quotation* means the lowest bid or quotation received that best responds in quality, fitness and capacity to the requirements of the proposed work or usage, as specified, from a vendor deemed responsible and responsive to the invitation to bid or solicitation for a quotation. In determining the lowest responsible bid or quotation, the following shall be considered, in addition to price:~~

- ~~(1) The quality of commodities or services offered;~~
- ~~(2) The ability, capacity and skill of the vendor to perform the contract or provide the commodities or services required;~~
- ~~(3) Whether the vendor can perform the contract or provide the commodities or services promptly, or within the time specified, without delay or interference;~~
- ~~(4) The sufficiency of the vendor's financial resources and the effect thereof on the vendor's ability to perform the contract or provide the commodities or services;~~
- ~~(5) The character, integrity, reputation, judgment, experience and efficiency of the vendor;~~
- ~~(6) The quality of vendor's performance on previous orders or contracts for the city;~~
- ~~(7) Litigation by the vendor on previous orders or contracts with the city;~~
- ~~(8) Compliance by the vendor with federal, state and local laws and ordinances relating to the subject of the purchase or contract;~~
- ~~(9) The ability of the vendor to provide future maintenance and service where such maintenance and service is essential;~~
- ~~(10) Internal cost of vendor's proposal, including any additional expenditure required by the city to complete the project or purchase; and~~
- ~~(11) Life cycle costs, including costs of purchase, maintenance, and disposal, less residual value over the expected life of the product.~~

~~*Public works contracts* means all contracts involving construction for the city. Any construction involving a project related to but not included in a project for which the city has contracted is not exempt from the competitive bidding procedure as set forth in this division, notwithstanding its relationship to a project which has previously been bid upon.~~

~~*Purchase* includes a purchase or a lease of more than one year.~~

~~*Purchasing agent* means the city manager or any employee of the city to whom the city manager has delegated some or all of the duties of the office.~~

~~Service means labor rendered for the benefit of the city or the public at large pursuant to a contract with the city. As used herein, unless the context clearly indicates otherwise, the term includes but is not limited to public works contracts.~~

~~Standardization means criteria utilized to support the purchase of specified product(s) or product lines; to include training, service support, repair parts availability and cost, and relationship to current inventory.~~

~~Vendor means a prospective vendor who submits a bid, a proposal, or a quotation for the sale of a commodity or service to the city in response to an invitation to bid/quote.~~

~~Sec. 2.542. -- System adopted.~~

~~In order to establish efficient procedures for the acquisition or use of commodities, services, and public works projects; at the lowest possible cost commensurate with quality needed; to exercise positive financial control over purchases; to clearly define and implement the purchasing function and to assure the quality of purchases, a purchasing system is hereby adopted as provided in this division.~~

~~Sec. 2.543. -- Centralized purchasing office.~~

~~There is hereby created a centralized purchasing office.~~

~~Sec. 2.544. -- Purchasing agent.~~

~~The city manager is the purchasing agent for the city, with ultimate responsibility under the charter. The city manager may delegate some or all of the purchasing authority, except the authority to make the final decision, to any city employee. The city manager shall have the authority to do as follows:~~

- ~~(1) Purchase or lease or contract for the purchase or lease of commodities or services required for or by the city, in accordance with purchasing procedures prescribed by this division and in accordance with such administrative policies and procedures as the city manager may prescribe for internal management and operation of the purchasing office;~~
- ~~(2) Negotiate and recommend execution of contracts for the purchase of commodities or services;~~
- ~~(3) Act to procure for the city the needed quality in commodities or services at least expense;~~
- ~~(4) Discourage uniform bidding and encourage full and open competition on all purchases;~~
- ~~(5) Prepare revisions and amendments to the purchasing regulations set forth herein, as necessary, and recommend such revisions and amendments to the city commission;~~
- ~~(6) Prepare policies and procedures governing the purchase of commodities or services for the city;~~

- ~~(7) — Keep informed of current developments in the field of purchasing, prices, market conditions and new projects;~~
- ~~(8) — Prescribe and maintain such forms as may be reasonably necessary to the operation of this division and other rules and regulations;~~
- ~~(9) — Supervise the inspection of all commodities and services purchased to ensure conformance with specifications;~~
- ~~(10) — Transfer surplus commodities between departments as needed;~~
- ~~(11) — Maintain a vendors list, vendors catalog file and records needed for the efficient operation of the purchasing office;~~
- ~~(12) — Conduct all sales of excess property which the city commission may authorize to be sold as having become unnecessary or unfit for the city's use;~~
- ~~(13) — Donate or dispose surplus property with a current market value of less than the fixed asset control level.~~

~~Sec. 2.545. — Submittal of requests to purchase commodities or services.~~

~~Departments shall submit electronically requests to purchase commodities or services to the purchasing agent on purchase requisition forms or by other means as may be prescribed by the purchasing office. The department director's signature or the signature of the department director's designated representative, or electronic coordination on the requisition indicates that funds are available for the purchase; that the requisition has been coordinated and approved within that department or other departments as necessary; that the quantities, item descriptions and specifications described the minimum needs of that department; and that the purchasing agent is authorized to acquire the commodities or services.~~

~~Sec. 2.546. — Purchase orders or contracts to be used.~~

~~Purchases of commodities and services shall be made only by purchase orders and/or other written contract executed by the purchasing agent. Except as otherwise provided in this division, no purchase order shall be issued unless the prior approval of the city manager has been obtained. The purchase order authorizing the expenditure of funds shall be signed by the purchasing agent. Construction contracts exceeding \$50,000.00 shall be made by both purchase order and written contract.~~

~~Sec. 2.547. — Vendors list.~~

~~The purchasing agent is authorized to maintain a list of vendors for the purpose of mailing notices inviting bids or requests for proposals or soliciting quotations from time to time. A vendor who desires to be included on the vendors mailing list shall complete and submit a vendor's application. The Public Works Administration project "Pre-qualified Contractor's List" will be maintained by public works. Contractors who desire to be included in the public works project bidding process shall complete and submit the pre-qualification requirements to Public works.~~

~~Subdivision II. - Purchase of Commodities, Services, and Public Works Contracts~~^[27]

~~Sec. 2.561. -- Purchases over \$50,000.00.~~

~~Except as otherwise provided in this division, the purchase of commodities or services of an estimated value over \$50,000 shall be by purchase order and/or other written contract with the vendor submitting the lowest responsible bid whose bid has been solicited, received and approved, pursuant to the following procedures:~~

~~(1) — Notice inviting bids.~~

~~(a) — Notices inviting bids for commodities and services shall be published at least one time in a newspaper of general circulation within the city and shall include a general description of the commodities or services to be purchased, a statement of where the bid documents may be obtained, and the date, time, and place of the public opening of bids. The publication shall be not less than ten calendar days before the bid opening date. Sealed bids shall also be solicited from responsible prospective vendors including those on the registered vendor's list.~~

~~(b) — Notices inviting bids for construction projects where the cost of the project is more than \$200,000.00 shall be publicly advertised at least once in a newspaper of general circulation within the county where the project is located at least 21 days prior to the established opening date and at least five days prior to any scheduled pre-bid conference. Construction projects exceeding \$500,000.00 shall be publicly advertised at least once in a newspaper of general circulation in the county where the project is located at least 30 days prior to the established bid opening and at least five days prior to any pre-bid conference.~~

~~(2) — Security (bid bonds). When the estimated cost of a public works contract is \$150,000.00 or higher, or when otherwise deemed necessary by the city manager, security in the form of a bid bond issued by a surety company licensed to do business in Florida or a cash bond in an amount equal to ten percent of the bid shall be prescribed in the public notices inviting bids. A vendor shall forfeit a bid security upon a refusal or failure to execute the contract within ten days after the notice of award of contract has been mailed, unless the city is solely responsible for the delay in executing the contract. The city commission may, upon the refusal or failure of the successful vendor to execute the contract, award the contract to the next lowest vendor. In such event, the amount of the lowest vendor's bid security shall be applied by the city to the contract price differential between the lowest bid and the second lowest bid, and the surplus, if any, shall be returned to the lowest bidder.~~

~~(3) — Bid opening procedures. Sealed written bids shall be returned to the city and identified as bids on the envelope, together with other information as may be specified in the invitation to bid. Bids shall be opened in public on the date and at the time and place stated in the public notices. A tabulation of all bids received shall be made available to the public.~~

~~(4) — Rejection of bids. The city manager may:~~

~~(a) — Reject all bids; or~~

- ~~(b) — Reject all bids and re-advertise for bids, pursuant to the procedure prescribed in this section.~~
- ~~(c) — Reject all bids and direct that the project or service in question be performed by city forces upon determining that the project or service can be timely performed for an amount less than each of the bids submitted.~~
- ~~(5) — Award of contracts. Contracts exceeding \$100,000.00 shall be awarded by the city commission to the lowest responsible vendor. Contracts of \$100,000.00 or less shall be awarded by the city manager, assistant city manager and may be further delegated to the purchasing manager.~~
- ~~(6) — Performance and payment bonds. A performance bond and a payment bond, or a "contract bond" combining the elements of a performance and a payment bond, issued by a surety company licensed to do business in Florida, may be required before entering into a contract, in an amount at least equal to the contract price or such higher amount as may be found reasonably necessary to protect the best interests of the city except, in limited circumstances, such as incremental services contracts or blanket purchase orders, where it has been determined by the department director that the potential liability resulting from the performance or payment under the contract is an amount less than the full contract price. The department director shall obtain the approval of the city manager to require a bond for less than the full contract price before proceeding with the bid process. If such bond is required, the form and amount of the bond shall be described in the notice inviting bids. Bonds required hereunder shall be subject to all other provisions of this section and the Code.~~
- ~~(7) — Security in lieu of performance and payment bonds. in lieu of the bond required by this section, a contractor may file with the city, an alternative form of security in the form of cash, a money order, a certified check, a cashier's check, an irrevocable letter of credit, or a security of a type listed in Part II, Chapter 625 of the Florida Statutes. Any such alternative form of security shall be for the same purpose and be subject to the same conditions as those applicable to the bond required hereunder. The determination of the value of the alternative form of security shall be made by the appropriate representative of the city as described above.~~
- ~~(8) — Change orders. Any change in the contract price, scope of work or time for completion of any project following the award of a contract shall be by a written change order, approved by the city commission and executed with the same formalities as the contract. However, the city manager may approve and execute change orders without city commission approval subject to the following limitations:
 - ~~(a) — Contract price increases may be approved to a total award of \$100,000.00 for any contract with the same approval authority as (5) above. The city manager may approve any increase of contract up to a maximum of ten percent over the most recent award of the city commission. The scope of any project may not be changed without prior approval of the city~~~~

~~commission. No contract price increase shall be approved unless there are sufficient funds available for such purpose.~~

~~(b) Contract price decreases may be approved without limitation.~~

~~(c) The time for completion may not be extended by more than 60 days, in any one change or cumulatively for the same project, beyond the most recent commission-approved contract completion time.~~

~~(d) No change order shall change the scope of the work unless approved by the city commission.~~

~~(e) City manager approved contracts may not exceed ten percent cumulatively, inclusive of all change orders.~~

~~Sec. 2.562. -- Purchases for \$50,000.00 or less.~~

~~Except as otherwise provided in this division, purchases of commodities or services of a value of \$50,000.00 or less, may be made in the open market, pursuant to the following procedure and without observing the procedure prescribed in section 2.561:~~

~~(1) *Minimum number of quotations.* Open market purchases shall be based on at least three quotations and shall be awarded to the vendor making the lowest responsible quote.~~

~~(2) *Notice inviting quotations.* Quotations shall be solicited either by written request, which may include facsimile transmission, electronic mail or by telephone.~~

~~(3) *Sealed written quotations.* Sealed written quotations received in response to written solicitations for quotations shall be submitted to the purchasing agent who shall keep a record of all open market orders and quotes.~~

~~(4) *Written quotation opening procedures.* When formal written quotations are requested and received, the quotations shall be opened in public at the time and place designated by the purchasing agent.~~

~~(5) *Rejection of quotations.* The city manager as purchasing agent may:~~

~~(a) Reject all quotations; or~~

~~(b) Reject all quotations and re-obtain quotations pursuant to the procedures prescribed in this subdivision.~~

~~(6) *Award of contracts.* Except as otherwise provided in this division, each contract shall be awarded to the lowest responsible vendor.~~

~~Sec. 2.563. -- Disqualification of apparently lowest responsible bid or quotation.~~

~~An apparently lowest responsible bid or quotation may be disqualified as such and the bid may be rejected if it is determined by the purchasing agent that any or all of the following circumstances exist:~~

~~(1) A bid or quotation submitted by a vendor did not strictly conform to the required specifications; provided, however, the city reserves the right to waive~~

~~inconsequential deviations from the specifications where a change does not result in an increase in price to the city.~~

- ~~(2) A vendor has demonstrated, through documented performance in the industry or through prior dealings with the city, to have been unable to satisfactorily meet the responsibilities required of a successful low bidder.~~
- ~~(3) A vendor's product has been demonstrated, through documented performance in the industry, or through prior use by the city, to be incapable of satisfactorily meeting the accepted demands to be placed upon the product.~~
- ~~(4) A vendor's product that is different from the city's standard.~~

~~Vendors who submitted a bid or quotation and were not selected may appeal the decision of the purchasing manager through use of the bid protest procedures, a copy of which shall be available in the purchasing office. Protesting vendor must include a fee of five percent of the selected vendors total bid to offset the city's additional expenses related to the protest. This fee shall not exceed \$2,500 nor be less than \$50. Full refund will be provided should the protest be upheld. No partial refunds will be made.~~

~~Sec. 2.564. - Exceptions to bid and quotation procedure.~~

- ~~(1) The bidding requirements set forth in this subdivision may be waived when one of the following conditions exists:~~
 - ~~(a) A department director certifies via electronic coordination of the purchase requisition describing to the purchasing agent that an emergency exists in regard to the purchase of any commodity or service and that the delay incident to giving opportunity for competitive bidding would be detrimental to the interest of the city. The responsible department director shall provide a detailed summary outlining the facts demonstrating the existence of an emergency. Upon determining that an emergency exists the purchasing agent may authorize the purchase. Emergency purchases that exceed the purchasing agent's authority must be approved by the city commission at the earliest regular or special public meeting thereafter.~~
 - ~~(b) Commodities or services are available only from a sole source, after determination by the purchasing agent upon review of written summary of facts from the department director requesting the purchase.~~
 - ~~(c) The amount of the purchase is \$2,500.00 or less.~~
 - ~~(d) It is to the advantage of the city to purchase commodities or services in cooperation with another governmental entity in Florida or to purchase commodities or services from contracts previously awarded by other governmental entities as recommended by the department director or designee.~~
 - ~~(e) The purchasing agent determines that the nature of the commodity or service is such that competitive bidding is impossible, impractical, or cannot be obtained as recommended by the requesting department director.~~
 - ~~(f) Professional services subject to the Florida Consultants Competitive Negotiations Act.~~

- ~~(g) Services rendered by health services including mental health; legal services including paralegal, expert witness, appraisal or mediator services; auditors; academic and lecturers; or services provided by persons with mental or physical disabilities under not-for-profit corporations.~~
- ~~(h) Commodities or services purchased by the city or its representatives when necessary to the prosecution or defense of any claim or lawsuit in which the city is a party or in which it is anticipated by the city attorney, the risk manager, or the third party administrator of the city's self-insurance program that the city will become a party.~~
- ~~(i) Commodities or services purchased by the city or its representatives when necessary to comply with Chapter 440, Florida Statutes (Florida Worker's Compensation Law), or when necessary to the defense of any worker's compensation claim asserted against the city.~~
- ~~(j) Contracts of insurance.~~
- ~~(k) Purchase of construction materials included in the scope of an awarded construction contract in order to realize sales tax savings, in accordance with Section 212.08(6), F.S.~~
- ~~(l) Purchasing bid/quotation requirements may be suspended for a period (to be determined by the emergency condition) upon declaration of emergency by the city manager. Awards of contract may be delegated in writing to any designee in the amount not to exceed \$100,000.00.~~
- ~~(2) Purchases over \$100,000.00 made pursuant to this section shall be submitted to the city commission for approval.~~

~~Sec. 2.565. Reserved.~~

~~Subdivision III. - Reserved~~

~~Subdivision IV. - Outline Procedures for Awarding Design-Build Contracts~~

~~Sec. 2.601. - Award of design-build contracts.~~

- ~~(1) *Purpose.* This ordinance establishes uniform rules for the procurement and administration of design-build contracts for construction projects as contemplated by F.S. § 287.055.~~
- ~~(2) *Selection of the design criteria professional.* The design criteria professional shall be selected and contracted in accordance with the requirements of F.S. § 287.055(4) and (5), unless he or she is an employee of the city. The design criteria professional that prepares the design criteria package will not be eligible to render services under the design-build contract.~~
- ~~(3) *Design criteria package requirements.* A design criteria package shall be prepared for the city by the design criteria professional. It shall specify performance criteria for the project including, but not limited to, size, net interior space provisions, location, material quality standards, cost, construction schedule, site development~~

~~requirements, landscaping, grading, utility provisions for water, power, telephone, storm water disposal and parking provisions. The purpose of the package is to furnish sufficient information upon which firms may prepare bid proposals or upon which negotiations may be based. The firm to whom the design-build contract is awarded will be responsible for creation of the project design based on the criteria in the design criteria package.~~

~~(4) — *Minimum qualification requirements for firms providing design-build services.* Firms must be qualified pursuant to rules of qualification for bid submittals found in Division 3, Purchasing, of the Code of Ordinances.~~

~~(5) — *Public announcement procedures.* The city shall publicly request, in a newspaper of general circulation and by posting notice at its offices, competitive proposals from design-build firms. The request shall provide a general description of the project and define procedures on how interested qualified firms may apply for consideration.~~

~~(6) — *Certification and competitive selection.*~~

~~(a) — The city shall determine the relative ability of each firm to perform the services required for each project. Determination of ability shall be based on staff training and experience, firm experience, location, volume of past contracts with the agency, financial capacity, past performance, and current and projected workloads. In making its determination the city shall interview no less than three firms to determine the firms' ability to provide services and commitment to meet time and budget requirements.~~

~~(b) — The city shall select no less than three nor more than six firms deemed to be most highly qualified to perform the required services, after considering the factors in (1) above. Each of these firms will be eligible for consideration in accordance with subsections (g) or (h), infra.~~

~~(c) — The city may determine that it is in the best interest of the city to negotiate instead of inviting competitive proposals when:~~

~~i. — The project is one with standard requirements such as an office building or a storage warehouse; or~~

~~ii. — The project requires special expertise; or~~

~~iii. — There is a need to complete the project on an accelerated schedule.~~

~~(d) — When the city determines in writing that an emergency exists, a firm shall be selected by competitive negotiation under subsection (h), infra.~~

~~(7) — *Competitive proposals for design-build services.*~~

~~(a) — Unless negotiation is authorized, proposals will be received from those qualified firms determined eligible under subsection (f), supra. Proposals shall include proposed price and a conceptual design in response to the design criteria package. The city shall establish a relative weighing factor, that is, a maximum permissible score in the form of a percentage, for each proposed building system component of the design criteria package. The weighing factors shall total 100 percent. The city shall review the conceptual design proposed by~~

~~each firm and give each component a score somewhere between zero and the maximum permissible score (the weighing factor) for the component.~~

- ~~(b) The city will then total the score given for each proposed component and divide that score into the price proposed. The quotient will be the adjusted price. The low qualified proposer will then be that proposer whose adjusted price is lowest. The city shall approve an award to the firm with the lowest adjusted price and enter into a contract for the proposed price if the price is within the project budget.~~

~~(8) *Competitive negotiation for design-build services.*~~

- ~~(a) If negotiation is authorized, the city shall select no less than three firms in order of preference from those deemed to be most qualified to perform the required services under subsection (e), supra. In making its determination the city shall interview no less than three firms to determine their relative ability to meet time and budget requirements and to identify and establish the relative merits of each firm's approach to managing and scheduling the project. The city will then attempt to negotiate a contract with the most qualified firm.~~
- ~~(b) When authorized, the city shall negotiate and enter into a contract for design-build services for the project with the firm authorized at compensation determined to be fair, competitive and reasonable. In making the determination, the city shall analyze the cost of the design-build services required, giving full consideration to the scope and complexity of the project. The compensation shall be on a guaranteed maximum price basis for all costs, which shall include reimbursable costs plus fixed lump sum fees for design, project management, overhead and profit.~~
- ~~(c) Should the city be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price the city determines to be fair, competitive and reasonable, negotiations with that firm shall be formally terminated. The city shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the city shall then undertake negotiations with the third most qualified firm.~~
- ~~(d) Should the city be unable to negotiate a satisfactory contract with any of the selected firms, additional firms shall be selected in accordance with the provisions of this section. Negotiations shall continue in accordance with this section until an agreement is reached.~~
- ~~(e) The award of a negotiated contract shall be approved by the City.~~

- ~~(9) *Public emergency exception.* In the case of public emergencies, the city may declare an emergency and authorize negotiations with the best qualified design-build firm available at that time. An emergency is a set of circumstances caused by a sudden unexpected turn of events (e.g., acts of God, riot, fires, floods, accidents or any circumstances or cause beyond the control of the city in the normal conduct of its business) where the delay incident to publication of the announcement and competitive proposals would result in an immediate danger to the public health, safety or welfare or other substantial loss to the city.~~

~~Sec. 2.602. -- Procurement of construction management services.~~

~~If the city manager determines that it is in the best interest of the city to proceed with a city council's construction project using the services of a construction manager, who will hold all contracts of the general contractor and subcontractors, then those services may be procured by means other than the procedures specified in this division. The purchasing manager is authorized to prepare the alternate procedures, which shall be included in the purchasing procedures which are approved by the city council by resolution from time to time.~~

~~Secs. 2.603 -- 2.608. -- Reserved.~~

Coding: Words in strikethrough type are deletions from existing text.
Words in underline type are additions.

Section 2: Division 4 of Article VI, Chapter 2, Code of Ordinances, is amended as follows:

DIVISION 4. DISPOSAL AND DISPOSITION OF SURPLUS TANGIBLE PERSONAL PROPERTY

Sec. 2.621. Definitions.

Terms not defined in this section shall have the meaning customarily assigned to them. Otherwise, the following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Tangible personal property means all goods, fixtures, furniture, equipment, and other items of value capable of manual possession and whose chief value is intrinsic to the item itself. This term does not include real property.

Sec. 2.622. Surplus sales officer.

- (1) The city manager is the surplus sales officer. The city manager may delegate some or all of this authority to any other city employee, except as to those matters which, under the charter or this article, are the express responsibility of the city manager.
- (2) The surplus sales officer or designee shall develop, implement, and administer procedures for the disposal of tangible personal property in accordance with applicable laws and regulations. Said procedures shall include provisions for the keeping of records regarding authorization of the disposal of any tangible personal property.

Sec. 2.623. Disposal and disposition of surplus tangible personal property.

- (1) The surplus sales officer may classify as surplus any tangible personal property owned by the city, provided that such property is not otherwise lawfully disposed, when that property is determined to be obsolete, or the continued use of the property is uneconomical or inefficient, or the property serves no useful function to the city.
- (2) Tangible personal property that is excess to department needs must enter the surplus disposal process and shall be disposed in the manner prescribed by F.S. Ch. 274.
- (3) Initial efforts will be made to redistribute any tangible personal property to other city facilities or departments.
- (4) In accordance with F.S. § 274.06, after the initial efforts to redistribute are exhausted, tangible personal property may be disposed as follows:
 - (a) If the property is without commercial value, it may be donated, destroyed, traded, abandoned, or otherwise disposed at the discretion of the surplus sales officer.
 - (b) If the market value of the property to be disposed is not estimated to exceed the current fixed asset control level, it may be donated, destroyed, abandoned, or otherwise disposed at the discretion of the surplus sales officer.
 - (c) At the discretion of the surplus sales officer, tangible personal property may be offered without bids to the state, any governmental unit, or any political subdivision of the state.
- (5) Tangible personal property not disposed by the methods described in sections 2.623(3) or 2.623(4), and valued at five thousand dollars (\$5,000) or less, whether single item or batch of common bulk items shall be sold through public auction or open market sales, pursuant to the following procedure:
 - (a) *Minimum number of bids.* Open market sales shall, whenever possible, be based on at least three (3) bids and shall be awarded to the highest responsible bidders.
 - (b) *Notice inviting bids.* Bids shall be solicited either by written request to prospective buyers or by telephone.
 - (c) *Rejection of bids.* The surplus sales officer may:
 - (1) Reject all bids; or

- (2) Reject all bids and reobtain bids pursuant to the procedures prescribed in this section.
- (d) Award of contracts. Except as otherwise provided in this division, each contract for the sale of surplus property as authorized by this subsection (5) shall be awarded by the city manager to the highest responsible bidder.
- (6) Tangible personal property not disposed by the methods described in sections 2.623(3) or 2.623(4), and valued at more than five thousand dollars (\$5,000), whether single item or batch of common bulk items shall be sold through public auction or open market sales, pursuant to the following procedure:
 - (a) Notice inviting bids (open market only). Notices inviting bids shall be published and shall include a general description of the items to be sold, shall state where bid blanks and all specifications may be obtained, and shall state the time and place for opening of bids.
 - (b) Bid opening procedures (open market only). Sealed written bids shall be returned to the procurement division and shall be identified as bids on the envelope. Bids shall be opened in public at the time and place stated in the public notices. A tabulation of all bids received shall be made available to the public.
 - (c) Rejection of bids (open market only). The surplus sales officer may:
 - (1) Reject all bids; or
 - (2) Reject all bids and readvertise for bids pursuant to the procedures prescribed in this section.
 - (d) Award of contracts. Except as otherwise provided in this division, each contract for the sale of surplus property as authorized by this subsection (6) shall be awarded by the city council to the highest responsible bidder.
- (7) The bidding requirements set forth in this division may be waived when one or more of the following conditions exist:
 - (a) The market value of items to be disposed is not estimated to exceed the current fixed asset control level and may be disposed as the surplus sales officer deems necessary.
 - (b) The surplus sales officer determines that the items can be sold or otherwise disposed through only one source.

- (c) Local, state, or federal law requires that the items be disposed via public auction.
- (d) The surplus sales officer determines that a donation to charitable/not-for-profit organizations is in the best interest of the city.
- (e) The department director recommends trade-in as being in the best interest of the city.
- (8) When authorized or required, the surplus sales officer may utilize the services of auctioneers at city facilities, provider facilities, or online auctions.
- (9) When the tangible personal property being disposed was purchased through a federal, state, or other grant or award, the surplus sales officer shall ensure that any disposal requirements contained in the grant or award are met.
- (10) When property being disposed includes electronic equipment with data storage capabilities, disposal shall be through a provider capable of ensuring and providing a certificate of complete data destruction for such equipment.

Sec. 2.624. Reserved.

~~DIVISION 4. -- SALE OF SURPLUS PERSONAL PROPERTY~~

~~Sec. 2.621. -- Surplus sales officer.~~

~~The city manager shall be the surplus sales officer. He shall have the power to delegate some or all of his authority to any other city employee, except as to those matters which, under the charter or this article, are the express responsibility of the city manager.~~

~~Sec. 2.622. -- Surplus sales over \$5,000.~~

~~Except as otherwise provided in this division, following authorization by the city commission, the sale of an item or of common bulk items of an estimated value greater than \$5,000.00 shall be through public auction or open market pursuant to the following procedure:~~

- ~~(1) *Notice inviting bids (open market only).* Notices inviting bids shall be published and shall include a general description of the items to be sold, shall state where bid blanks and all specifications may be obtained, and shall state the time and place for opening of bids.~~
- ~~(2) *Bid opening procedures (open market only).* Sealed written bids shall be returned to the city and shall be identified as bids on the envelope. Bids shall be opened in public at the time and place stated in the public notices. A tabulation of all bids received shall be made available to the public.~~

- ~~(3) *Rejection of bids (open market only).* In the sale of surplus personal property, the city manager as surplus sales officer may:~~
- ~~(a) Reject all bids; or~~
 - ~~(b) Reject all bids and readvertise for bids pursuant to the procedures prescribed in this section.~~
- ~~(4) *Award of contracts.* Except as otherwise provided in this division, contracts for the sale of surplus personal property shall be awarded by the city commission to the highest responsible bidder.~~

~~Sec. 2.623. Surplus sales under \$5,000.~~

~~Except as otherwise provided in this division, following authorization by the city manager, the sale of an item or of common bulk items of an estimated value of \$5,000 or less may be made through public auction or open market, pursuant to the following procedure and without observing the procedure prescribed in section 2.622:~~

- ~~(1) *Minimum number of bids.* Open market sales shall, whenever possible, be based on at least three bids and shall be awarded to the highest responsible bidder.~~
- ~~(2) *Notice inviting bids.* Bids shall be solicited either by written request to prospective buyers or by telephone.~~
- ~~(3) *Rejection of bids.* The city manager as surplus sales officer may:~~
 - ~~(a) Reject all bids, or~~
 - ~~(b) Reject all bids and reobtain bids pursuant to the procedure prescribed in this section.~~
- ~~(4) *Award of contracts.* Except as otherwise provided in this division, each contract for the sale of surplus personal property authorized by this section shall be awarded to the highest responsible bidder.~~

~~Sec. 2.624. Exceptions to auction sale bidding procedures.~~

~~The bidding requirements set forth in this division may be dispensed with when one or more of the following conditions exist:~~

- ~~(1) The market value of items to be disposed of is not estimated to exceed the current fixed asset control level, and may be disposed of as the city manager deems necessary.~~
- ~~(2) It is to the advantage of the city to sell the items to or otherwise dispose of them in cooperation with another governmental entity.~~
- ~~(3) The surplus sales officer determines that the items can be sold or otherwise disposed of through only one source.~~
- ~~(4) Local, state or federal law requires that the items be disposed of via public auction.~~

~~(5) The city manager determines that a donation to charitable/not for profit organizations is in the best interest of the city.~~

~~(6) The department director or designee may recommend trade-in as being in the best interest of the city.~~

Coding: Words in strikeout type are deletions from existing text.
Words in underline type are additions.

Section 3: Should any of the clauses, sentences, paragraphs, sections, or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

Section 4: This Ordinance shall become effective immediately upon adoption.

PASSED ON FIRST READING

PASSED ON SECOND AND FINAL
READING AND ADOPTED

Frank Hibbard
Mayor

Approved as to form:

Attest:

Owen Kohler
Assistant City Attorney

Rosemarie Call
City Clerk