
Sec. 2-3.03. Procurement ordinance.

There is hereby adopted an ordinance entitled "Procurement Ordinance for the Consolidated Government of Columbus, Georgia," which is set out below.

(Ord. No. 85-23, 3-5-85; Ord. No. 20-053, 11-17-20)

ARTICLE 1. GENERAL PROVISIONS

Part A: Purpose and Application

1-101.Purpose. The purpose of this ordinance is to provide for fair and equitable treatment of all persons involved in public purchasing by the Consolidated Government of Columbus, Georgia ("the city"); to maximize the purchasing value of public funds in procurement; and to provide safeguards for maintaining a procurement system of quality and integrity.

1-102.Application. This ordinance applies to all purchases and contracts for the procurement of equipment, supplies, services and construction entered into by the city. It shall apply to every expenditure of public funds for public purchasing irrespective of the source of the funds.

Any department, office or agency receiving appropriations from council shall adhere to these purchasing policies, unless exempted by council action.

Exemption:The following agencies or funding sources are exempt from these procurement policies: **The Land Bank Authority, The Columbus, Georgia Golf Authority (whether doing business as Bull Creek Golf Course or Oxbow Creek Golf Course), Special Operations Federal Forfeiture Fund Task, Police Forfeiture Fund, Sheriff Forfeiture Fund, and Columbus, Georgia Convention and Trade Center.**

When the procurement involves the expenditure of federal assistance or contract funds, the procurement shall be conducted in accordance with any mandatory applicable federal law and regulations. Nothing in this ordinance shall prevent any public agency from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with the law.

Part B: Definitions

1-201.Definitions. The terms, phrases, words and their derivations set forth below shall have the meaning given herein. Words not defined herein or within the Official Code of Georgia Annotated shall be interpreted so as to give them the meaning they have in common usage. Words used in the singular shall include the plural, and the plural the singular; words used in the present tense shall include the future tense.

- (1) **Annual contract.** Any contract entered into for a period of one year or multiple one-year periods (including options to renew for additional one year periods), with a vendor or contractor, to provide Columbus Consolidated Government, upon request, with a specified product or service, such as uniforms, concrete, architectural services, at a predetermined or negotiated rate or cost.
- (2) **Architectural/engineering and land surveying services.** Those professional services within the scope of the practice of architecture, professional engineering, or land surveying, as defined by the laws of the State of Georgia.
- (3) **Award.** When the city council has authorized the award of a contract and approved the execution of the contract by the city manager or such other person as may be designated by the mayor and approved by council in accordance with Section 7-500 of the Charter. However no liability shall attach nor shall the contract be considered binding unless it has been duly executed by the contractor and returned with all required submittals including insurance and bonding, if applicable, executed by the city manager, or such other person as council may designate, attested to by the clerk, and approved by city attorney as to form.

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- (4) **Bid.** An offer submitted in response to a request for bid issued by Columbus Consolidated Government, which can become a contract upon acceptance by the government.
 - (5) **Bid bond.** A written agreement or check by which a third party guarantees that a bidder will accept a contract as bid, if it is awarded.
 - (6) **Bid opening.** The public opening of bids which are recorded and made available for public inspection.
 - (7) **Bidder (or offeror).** A person, company or firm who make a bid (or offer) to provide the Consolidated Government of Columbus, Georgia, or a using agency thereof, with supplies, services, or construction.
 - (8) **Brand name or equal specifications.** A specification listing one or more items by manufacturers' names or catalogue number to describe the standard of quality, performance, and other salient characteristics needed to meet requirements, and which provides for the submission of equivalent products.
 - (9) **Brand name specification.** A specification limited to one or more items by manufacturers' names or catalogue numbers.
 - (10) **Business.** Any corporation, partnership, individual sole proprietorship, joint stock company, joint venture, or other private legal entity.
 - (11) **Buyer.** An employee in the purchasing division who is responsible for processing solicitations.
 - (12) **Change order.** A written modification to a contract, issued by the city, directing the contractor to make changes to the contract.
 - (13) **Columbus Council.** The Governing Body of Columbus Consolidated Government.
 - (14) **City Manager.** The Chief Administrative Officer of Columbus Consolidated Government.
 - (15) **Collusion.** When two or more parties act together secretly to achieve a fraudulent or unlawful act. May manifest itself in the form of bid collusion when bidders secretly agree to unlawful practices regarding competitive bidding. May inhibit free and open competition in violation of antitrust laws. Also see *Identical bid*.
 - (16) **Competitive sealed bidding.** Preferred method of Columbus Consolidated Government for acquiring goods, services, and construction for public use in which award is made to the lowest responsive and responsible bidder, based solely on the response to the criteria set forth in the RFB (request for bid); does not include discussions or negotiations with bidders.
 - (17) **Competitive sealed proposals.** A procurement method used by Columbus Consolidated Government for obtaining goods, services and construction for public use in which discussion and negotiations may be conducted with responsible offerors who submit responsive proposals, i.e. RFP (request for proposals).
 - (18) **Confidential information.** Any information which is available to an employee only because of the employee's status as an employee of the Consolidated Government of Columbus, Georgia and is not a matter of public knowledge or available to the public on request.
 - (19) **Construction.** The process of building, altering, repairing, improving, or demolition any public structure or building, or other public improvements of any kind to any public real property. Routine operation, repair, or maintenance of existing structures, buildings, or real property is not included.
 - (20) **Contract.** Any type of administrative agreement, regardless of what it may be called for the procurement or disposal, by Consolidated Government of Columbus, Georgia, of supplies, services, or construction.

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- (21) **Contract modification (or bilateral change).** Any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties under contract.
 - (22) **Contractor.** Any person, firm, or company having a contract with the Consolidated Government of Columbus, Georgia or a using agency thereof.
 - (23) **Cooperative procurement (purchasing).** A) The action taken when two or more entities combine their requirements to obtain advantages of volume purchases including administrative savings and other benefits; B) A variety of arrangements whereby two or more public procurement units purchase from the same supplier or multiple suppliers using a single RFB or RFP; or C) Cooperative procurement efforts may result in contracts that other entities may "piggyback".
 - (24) **Cost analysis.** The evaluation of cost data for the purpose of arriving at costs actually incurred or estimates of the costs to be incurred, the prices to be paid, and the costs to be reimbursed.
 - (25) **Cost data.** Factual information concerning the cost of labor, material, overhead, and other cost elements which are expected to be incurred or which have been actually incurred by contractor in performing the contract.
 - (26) **Cost-reimbursement contract.** A contract under which a contractor is reimbursed for costs that are allowable and allocable in accordance with the contract terms and the provisions of this ordinance, and for a fee or profit, if any.
 - (27) **Davis-Bacon Act.** A Federal Law (1931) which requires contractors who perform public works construction projects, that are federally funded, to pay their workers the prevailing wage rate paid in the area for similar work, as set forth by the secretary of labor.
 - (28) **Debarment.** To prohibit a seller/contractor from bidding on future requirements for cause for a certain period of time for Columbus Consolidated Government.
 - (29) **Debriefing.** A practice used primarily during the request for proposal process, whereby the Columbus Consolidated Government purchasing manager, buyer or other representative will meet with those parties whose proposals were not deemed appropriate for award. It is viewed as a learning process for proposers who may gain a better understanding regarding perceived deficiencies contained within their submitted proposal.
 - (30) **Default.** The omission or failure of a vendor to perform a legal or contractual duty, to observe a promise or discharge an obligation, or to perform an agreement for Columbus Consolidated Government.
 - (31) **Disadvantaged business enterprise (DBE).** A disadvantaged business enterprise or DBE is a for-profit small business concern that is at least 51 percent owned by one individual or at least two individuals who are both socially and economically disadvantaged. In the case of a corporation, 51 percent of the stock must be owned by one or more socially and economically disadvantaged individuals. In addition, the business management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it. (*Georgia DOT*) See also *Historically Under-Utilized Business Enterprise, Minority-Owned Business Enterprise and Women-Owned Business Enterprise*.
 - (32) **Emergency purchase.** A purchase made by Columbus Consolidated Government due to an unexpected and urgent request where health and safety or the conservation of public resources is threatened. Usually formal competitive bidding procedures are waived.
 - (33) **Employee.** An individual drawing a salary or wages from the Consolidated Government of Columbus, Georgia, whether elected or not.

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- (34) **Financial interest.** Ownership of any interest, or involvement in any relationship, from which or as a result of which a person has received within the past year, or is presently or in the future entitled to receive, any compensation; ownership of ten percent or more of any property or business; or holding a position in business such as officer, director, trustee, partner, employee, or the like, or holding any position of management.
- (35) **Gratuity.** A payment, loan, subscription, advance, or deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
- (36) **Historically underutilized business (HUB).** See definition for *Disadvantaged Business Enterprise (DBE)*.
- (37) **Identical bid.** A bid that is exactly the same in all respects with another bid submitted to Columbus Consolidated Government at the same time and for the same requirements. Bids that are the same price but submitted by two or more bidders. In some cases, terms and conditions may be the same. Identical bids may raise an antitrust concern when there is reason to suspect collusion between the bidders. Also see *Collusion*.
- (38) **Immediate family.** A spouse, children, parents, brothers, and sisters.
- (39) **Invitation for bids or request for bid.** All documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.
- (40) **Local public procurement unit (or public procurement unit).** Any county, city or any other subdivision of the consolidated government or public agency of any such subdivision; or any educational, health, or other institution or public authority (or, to the extent provided by law, any other entity which expends public funds for the procurement of supplies, services, and construction) within the boundaries or under the jurisdiction of the consolidated government.
- (42) **Minority business enterprises (or MBE)** See definition for *Disadvantaged Business Enterprise (DBE)*.
- (43) **Only known source (sole source procurement).** A situation created due to the inability to obtain competition. May result because only one vendor or supplier possesses the unique ability or capability to meet the particular requirements of the solicitation. The city requires a justification from the requesting agency explaining why this is the only source for the requirement.
- (44) **Piggyback (piggyback cooperatives).** A form of intergovernmental cooperative purchasing in which an entity will be extended the pricing and terms of a contract entered into by a larger entity. Generally, a larger entity will competitively award a contract that will include language allowing for other entities to utilize the contract which may be to their advantage in terms of pricing, thereby gaining economies of scale that they normally would not receive if they competed on their own. Example: A smaller government agency has the ability to use its state issued contract to obtain goods and services which is also known as "riding" a contract. (*NIGP*)
- (45) **Price analysis.** The evaluation of pricing data without analysis of the separate cost components and profit as is done in cost analysis; it may be used to assist in arriving at prices to be paid and costs to be reimbursed.
- (46) **Pricing data.** Factual information concerning prices for items (including offered or proposed selling prices, historical selling prices, and current selling prices at all levels of contracting and subcontracting) substantially similar to those being prepared.
- (47) **Procurement** The buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, services, or construction; also, all functions that pertain to the obtaining of any supply, service, or construction item, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

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- (48) **Professional services.** Those services provided by persons defined by the laws of the state to be professionals (accountants, clergy, physicians, lawyers, dentists, etc.) or any other services found by the city to be professional services (in that provision of these services involves extended analysis; exercising discretion and independent judgment in their performance; an advanced and specialized type of knowledge, expertise, or training customarily acquired either by prolonged course of study or equivalent experience in the field or both).
- (49) **Public agency.** A public entity subject to or created by the Consolidated Government of Columbus, Georgia.
- (50) **Public records.** Public records are records prepared and maintained or received in the course of a government agency's operation. They may exist electronically, as a hard copy, or in some other format. The substance of the content matters, not the format. As a result, public records may include:

- Documents.
- Handwritten notes.
- Emails.
- Text messages.
- Calendars.
- Papers.
- Letters.
- Maps.
- Books.
- Tapes.
- Photographs.
- Computer-based or computer-generated information.
- Data.
- Data fields.

Public records also include records possessed by a private person or entity in the performance of a service or function on behalf of the "agency." Providing accurate and timely responses to open records requests is vital to the operation of a transparent local government. It is important that the city attorney be consulted on complicated or unusual open records requests to ensure that responses comply with state law and that the records requested are subject to disclosure under Georgia or federal law.

- (51) **Qualified-products list.** An approved list of supplies, services, or construction items described by model or catalogue numbers, which, prior to competitive solicitation, the consolidate government has determined will meet the applicable specification requirements.
- (52) **Request for proposals.** All documents, whether attached or incorporated by reference, utilized for soliciting proposals. The city uses this process to solicit proposals from potential providers for goods and services (Offerors). Price is usually not a primary evaluation factor. Provides for the negotiation of all terms, including price prior to contract award.
- (53) **Responsible bidder (or responsible offeror).** A bidder (or offeror) who has the capability in all respects to fulfill the contract requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment, and credit to assure good-faith performance.

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- (54) **Responsive bidder (or responsive offeror).** A person who has submitted a bid (or offer) which conforms in all material respects to the requirements set forth in the invitation for bids or request for proposal.
 - (55) **Services.** The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance.
 - (56) **Small business.** An independently owned firm, corporation, or establishment, having a small number of employees, low volume of sales, small amount of assets, and limited impact on the market. (*NIGP*)
 - (57) **Solicitation.** An invitation for bids, a request for proposals, telephone calls or any document used to obtain bids or proposals for the purpose of entering into a contract.
 - (58) **Specifications.** Any description of the physical or functional characteristics or of the nature of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.
 - (59) **Supplies.** All property, including but not limited to equipment, materials, printing, insurance, and leases of real property, excluding land or a permanent interest in land.
 - (60) **Surplus supplies/equipment.** Any tangible city-owned supplies (other than expendable supplies) or equipment no longer of any use to the city. This includes obsolete supplies, equipment, scrap materials and nonexpendable supplies that have completed their useful life cycle.
 - (61) **Using agency.** Any department, commission, board, or public agency requiring supplies, services, or construction procured pursuant to this Ordinance.
 - (62) **Women-owned business enterprise (WBE).** A business of which 51 percentage is owned or controlled by a woman or women. See also *Disadvantaged Business Enterprise (DBE)*.

ARTICLE 2. OFFICE OF THE PURCHASING MANAGER

2-101.Appointment and tenure.

- 1) **Appointment.** The purchasing manager shall be appointed by the finance director.
- 2) **Tenure.** The purchasing manager shall be a member of the merit system, responsible directly to the finance director.

2-102.Authority and duties.

- (1) **Principal public purchasing official.** Except as otherwise provided herein, the purchasing manager shall serve as the principal public purchasing official for the city and shall be responsible for the procurement of supplies, services, and construction in accordance with this article, as well as, the management and disposal of supplies.
- (2) **Duties.** The purchasing manager shall be subject to the finance director's supervision to perform the following duties:
 - a. Manage the purchasing division,
 - b. Procure or supervise the procurement of all supplies, services, and construction needed by the city,
 - c. Sell, trade, or otherwise dispose of surplus supplies belonging to the city,
 - d. Establish and maintain programs for specifications development, contract administration, and inspection and acceptance, in cooperation with the public agencies using the supplies, services, and construction,

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- e. Interpret and execute the policies and procedures of the city relating to procurement and (through subordinate supervision) develop, install, and maintain a harmonious procurement program for the city,
 - f. Direct and supervise proper procedures to develop the objectives of the city regarding procurement practices,
 - g. Maintain a complete file of all transactions (including bid bonds, performance bonds, contracts, pricing data, etc.) related to all purchases other than small purchases as defined in section 3-104 (1) **Small purchases: Purchases up to \$21,0500.00**; and
 - h. Perform such related duties developing and initiating the division budget; proposing cost-efficient models to improve overall efficiency for all departments regarding procurement procedures; and representing the Finance Director in the performance of assigned tasks.
- (3) **Operational procedures.** Consistent with this article, and with the approval of the finance director, the purchasing manager may adopt operational procedures relating to the execution of its duties. These shall be set forth in a procurement handbook.

2-103. Delegations of authority to other city officials. With written approval of the finance director, the purchasing manager may delegate authority to purchase certain supply, service, or construction items to other city officials if such delegation is deemed necessary for the effective procurement of those items, notwithstanding the provisions of section 2-102 (authority and duties).

ARTICLE 3. SOURCE SELECTION AND CONTRACT FORMATION

Part A: Methods of Source Selection

3-101. Purpose. The purpose of this article is to provide written and uniform procedural guidelines for the procurement of goods and services for Columbus, Georgia. These policies shall govern the procurement of commodities, equipment, services and all related contracts and agreements.

Any department, office or agency receiving appropriations from council shall adhere to these purchasing policies, unless exempted by council action.

Exemption: The following agencies or funding sources are exempt from these procurement policies: The Land Bank Authority, Bull Creek Golf Course, Oxbow Creek Golf Course, Special Operations Federal Forfeiture Fund, Police Forfeiture Fund, Sheriff Forfeiture Fund, and Columbus, Georgia Convention and Trade Center.

3-101A. Public access to procurement information. Procurement information shall be a public record to the extent provided in the ordinance and shall be available to the public as provided in such statutes.

3-102. Legal authority. This procurement ordinance is adopted by council as of the effective date of November 17, 2020 pursuant to the authority of Section 7-500 of the Columbus Charter.

3-103. Agency responsibility. Columbus may use a combination of decentralized and centralized purchasing to obtain goods and services for its various agencies.

For decentralized purchasing, this policy is intended to delegate appropriate levels of fiscal and purchasing responsibility to the city's using agencies. It is the responsibility of each department (agency) head to manage all needed purchases within the limits of the department's adopted operating budget, approved each fiscal year.

Departments (agencies), unless exempted by this ordinance, are required to follow all procurement rules and regulations presented in this ordinance. As well as any operational procedural guidelines enacted by the finance department.

3-104. Purchasing limits. The procedures specified in this section shall be employed for all purchases of goods and services which are not otherwise exempt.

- (1) **Small purchases: Purchases up to and including ~~\$1,000.00~~ \$2,500.00:** Any supply, material or contractual service, including construction, not under an annual contract, with an estimated total cost of ~~\$1,02,500.00~~ or less may be purchased by the using agency through the use of a city issued credit/procurement card. If the credit/procurement card is not accepted by a merchant, then an official purchase document issued by Columbus or petty cash disbursement may be used. **(Petty cash disbursements shall not exceed ~~\$50.00~~ \$100.00).** This requirement shall apply to the purchase of any single item or single purchase of multiple items with an estimated total cost not to exceed \$21,0500.00.
- (2) **Competitive quotation purchases: Purchases from ~~\$1,001.00~~ \$501.00 up to and including \$215,000.00:** Any supply, material or contractual service, including construction, not under an annual contract, with an estimated total cost greater than \$21,0500.00, but not more than \$25,000.00 may be purchased on the open market by the using agency obtaining and submitting to purchasing at least three written quotations from reputable vendors. This requirement shall apply to the purchase of any single item or single purchase of multiple items with an estimated total cost greater than \$21,0500.00 and up to and including \$25,000.00. An official purchase order of the Columbus Consolidated Government, issued to the awarded vendor(s), shall be used for the procurement. Final purchasing approval authority will be the purchasing manager.
- (3) **Sealed quotations: Purchases from \$215,001.00 up to \$2449,999.99:** Any supply, material or contractual service, including construction, not under an annual contract, with an estimated total cost greater than \$125,0010.00, but not more than \$2449,999.99 shall be purchased on the open market, without regard for formal advertising by obtaining competitive sealed quotations. The competitive sealed quotation process will be administered by the purchasing division. This requirement shall apply to the purchase of any single item or single purchase of multiple items with an estimated total cost greater than \$25,0001.00 up to \$2449,999.99. An official purchase order of the Columbus Consolidated Government, issued to the awarded vendor(s), shall be used for the procurement. Final purchasing approval authority is the city manager, who has delegated this authority to the finance department.
- (4) **Competitive sealed bid (formal) bid process or competitive sealed proposals (negotiation): Purchases \$2550,000.00 and greater:** Any supply, material or contractual service, including construction, which has an estimated total cost of \$2550,000.00 or more shall be purchased through the competitive sealed bid process or through the competitive sealed proposal process. These procurements shall be formally advertised. This requirement shall apply to the purchase of any single item or single purchase of multiple items with an estimated total cost of \$5025,000.00 or greater. The sealed bid process and the request for proposal process will be administered by the purchasing division. An official purchase order of the Columbus Consolidated Government shall be issued to the awarded vendor(s) for the procurement, or when applicable, a contract shall be executed.

In addition, any supply, material, or contractual service required under an annual contract, for any term length and regardless of the total cost, shall be procured through the use of the formal bid process or competitive sealed proposal process. Purchasing authority: Columbus City Council.

3-105.Small purchases: Purchases up to and including \$21,0500.00: Any supply, materials or contractual service, *not under an annual contract*, with an estimated total cost not exceeding ~~\$1,000~~ 215,0500.00 may be purchased by the using agency through the use of a credit/procurement card, an official purchase document issued by the city or petty cash disbursement. **However, petty cash disbursements shall not exceed \$50.00 \$100.00** This requirement shall apply to the purchase of any single item or single purchase of multiple items with an estimated total cost not to exceed ~~\$1,0002,500.00~~.

(1) **Credit/procurement card.**

- A. **Purpose.** The city has used various methods to accomplish small dollar purchases of goods and services. These methods, such as petty cash and purchase orders, have proven to be costly, time

consuming and occasionally have not been accepted by merchants. The city has initiated this credit/procurement card policy for the following reasons:

Credit/procurement card...

- Represents a faster, more efficient way to purchase small dollar items.
- Costs less to process than a purchase order.
- Provides agencies with more flexibility.
- Increases productivity, by decreasing lag time waiting for purchase orders to process.
- Provides sufficient control.

The finance department will develop directives to establish those procedures and policies under which agencies shall control the use of credit/procurement cards that will be assigned to and utilized by selected city employees to purchase goods and services on behalf of the city. The directive will accomplish the following:

- Ensure the procurement with credit/procurement cards is accomplished in accordance with the city's ordinances, policies and established rules.
- Ensure appropriate internal controls are established within each agency procuring with credit/procurement cards so the procurement card is used only for authorized purposes.
- Provide employees who must procure for the city, a convenient method to perform purchasing activities by reducing the need for a purchase order.

Finally, it is intended that the policies and procedures established be viewed as minimum standards for agencies who may wish to establish additional controls beyond those suggested. However, minimum control standards shall be established by the finance director or designee.

- B. **Scope.** The directive will be applicable to any and all city agencies, including elected officials, who have selected employees to use credit/procurement cards to purchase supplies and materials approved by the directive.
- C. **Using agency responsibility.** The decision of when a credit card is issued, and to whom issued, will be decided by the department head/elected official* or his/her designee only. The department head/elected official or his/her designee will request issuance of the credit card from the purchasing manager. The department head/elected official will be responsible for usage of credit/procurement cards by employees.

***In accordance with O.C.G.A. § 36-80-24, Columbus Council shall designate which Columbus and Muscogee County Elected Officials shall receive CCG purchasing/credit cards for themselves or their staff.**

- D. **Controls.** A number of unique controls have been developed for this program that do not exist in a traditional credit card environment. These controls ensure that the card can be used only for specific purposes and within specific dollar limits. In addition, certification of all purchases is required by each cardholder, with verification and approval performed by the approving official (department head/elected official or designee).
- E. **Restrictions.** The use of the credit/procurement card is prohibited for the purchase of the following:
 - Personal purchases of any kind, specifically including any purchase not directly related to the cardholder's public duties.

- Purchase of any one item or aggregate items, *from a single vendor*, which cost more than the approved small purchase limit. Currently, the small purchase limit is \$~~12,050~~00.00.
NOTE: CARDHOLDERS SHALL NOT SPLIT PURCHASES TO STAY UNDER THE \$~~12,050~~00.00 LIMIT FOR SMALL PURCHASES.
- Cash advances.
- Goods/services under annual contract. These items must be paid through the finance system, as the bid prices for most contracts are loaded in the system as an audit check.
- Microcomputer software and hardware (Unless approved by or purchased by the information technology department).
- Gift cards—Gift cards are prohibited unless approved by the city manager.
- Spouse/significant other travel expenses.
- Entertainment.
- Alcohol products.
- Tobacco products.
- Professional services (i.e. Physicians, attorneys, veterinarians, accountants, etc. These services are 1099 reportable and should be paid through the finance system).
- Food. The purchase of food is prohibited unless for an authorized business purpose.

The department head/elected official will be held responsible for any card violations committed by employees.

(2) **Purchase order—Petty cash disbursement.**

- A. **Purpose.** Although the majority of small purchases should be accomplished with the credit/procurement card, there may be instances where the credit card/procurement card cannot be utilized. In the event a credit/procurement card cannot be used, an official purchase order or petty cash disbursement shall be utilized for small purchases.
- B. **Purchase order.** The purchase order will represent a contract for the small purchase and the using agency will have the option of hand delivering, emailing, or mailing the document to the vendor. The same purchasing restrictions that apply for credit/procurement card purchases will apply for the use of the purchase order for small purchases with a total estimated cost up to \$~~21,050~~00.00.
- C. **Petty cash disbursement.** Petty cash disbursements may be used when the credit/procurement card or purchase order is not practical. The establishment of Petty cash disbursement Accounts must be approved by the Finance Director. **No petty cash disbursement shall exceed \$~~50,000~~100.00.**

3-106.Competitive quotation purchases: Purchases from \$~~12,500~~1001.00 up to and including \$~~21~~5,000.00.

- (1) **Purpose.** Any supply, material or contractual service, not under an annual contract, with an estimated cost from \$~~21,500~~1.00 up to and including \$~~125~~5,000.00 may be purchased on the open market by the using agency obtaining at least three written quotations from reputable vendors. At least one of the quotations must be from a certified DBE, if a DBE is available to provide the supply, material or contractual service. This requirement shall apply to the purchase of any single item or single purchase of multiple line items, from a single vendor, with an estimated cost from \$~~21,500~~1.00 up to and including \$~~21~~5,000.00.

Purchases in this dollar range can also be obtained via cooperative purchasing.

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- (2) **Using agency responsibility.** Procurements from \$~~21,500~~1.00 up to and including \$125,000 shall be approved only after the appropriate representative from the using agency has completed training in obtaining written quotations, documentation procedures and has demonstrated knowledge in these areas, as well as, acquainted themselves with the process of identifying and contacting vendors. Minimally, the agency will be responsible for documenting the following: 1) the price quote requesting form or document issued by the department; 2) the names of all businesses submitting quotations; 3) the names of the individual providing the quotations; 4) the date the quotations were received; 5) written quotes submitted by vendors; and 6) city employee obtaining the quotation. All documentation will be filed in the purchasing division as a matter of public record.
 - (3) **Purchasing instrument.** The using agency shall initiate an official purchase order to the recommended vendor(s). All documentation will be forwarded to the purchasing division for review and final approval.
 - (4) **Purchasing authority.** The purchasing manager shall have final approval for all from \$~~21,500~~1.00 up to and including \$125,000.00.
 - (5) **Award.** The award will be made to the lowest, responsible, responsive vendor(s). Council action is not required.

3-107. Sealed quotations: Purchases from \$125,001.00 up to \$~~2449,999.99~~00.

- (1) **Purpose.** Any supply, material or contractual service, not under an annual contract, with an estimated total cost from \$125,001.00 up to \$~~2449,999.99~~00 shall be purchased on the open market, without regard for formal advertising by obtaining competitive sealed quotations.

Purchases in this dollar range can also be obtained via cooperative purchasing.

The competitive sealed quotation process will be administered by the purchasing division. This requirement shall apply to the purchase of any single item or single purchase of multiple items, from a single vendor, with an estimated total cost from \$125,001.00 up to \$~~4924,999.99~~00. The same procedures will be followed as outlined in **section 3-108, formal competitive sealed bidding**, with the exception of the following changes:

- A. **Using agency responsibility.** The using agency will be required to supply, to the Purchasing Division, the following information: 1) detailed specifications describing the required good/service; 2) suggested vendors whom the using agency is aware can supply the required good/service; 3) the time frame the good or service is required. The using agency shall establish a project manager for the procurement.
- B. **Quotation solicitation.** The purchasing division shall administer the quotation solicitation. No formal advertising is required.
- C. **Notice.** Vendors will be given at least fifteen business days to respond to a competitive sealed quotation solicitation. The city may seek competitive quotations in a shorter period, due to time constraints or need, if necessary, as determined by the purchasing manager.
- D. **Quotation receipt and opening.** Sealed quotations shall be opened publicly in the presence of one or more witnesses at the time and place stated in the public notice. The amount of each quotation, the bidder's name and such other relevant information as the purchasing manager deems appropriate shall be recorded and retained in accordance with Georgia law. The record and each bid shall be open to the public in accordance with Article 3, 301A of the Procurement Ordinance (Public Access to Procurement Information).
- E. **Evaluation.** Quotation responses will be evaluated by the using agency for award recommendation. Purchasing staff will perform further review for due diligence.

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- F. **Award.** The award will be made to the lowest, responsible, responsive vendor(s). Council action is not required.
 - G. **Purchase authority.** Final purchasing approval authority is the city manager, who has delegated this authority to the finance department.
 - H. **Purchasing instrument.** After approval of the award recommendation, the purchasing division will issue an official purchase order to the awarded vendor(s). All information concerning the procurement will be kept in a project file, in the purchasing division, as a matter of public record.

3-108. Competitive sealed (formal) bid process: Purchases \$2550,000.00 and greater.

- (1) **Purpose.** All city procurements with an estimated total cost of \$2550,000.00 and greater will be awarded by the competitive sealed bid process, except as provided in the sections titled competitive sealed proposal (negotiation), emergency procurement, only known source procurement and cooperative purchase.

Procurements with an estimated value less than \$5025,000.00 may be formally bid if deemed to be in the best interest of the city by the purchasing manager. However, the purchase will be approved by the authority specified for the total cost of the procurement, per section 3-104, purchasing limits.

- A. **Project manager.** For any procurement large enough to require the use of competitive sealed bidding, an officer or employee of the using agency involved in the procurement shall act as project manager. The purchasing manager may assign certain tasks and record keeping requirements related to the procurement. The project manager will keep and make available to the purchasing division all records required for the tasks assigned.
- B. **Request for bid advertisement.** The using agency shall submit to the purchasing manager, applicable specifications, requirements, justifications and cost center(s) to be charged for the procurement.
- C. **Invitation for bids.** An invitation for bids shall be issued and shall include specifications and all contractual terms and conditions applicable to the procurement.
- D. **Public notice.** The public will be given adequate notice of the invitation for bids, provided that, adequate notice shall mean at least 15 business days before the bid opening date, which is stated in the Invitation. ***The city reserves the right to seek competitive sealed bids in a shorter period, if necessary, as determined by the purchasing manager.***

Notice shall be published in a reasonable time before bid opening, contain a description of the procurement in general terms, as well as, the place, date, and time of bid opening, and appear in a newspaper(s) of general circulation, specifically the city's legal organ. In addition to publication in newspapers, notice shall also be made by electronic means, including posting on the Internet and on the city's government access television channel.

Public works construction projects shall be advertised in accordance with Georgia State Law.

The city reserves the right to mail or e-mail invitations directly to vendors under the following circumstances:

- Solicitations for specialized equipment/supplies.
- Solicitations for specialized services.
- Re-bid of solicitations where normal advertising procedures netted no responses.
- Whenever deemed necessary by the purchasing manager.

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- E. **Bid opening.** Bids shall be opened publicly in the presence of one or more witnesses at the time and place stated in the public notice. The amount of each bid, the bidder's name and such other relevant information as the purchasing manager deems appropriate shall be recorded and retained in accordance with Georgia law. The record and each bid shall be open to the public in accordance with Article 3. 301A of the Procurement Ordinance (Public Access to Procurement Information).
- F. **Bid receipt and evaluation.** Bids shall be unconditionally received without alteration or correction except as authorized in the city's procurement ordinance. Bids shall be evaluated based on requirements set forth in the invitation for bid, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation cost, and total or life-cycle costs. The specifications presented in the invitation for bids shall represent the evaluation criteria. No other criteria may be used to evaluate bids.
- G. **Correction or withdrawal of bids; Cancellation of awards.** Correction or withdrawal of inadvertently erroneous bids before bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written notice received in the purchasing division.

After bid opening, corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake and the bid price actually intended. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the city or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if the mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident, or if the bidder submits evidence which clearly and convincingly demonstrate that a mistake was made.

All decisions to permit correction or withdrawal of bids or to cancel awards of contracts based on bid mistakes will be supported by the purchasing manager's written determination.

- H. **Receipt of one sealed bid.** In the event only one sealed bid is received, no formal bid opening shall take place. First, the Purchasing Division shall conduct a survey of vendors to inquire of "no bid" responses and non-responsive vendors. If, from the survey, it is determined by the purchasing division that specifications need revision, the one bid received will be returned unopened to the vendor, with a letter of explanation and a new bid solicitation prepared. If it is determined that other vendors need to be contacted, the bid due date will be extended, and the one bid received will remain sealed until the new bid opening date. The vendor submitting the single bid will receive a letter of explanation.

If it is determined the one bid received is from the only responsive, responsible bidder, then the bid shall be opened by the purchasing manager or designee, in the presence of at least one other witness. The single bid will be evaluated by the using agency for award recommendation.

- I. **Receipt of tie bids.** In the event multiple responsive, responsible bidders are tied for the lowest bid price and all other terms and requirements are met by all tied bidders, the award recommendation shall be resolved in the order of the preferences listed below:
1. Award to the local bidder whose principal place of business is located in Columbus, Georgia.
 2. Award to bidder previously awarded based on favorable prior experience.
 3. Award to bidder whose principle place of business is located in the State of Georgia.

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4. If feasible, divide the award equally among the bidders.
 5. If it is not feasible to award equally and only two bidders are tied, perform a coin toss in the presence of the two bidders, either in person or virtually.
 6. *If the above preferences are insufficient to resolve the tie, all bid responses will be rejected and the bid will be re-advertised.*

- J. **Award.** After evaluation of the bids, the using agency will forward a written award recommendation to the purchasing division. The award recommendation shall be reviewed by the purchasing division. The purchasing manager shall approve the recommendation prior to placement on council agenda for council action.

If the low bidder is not recommended for a bid award, the using agency must submit, in writing, the reason(s) the low bidder is not recommended. The purchasing division will notify the low bidder as to why his/her bid is not recommended. The low bidder will be given the opportunity to respond to any, and all reasons their bid is not recommended. Final decisions to accept or reject the responses and to recommend the bid award will rest with the purchasing manager and the using agency.

If the low responsive and responsible bidder exceeds available budgeted funds as certified by the approved budget for the pertinent fiscal year, the purchasing manager is authorized to negotiate an adjustment of the bid price to bring the bid within the amount of available funds. This should only occur when time or economic considerations preclude re-solicitation of work of a reduced scope. Any such negotiated adjustment shall be based only upon eliminating independent deductive items specified in the invitation for bids.

- K. **Bid award for procurements \$2550,000.00 and greater.** Any procurement with a total cost \$2550,000 and greater shall be approved by council action.

3-109. Annual contracts: Price agreements and service contracts.

- (1) **Purpose.** Any supplies, materials or contractual services required continuously over a specified time frame shall be considered a candidate for an annual contract. All annual contracts, regardless of the estimated total cost, will be established after the formal bid process or competitive sealed proposal process. Price agreements and service contracts are forms of annual contracts which are used to purchase goods or services used on a regular or continual basis, i.e., uniforms, janitorial supplies, or film. Annual contracts eliminate the time required to obtain price quotations or administer a formal bid each time the need arises and provides a more economic price due to the bulk of the contract agreement with the vendor(s). The term of an annual contract can range from three months to one year. Some annual contracts have renewal options, (usually two renewal options), depending on the commodity.
 - A. **Price agreement.** An annual contract is established as a price agreement when the goods or services can be easily described in measurable terms and a firm unit price can be established (i.e., a pair of shoes at an established unit price per pair).
 - B. **Service contract.** An annual contract is established as a service contract when the goods or services (usually services) cannot be easily described in measurable terms and a firm unit price cannot be established (i.e., a service contract is established for auditing services).
- (2) **Agency responsibility.** All agencies should carefully review any good or service used on a continuous basis to determine if it meets criteria to be placed under an annual contract.

All agencies utilizing an annual contract are required to document and report to the purchasing division any contractual non-performance of the contracted vendor(s). Documentation of the non-performance should be forwarded to the purchasing division within two days of the occurrence. Documentation is

essential in the notification process to the vendor to rectify the non-performance. The documentation can be in the form of memos or the current form recommended by the purchasing division.

(3) **Award.** All annual contracts shall be approved by council action.

(4) **Contract renewals and extensions.**

A. **Contract renewals:** Most annual contracts have renewal clauses. If deemed to be in the best interest of the city, the purchasing manager shall be authorized to renew annual contracts which contain renewal clauses. Renewal procedures shall be established by the purchasing division.

B. **Contract extensions:** After all contract renewals are exhausted, the purchasing manager shall also be authorized to extend annual contracts, for "cause."

"Cause" will be one of the following: 1) the contract re-bid process has been delayed; 2) the contract re-bid process is interrupted; 3) it is deemed to be in the best interest of the city to extend the contract. contract extensions authorized by the purchasing manager shall be no more than one year. Contract extensions beyond the one-year extension shall be approved by council.

C. **Mutual agreement:** Contract renewals and extensions shall be authorized only upon the mutual agreement of the using agency, the purchasing manager and the contractor.

3-110.Competitive sealed proposals (negotiations).

(1) **Conditions for use.** When the purchasing manager determines that the use of competitive sealed bidding for any procurement is either not practicable or not advantageous to the city, a contract may be entered into using the competitive sealed proposals (negotiation) method. In addition, the competitive sealed proposal process shall be used for the procurement of professional services, specialized equipment or supplies.

The competitive sealed proposal process may be used for procurements with an estimated total cost less than \$5025,000.00, if deemed to be in the best interest of the city. If the total cost can be determined, the authority to approve such solicitations will be as prescribed by article 3-104, purchasing limits. If, due to the required services, a total cost cannot be determined then the award recommendation will be approved by council.

A. **Request for proposals.** Proposals shall be solicited through request for proposals. The purchasing division shall establish the specifications with the using agency and set the date and time to receive proposals. The request for proposal shall include a clear and accurate description of the technical requirements for the service or item to be procured.

B. **Public notice.** The public will be given adequate notice of the request for proposals, provided that, adequate notice shall mean at least 15 business days before the due date, which is stated in the request. **The city reserves the right to seek request for proposals in a shorter period, if necessary, as determined by the purchasing manager.**

Notice shall be published in a reasonable time before due date, contain a description of the procurement in general terms, as well as, the place and due date for proposals, and appear in a newspaper(s) of general circulation, specifically the city's legal organ. In addition to publication in newspapers, notice shall also be made by electronic means, including posting on the internet and on the city's government access television channel.

Public works construction projects shall be advertised in accordance with Georgia State Law.

The city reserves the right to mail or e-mail invitations directly to vendors under the following circumstances:

- Solicitations for specialized equipment/supplies.

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- Solicitations for specialized services.
 - Re-bid of solicitations where normal advertising procedures netted no responses.
 - Whenever deemed necessary by the purchasing manager.
- C. **Receipt of proposals.** Proposals must be received by the deadline date established. No public opening will be held. No proposals shall be handled to permit disclosure of the identity of any offeror or the contents of any proposal to competing offerors during the process of discussion. A register of proposals shall be prepared as part of the contract file, and shall contain the name of each offeror, the number of modifications received (if any), and a description sufficient to identify the item offered. The register of proposals shall be open for public inspection only after contract award.
- D. **Evaluation factors.** The request for proposals shall identify the relative importance of cost (when applicable) and other evaluation criteria.
- E. **Evaluation process.** An odd number of voting members of a selection or evaluation committee shall evaluate all proposals received based upon the criteria stated in the request for proposals. Each voting committee member shall grade each submitted proposal based upon the evaluation criteria.
- F. **Discussion with responsible offerors and revisions to proposals.** As provided in the request for proposals, discussions (negotiations) may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award, to assure full understanding of and conformance to the solicitation requirements. All qualified, responsible offerors shall be given 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. In conducting discussions, there shall be no disclosure of the identity of competing offerors or any information derived from proposals submitted by competing offerors. If only one proposal response is received, then the award recommendation shall be to the single offeror, if the offeror meets all requirements.
- G. **Award.** After negotiations, the award recommendation must be presented to Columbus City Council for final approval. Award will be made to the responsible offeror whose proposal is determined to be the most advantageous to the city, taking into consideration total cost (if determined) and all other evaluation factors set forth in the request for proposals.

After council approval, a contract based on the negotiations (if negotiations were necessary) will be drawn and signed by all necessary parties. If council does not approve the award, it may direct that further negotiations may take place with the recommended offeror, or that negotiations begin with the next most qualified offeror. Council may also exercise the option to reject all offers and instruct the purchasing manager to begin the procurement process again. The contract file shall contain the basis on which the award is made.

After contract award, the contract file, will be made public. Unsuccessful offerors will be afforded the opportunity to make an appointment with the purchasing division for a debriefing. After the award, the contract file and the unsuccessful proposals will become subject to disclosure under the Georgia Open Records Act.

3-111.Architectural/engineering and land surveying services.

- (1) **Purpose.** All architectural/engineering and land surveying services, regardless of the estimated value of the contract or project, will be procured through the use of competitive sealed proposals.

Except as provided under article 3-114, only known source procurement, 3-115, emergency procurements, or 3-118 state contracts and other cooperative contracts, procurements for

architectural/engineering or land surveying services will be governed by the guidelines in above article 3-110, with the following modifications in this section:

- A. **Request for proposals.** The cost of services shall not be a required element in proposals for architectural/engineering and land surveying.

3-112.Request for qualifications.

- (1) **Purpose.** For the procurement of services where the qualifications of the firm, or its principals are central to the services performed or equipment required, the initial step may be the issuance of a request for qualifications (RFQ). A request for qualifications allows the city to receive qualification statements from interested vendors. Cost estimates are not required.
- A. **Request for qualifications.** Submissions or statement of qualifications shall be solicited through request for qualifications. The request for qualifications shall include a clear and accurate description of the technical requirements for the service or item intended to be procured. The RFQ shall also set the date and time to receive submissions.
- B. **Public notice.** Adequate public notice of the request for qualification shall be given in the same manner as provided under the section titled "competitive sealed bids."
- C. **Receipt of qualifications statements.** Qualifications statements must be received by the deadline date established in the RFQ. No public opening will be held. No submissions shall be handled to permit disclosure of the identity of any offeror or the contents of any proposal to competing offerors during the process of discussion. A register of submissions shall be prepared as part of the contract file, and shall contain the name of each offeror, the number of modifications received (if any), and a description sufficient to identify the item offered. The register of submissions shall be open for public inspection only after contract award.
- D. **Evaluation factors.** The request for qualifications shall identify the relative importance of each evaluation criteria.
- E. **Review and evaluation process.** Review of submittals will be conducted by a committee consisting of various stakeholders. Based upon the predetermined rating criteria contained in the RFQ, each voting member of the committee will perform an evaluation and assign a rating for each submittal.

Based on the composite ratings of the submissions, the committee may short-list, at least, the three most qualified firms to receive an invitation to respond to a request for proposal or competitive sealed bid.

If fewer than three vendors respond, the committee may decide to do one of the following:

- Cancel the RFQ. Revise the requirements and re-issue.
- Send request for proposals or invitation for bids to the respondents.
- Contingent upon the services required, contract award could be recommended to the highest ranked vendor or only vendor, as a direct result of the RFQ process and negotiations. The award recommendation must be approved by city council.

3-113.Request for information.

- (1) **Purpose.** In some instances, the using agency may have a general idea of the good or service required, but due to new technology or lack of technical or specialized knowledge in a particular area, the agency may not be able to develop adequate specifications. In such cases the using agency will solicit, through the purchasing division, a request for information (RFI). The purchasing division shall develop general procedures for the request for information.

3-114. Only known source (sole source) procurement.

- (1) **Purpose.** A contract may be awarded without competition if the purchasing manager determines, after conducting a good-faith review of available sources, that there is only one known source for the required supply or service. The purchasing manager (or designee) shall conduct negotiations on price, delivery, and terms as appropriate. A record of only known source procurements shall be maintained as public record and shall list each contractor's name, the amount and type of each purchase, the item(s) procured, and the number identifying each procurement. The final award approval for only known source procurements shall align with articles 3-106, 3-107 and 3-108, per the dollar amount of the only known source.
- (2) **Procurements from ~~\$12,0501.00~~ up to and including \$25,000.00.** Any agency wishing to make purchases from ~~\$12,0501.00~~ up to and including \$25,000.00 by using only known source procurement must have the approval of the purchasing manager. Written documentation must be submitted to purchasing by the using agency to justify the procurement.

3-115. Emergency procurement.

- (1) **Purpose.** Regardless of any other provision of the procurement ordinance, the city manager may make or authorize others to make emergency procurements of supplies, equipment, services, or construction services when there exists a threat to public health, welfare, or safety; or other exigent circumstances as specified by the city manager.

Such emergency procurement shall be made with such competition as is practical under the circumstances. A written determination of the basis for the emergency and for the selection of a particular contractor shall be included in the contract file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the contract, a list of the item(s) procured, and the number identifying the contract file. When the emergency procurement procedure is used for purchases \$2550,000.00 or greater, the city manager will report the nature of the emergency and the vendor, item(s) purchased, price, and recommended funding source to the mayor and council at the next regular council meeting. This information is for public records and does not require council approval.

3-116. Cancellation/rejection of solicitations.

- (1) **Purpose.** An invitation for bid, request for proposal, or other solicitation may be canceled, or any or all bids, proposals or responses rejected in whole or in part, at the discretion of the city for any reason whatsoever. The reasons for the cancellation shall be made part of the contract file. Notice of cancellation shall be sent to all businesses solicited or that responded. The notice shall identify the solicitation, give the reasons for the cancellation, and when appropriate state that an opportunity will be given to compete on any re-solicitation or similar procurement in the future.

Reasons for rejection will be provided to unsuccessful bidders or offerors.

3-117. Awards to local businesses. Except for construction contracts, federally funded projects, request for proposals and request for qualifications, awards will be made to responsive and responsible local businesses proposing a cost not more than two percent above the low bid or quote for contracts involving an expenditure less than or equal to \$2550,000.00; and made to responsive and responsible local businesses proposing a cost not more than one percent above the low bid or quote for contracts involving an expenditure greater than \$2550,000.00.

3-118. State contracts and other cooperative contracts.

- (1) **Purpose.** The State of Georgia Administrative Services Division secures state contracts for numerous commodities. The city will utilize state contracts when it is deemed to be in the best interest of the city.

State contracts may be utilized when time constraints deem it more prudent than the city initiating a competitive sealed quote or competitive sealed bid.

Other cooperative contracts may be used for the same purposes as stated above.

A competitive sealed quote or competitive sealed bid may be administered to compare pricing, product, warranty etc. with a state contract or other cooperative contract. If the state contract or other cooperative contract price is lower and meets all other requirements the purchase will be made via the contract and the competitive sealed quote or competitive sealed bid will be cancelled; submitting vendors will be notified of the reason for the cancellation.

Additionally, state contracts and other cooperative contracts may be utilized in lieu of administering request for proposals, request for qualifications or request for information when deemed to be in the best interest of the city.

3-119.Reimbursement to employees.

- (1) **Scope.** Reimbursements to city employees for personal funds expended will be made only under the following circumstances:
 - A. Personal funds utilized during job related travel. **Documentation must be provided to financial planning in the current form prescribed).**
 - B. Personal funds utilized to purchase goods or supplies in the event of an emergency which is job related. **Receipts must be attached to the reimbursement request, accompanied by a memo of explanation of the expenditure addressed to the purchasing manager. An emergency shall be as described in article 3-115, emergency procurement. If the expenditure is deemed not to be an emergency, the employee will not be reimbursed.**

Part B: Qualifications and Duties of Bidders

3-201.Responsiveness and responsibility of bidders and offerors

- (1) *Determination of non-responsive and non-responsible bidder.* If a bidder or offeror who otherwise would have been awarded a contract is found to be non-responsive and or non-responsible, the purchasing manager shall write a determination of such, stating the basis for the finding, send it promptly to the bidder and make it a part of the contract file and a public record. Unreasonable failure of a bidder or offeror to supply information promptly in connection with such finding may be grounds for a determination of non-responsiveness and non-responsibility.
- (2) *Disclosure:* All documents associated with the findings will become part of the contract file and subject to disclosure under the Georgia Open Records Act once the determination is completed.

3-202.Cost or pricing data.

- (1) *Required submissions relating to award of contracts.* A prospective contractor shall submit cost or pricing data when the contract is to be awarded by competitive sealed proposals [under] section 3-110 (competitive sealed proposals) or by only known source procurement authority [under] section 3-114 (only known source (sole-source) procurement).
- (2) *Exceptions.* The submission of cost or pricing data relating to the award of a contract is not required when:
 - a. The contract price is based on adequate competition,
 - b. The contract price is based on established catalogue prices or market prices,
 - c. The contract price is set by law or regulation; or

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- d. The purchasing manager determines in writing that the requirements of subsection (1) above may be waived, stating the reasons for such waiver.

Such waiver may be made only with the approval of the finance director and city manager.

- (3) *Required submissions relating to change orders or contract modifications.* A contractor shall submit cost or pricing data prior to the pricing of any change order or contract modification including adjustments to contracts awarded by competitive sealed bidding.

- (4) *Exceptions.* The submission of cost or pricing data relating to the pricing of a change order or contract modification is not required when:

- a. Unrelated, separately priced adjustments for which cost, or pricing data would not be required are consolidated for administrative convenience; or

- b. The purchasing manager determines in writing that the requirements of subsection (3) above may be waived, stating the reasons for such waiver.

Such waiver may be made only with the approval of the finance director and city manager.

- (5) *Certification required.* A contractor, actual or prospective, required to submit cost or pricing data in accordance with this section shall certify that, to the best of its knowledge and belief, the cost or pricing data submitted was accurate, complete and current as of a mutually specified date prior to the award of the contract or the pricing of the change order or contract modification.

- (6) *Price adjustment provision required.* Any contract award, change order, or contract modification requiring the submission and certification of cost or pricing data shall contain a provision stating that the price to the city, including profit or fee, shall be adjusted to exclude any significant sums by which the city finds such price was increased because cost or pricing data furnished by the contractor were inaccurate, incomplete, or not current as of the date agreed upon between the city and the contractor.

3-203. Cost or price analysis.

- (1) A cost analysis or price analysis, as appropriate, shall be conducted prior to award of any procurement contract not awarded under section 3-108 (competitive sealed bidding). A written record of such cost or price analysis shall be part of the contract file.

- (2) Cost analysis includes the appropriate verification of cost or pricing data and the use of this data, as well as any available historical comparative data, to evaluate:

- a. Specific elements of cost,
- b. The necessity of certain costs,
- c. The reasonableness of amounts estimated for the necessary costs,
- d. The reasonableness of allowance for contingencies,
- e. The basis used for allocation of indirect costs,
- f. The appropriateness of allocations of particular indirect costs to the proposed contract, and
- g. The reasonableness of the total cost or price.

- (3) Price analysis determines if a price is reasonable and acceptable. It involves an evaluation of prices for the same or similar items or services. Criteria used in price analysis include but are not limited to:

- a. Price submissions of prospective bidders or offerors in the current procurement,
- b. Prior price quotations and contract prices charged by the bidder, offeror, or contractor,
- c. Prices published in catalogues or price lists,

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- d. Prices available on the open market; and
 - e. In-house estimates of cost.

Considerations must be given to any differing terms and conditions.

3-204. Bonding on supply and service contracts. Bid and performance bonds or other security may be requested for supply or services contracts as the procurement manager (or the head of the using agency) deems advisable to protect the city's interests. Any such bonding requirements shall be set forth in the solicitation. Bid or performance bonds shall not substitute for a determination of a bidder's or offeror's responsibility. Complete file folders containing all transactions, including bonds, related to each bid will be maintained in the purchasing division.

Part C: Types of Contracts and Contract Administration

3-301. Types of contracts

- (1) *General authority.* Subject to the limitations of this section and applicable laws and regulations, any type of contract which is appropriate to the procurement and which will promote the best interests of the Consolidated Government of Columbus, Georgia may be used.
- (2) *Multiterm contract.*
 - a. **Specified period.** Unless otherwise provided by law, a contract for supplies or services may be entered into for any time period deemed to be in the city's best interest, provided such period and any renewal or extension conditions are stated in the solicitation, and funds are available for the first fiscal period at the time of contracting. Performance and payment obligations for later fiscal periods shall be subject to funds availability and appropriation.
 - b. **Determination prior to use.** Before a multi-term contract is used, it shall be determined in writing that estimated requirements cover the period of the contract and are reasonable firm and continuing, and that such a contract will serve the best interests of the city by encouraging affective competition or other promoting cost-effective procurement, and be a multi-year governmental contract that is permitted by Georgia Law.
 - c. **Cancellation Due to unavailability of funds in later fiscal periods.** When funds are not appropriated or otherwise made available to support continuation of performance in a later fiscal period, the contract shall be cancelled, and the contractor may be reimbursed for the reasonable value of goods and services already provided. Such cancellation costs may be paid from any funds appropriated and available for such purposes
- (3) *Multiple-source contracting.*
 - a. **General.** A multiple-source award is an award of an indefinite-quantity contract for one or more similar supplies or services to more than one bidder or offeror.
 - b. **Limitations on use.** A multiple-source award may be made when award to two or more bidders or offerors for similar products is necessary for adequate delivery, service, or product compatibility. Any multiple-source award shall be made in accordance with sections 3-108 (competitive sealed bidding), 3-110 (competitive sealed proposals), 3-105 (small purchases), and 3-115 (emergency procurements) as applicable. Multiple-source awards shall not be made when a single award will meet the city's needs without sacrifice of economy or service. Awards shall not be made for the purpose of dividing the business, making available product or supplier selection to allow for user preference unrelated to utility or economy, or avoiding the resolution of the bids. Any such awards shall be limited to the least number of suppliers necessary to meet all valid procurement requirements.

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- c. **Contract and solicitation provisions.** All eligible using agencies of the contract shall be named in the solicitation. It shall be mandatory that the actual requirements of such using agencies which can be met under the contract as obtained in accordance with the contract, provided that the city shall reserve the right to take bids separately if a particular quantity is required or an amount is specified in the contract, or the purchasing manager approved a finding that the supply or service available under the contract will not meet a nonrecurring special need of the consolidated government.
 - d. **Intent to use.** If a multiple-source award is anticipated before issuing a solicitation, the city will state all criteria for award in such solicitation and reserve the right to make such an award therein.
 - e. **Justification.** The purchasing manager, and or requesting agencies, shall make a written determination, which shall be made a part of the procurement file, setting forth the reasons for any multiple-source award.

3-302.Contract clauses and their administration.

- (1) *Contract clauses.* All city contracts for supplies services, and construction shall include provisions necessary to define the responsibilities and rights of the parties to the contract. Additionally, any clauses required by federal or state laws or regulations shall also be included in every applicable contract.

3-304.Contract administration. A contract administration system designed to ensure that every contractor is performing in accordance with the solicitation under which the contract was awarded, as well as, all contract terms and conditions, shall be maintained.

3-305.Right to inspect plant and/or worksite.The city may, at reasonable times, inspect such portion of any plant, place of business, or worksite of a contractor (or any subcontractor at any tier) as may be pertinent to the performance of any contract awarded or to be awarded by the city.

3-306.Reporting of anticompetitive practices. When, for any reason, collusion or other anticompetitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the state attorney general and the appropriate legal office for the jurisdiction(s) conducting and/or financially involved in the procurement.

3-307.City procurement records.

- (1) *Contract file.* All determinations and other written records related to the solicitation, award, or performance of a contract shall be maintained for the city in a contract file by the purchasing manager.
- (2) *Retention of procurement records.* All procurement records shall be retained and disposed of by the city in accordance with the established records retention guidelines and schedules, according to federal, state or city rules and regulations, applicable for a particular procurement.

ARTICLE 4. SPECIFICATIONS

Part A: Objectives and Types of Specifications

4-101.Maximum practicable competition. All specifications shall be drafted so as to promote overall economy in the purpose intended and encourage competition in satisfying the city's needs and shall not be unduly restrictive. The policy enunciated in this section applies to all specifications, including but not limited to those prepared for the city by architects, engineers, draftspersons, or other non-employees.

4-102.Brand name or equal specification.

- (1) *Use.* Brand name or equal specifications may be used when the purchasing manager determines in writing that no other design or performance specification or qualified products list is available, time

does not permit the preparation of another form of purchase description, without a brand name type of specification, the nature of the product or of the city's requirements makes using a brand name or equal specification suitable for the procurement, or use of a brand name or equal specification is in the city's best interest. It is not intended that the prior written determination required for the use of a brand name or equal specification will impose an undue administrative burden. Rather, it is designed to capture the important management decision to use this specification type. Such determination may be made for categories of supply, service, or construction items, or (in appropriate circumstances) for an entire procurement action, even though a number of different items are being procured.

- (2) *Designation of several brand names.* Brand name or equal specifications shall seek to designate three brands, or as many different brands as are practicable, as "or equal" references and shall further state that substantially equivalent products to those designated will be considered for award.

4-103.Brand name specifications.

- (1) *Use.* Since use of a brand name specification restricts competition, it may be used only when the using agency has provided a written justification that only the identified brand name item(s) will satisfy the city's needs. After performing research to determine the validity, the purchasing manager will make the final decision.
- (2) *Competition.* The purchasing manager shall seek to identify sources from which the designated brand name item(s) can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under section 3-114 (only known source (sole-source) procurement).

ARTICLE 5. CONSTRUCTION PROCUREMENTS

Part A: Management of Construction Contracting

5-101.Selecting methods.

- (1) The purchasing manager, in consultation with the city's designated project engineer shall have discretion to select the appropriate method of construction contracting management for a particular project. In determining which method to use, the purchasing manager shall consider the city's requirements and resources, and the potential contractor's capabilities. The purchasing manager shall include in the contract file a written statement of the facts leading to the selection of the particular method of construction contracting management for each project.
- (2) *DBE participation.* For projects in which state or federal funds are not used, the city has an aspirational ten percent DBE participation goal. Bidders are encouraged to make a good faith effort to meet or exceed the goal by utilizing the services of DBE subcontractors in any area possible.
 - a. The city reserves the right to request bidders seek additional DBE participation if the bidders DBE participation goal is less than ten percent.
 - b. In the event a DBE subcontractor is unavailable or unable to perform any portion of a project, the bidder may be responsible for providing enough information to enable the city to determine whether efforts to contact DBE subcontractors were made in good-faith.
 - c. If awarded the contract, the bidder should utilize the DBE subcontractors listed in the bidder's submittal. Any changes to DBE utilization should be approved by the purchasing division.

Part B: Bid Security and Performance Bonds

5-201.Bid security

- (1) *Requirement for bid security.* Bid security shall be required for all competitive sealed bids for construction contracts when the price is estimated by the purchasing manager to exceed

\$2550,000.00. Bid security shall be a bond provided by a surety company authorized to do business in the state, or other form satisfactory to the city. Such bonds may also be required on construction contracts under \$2550,000.00 or other procurement contracts when circumstances warrant.

- (2) *Amount of bid security.* Bid security shall be in an amount equal to at least five percent of the bid amount.
- (3) *Rejection of bids for noncompliance with bid security requirements.* When the invitation for bids requires security, noncompliance with such requirement shall force rejection of a bid.
- (4) *Withdrawal of bids.* If a bidder is permitted to withdraw its bid before award as provided in section 3-108 subsection (G) (competitive sealed bidding—correction or withdrawal of bids: cancellation of awards), no action shall be had against the bidder or the bid security.

5-202.Contract performance and payment bonds.

- (1) *When required: Amounts.* When a construction contract is awarded in excess of \$2550,000, the following bonds or security shall be delivered to the city, and shall be binding on the parties upon the execution of the contract:
 - a. A performance bond satisfactory to the city executed by a surety company authorized to do business in the state, or otherwise secured in a manner satisfactory to the city, amounting to 100 percent of the price specified in the contract; and
 - b. A payment bond satisfactory to the city executed by a surety company authorized to do business in the state or otherwise secured in a manner satisfactory to the city, to protect all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract, amounting to 100 percent of the price specified in the contract.

At the discretion of the purchasing manager, this same condition may be placed on awards of any amount.

- (2) *Authority to require additional bonds.* Nothing in this section shall be construed to limit the authority of the city to require a performance bond or other security in addition to the bonds, in circumstances other than the circumstances described in subsection (1) above.

5-203.Copies of bond forms. Any person may request and obtain from the city a certified copy of a bond upon payment of the cost of reproduction of the bond and postage, if any. A certified copy of a bond shall be a prime facie evidence of the contents, execution, and delivery of the original.

Part C: Fiscal Responsibility Change Orders/Modifications

5-301.Fiscal responsibility—Change orders.

- (1) The city manager is authorized to sign change orders to construction contracts in an aggregate amount not to exceed ten percent of the original contract amount in order to provide payments for unforeseen construction costs. Changes not directly related to the progress or completion of the project, but designated as non-essential, shall be authorized by city council.

Development costs for a project should be viewed as having a project budget which includes architectural, engineering or consulting costs, construction costs, and a ten percent contingency cost.

- (2) Every contract modification, change order, or contract price adjustment to construction contracts with the city that exceeds an aggregate ten percent of the original contract amount shall be subject to prior approval by the city council, which shall first receive a report from the appropriate fiscal officer to the effect of the contract modification, change order, or contract price adjustment on the total project budget or the total contract budget.

Part D: Procurement requirements for projects using Federal Aid Highway Program (FAHP) funding

Except as provided in sections 5-402 and 5-403 below, the Columbus Consolidated Government shall use the competitive negotiation method for the procurement of engineering and design related services when FAHP funds are involved in the contract (as specified in 23 U.S.C. 112 (b)(2)(A)). The solicitation, evaluation, ranking, selection, and negotiation shall comply with the qualifications-based selection procurement procedures for architectural and engineering services codified under 40 U.S.C. 1101-1104, commonly referred to as the Brooks Act.

5-401. Competitive negotiation qualification-based selection. In accordance with the requirements of the Brooks Act, the following procedures shall apply to the competitive negotiation procurement method:

- (1) *Solicitation.* The solicitation process shall be by public announcement, public advertisement, or any other public forum or method that assures qualified in-state and out-of-state consultants are given a fair opportunity to be considered for award of the contract. Procurement procedures may involve a single step process with issuance of a request for proposal (RFP) to all interested consultants or a multiphase process with issuance of a request for statements or letters of interest or qualifications (RFQ) whereby responding consultants are ranked based on qualifications and request for proposals are then provided to three or more of the most highly qualified consultants. Minimum qualifications of consultants to perform services under general work categories or areas of expertise may also be assessed through prequalification process whereby statements of qualifications are submitted on an annual basis. Regardless of any process utilized for prequalification of consultants or for an initial assessment of a consultant's qualifications under an RFQ, an RFP specific to the project, task, or service is required for evaluation of a consultant's specific technical approach and qualifications.
- (2) *Request for proposal (RFP).* The RFP shall provide all information and requirements necessary for interested consultants to provide a response to the RFP and compete for the solicited services. The RFP shall:
 - (A) Provide a clear, accurate, and detailed description of the scope of work, technical requirements, and qualifications of consultants necessary for the services to be rendered. The scope of work should detail the purpose and description of the project, services to be performed, deliverables to be provided, estimated schedule for performance of the work, and applicable standards, specifications, and policies;
 - (B) Identify the requirements for any discussions that may be conducted with three or more of the most highly qualified consultants following submission and evaluation of proposals;
 - (C) Identify evaluation factors including their relative weight of importance in accordance with subparagraph (a)(1)(iii) of this section;
 - (D) Specify the contract type and method(s) of payment to be utilized in accordance with § 172.9;
 - (E) Identify any special provisions or contract requirements associated with the solicited services;
 - (F) Require that submission of any requested cost proposals or elements of cost be in a concealed format and separate from technical/qualifications proposals as these shall not be considered in the evaluation, ranking, and selection phase; and
 - (G) Provide a schedule of key dates for the procurement process and establish a submittal deadline for responses to the RFP which provides sufficient time for interested consultants to receive notice, prepare, and submit a proposal, which except in unusual circumstances shall be not less than 14 days from the date of issuance of the RFP.
- (3) *Evaluation factors.*
 - (A) Criteria used for evaluation, ranking, and selection of consultants to perform engineering and design related services must assess the demonstrated competence and qualifications for the type

of professional services solicited. These qualifications-based factors may include, but are not limited to, technical approach (e.g., project understanding, innovative concepts or alternatives, quality control procedures), work experience, specialized expertise, professional licensure, staff capabilities, workload capacity, and past performance.

- (B) Price shall not be used as a factor in the evaluation, ranking, and selection phase. All price or cost related items which include, but are not limited to, cost proposals, direct salaries/wage rates, indirect cost rates, and other direct costs are prohibited from being used as evaluation criteria.
- (C) In-state or local preference shall not be used as a factor in the evaluation, ranking, and selection phase. State licensing laws are not preempted by this provision and professional licensure within a jurisdiction may be established as a requirement which attests to the minimum qualifications and competence of a consultant to perform the solicited services.
- (D) The following non-qualifications based evaluation criteria are permitted under the specified conditions and provided the combined total of these criteria do not exceed a nominal value of ten percent of the total evaluation criteria to maintain the integrity of a qualifications-based selection:
 - (i) A local presence may be used as a nominal evaluation factor where appropriate. This criterion shall not be based on political or jurisdictional boundaries and may be applied on a project-by-project basis for contracts where a need has been established for a consultant to provide a local presence, a local presence will add value to the quality and efficiency of the project, and application of this criteria leaves an appropriate number of qualified consultants, given the nature and size of the project. If a consultant outside of the locality area indicates as part of a proposal that it will satisfy the criteria in some manner, such as establishing a local project office, that commitment shall be considered to have satisfied the local presence criteria.
 - (ii) The participation of qualified and certified disadvantaged business enterprise (DBE) sub-consultants may be used as a nominal evaluation criterion where appropriate in accordance with 49 CFR Part 26 and the Columbus Consolidated Government's FHWA-approved DBE program.

(4) *Evaluation, ranking, and selection.*

- (A) Consultant proposals shall be evaluated by the Columbus Consolidated Government based on the criteria established and published within the public solicitation.
- (B) While the contract will be with the prime consultant, proposal evaluations shall consider the qualifications of the prime consultant and any sub-consultants identified within the proposal with respect to the scope of work and established criteria.
- (C) Following submission and evaluation of proposals, the Columbus Consolidated Government shall conduct interviews or other types of discussions determined three of the most highly qualified consultants to clarify the technical approach, qualifications, and capabilities provided in response to the RFP. Discussion requirements shall be specified within the RFP and should be based on the size and complexity of the project as defined in Columbus Consolidated Government written policies and procedures (as specified in § 172.5(c)). Discussions may be written, by telephone, video conference, or by oral presentation/interview. Discussions following proposal submission are not required provided proposals contain sufficient information for evaluation of technical approach and qualifications to perform the specific project, task, or service with respect to established criteria.
- (D) From the proposal evaluation and any subsequent discussions which have been conducted, the Columbus Consolidated Government shall rank, in order of preference, at least three consultants

determined most highly qualified to perform the solicited services based on the established and published criteria.

- (E) Notification must be provided to responding consultants of the final ranking of the three most highly qualified consultants.
 - (F) The Columbus Consolidated Government shall retain acceptable documentation of the solicitation, proposal, evaluation, and selection of the consultant accordance with the provisions of 49 CFR 18.42.
- (5) *Negotiation.*
- (A) Independent estimate. Prior to receipt or review of the most highly qualified consultant's cost proposal, the Columbus Consolidated Government shall prepare a detailed independent estimate with an appropriate breakdown of the work or labor hours, types or classifications of labor required, other direct costs, and consultant's fixed fee for the defined scope of work. The independent estimate shall serve as the basis for negotiation and ensuring the consultant services are obtained at a fair and reasonable cost.
 - (B) Elements of contract costs (e. g., indirect cost rates, direct salary or wage rates, fixed fee, and other direct costs) shall be established separately in accordance with § 172.11.
 - (C) If concealed cost proposals were submitted in conjunction with technical/qualifications proposals, only the cost proposal of the consultant with which negotiations are initiated may be considered. Concealed cost proposals of consultants with which negotiations are not initiated should be returned to the respective consultant due to the confidential nature of this data (as specified in 23 U.S.C. 11 2 (b)(2) (E)).
 - (D) The Columbus Consolidated Government shall retain documentation • of negotiation activities and resources used in the analysis of costs to establish elements of the contract in accordance with the provisions of 49 CFR 18.42. This documentation shall include the consultant cost certification and documentation supporting the acceptance of the indirect cost rate to be applied to the contract (as specified in § 172.11 (c)).

5-402.Small purchases. The small purchase method involves procurement of engineering and design related services where an adequate number of qualified sources are reviewed and the total contract costs do not exceed an established simplified acquisition threshold. The Columbus Consolidated Government may use the state's small purchase procedures which reflect applicable state laws and regulations for the procurement of engineering and design related services provided the total contract costs do not exceed the federal simplified acquisition threshold (as specified in 48 CFR 2 . 101). When a lower threshold for use of small purchase procedures is established in state law, regulation, or policy, the lower threshold shall apply to the use of FAHP funds. The following additional requirements shall apply to the small purchase procurement method:

- (A) The scope of work, project phases, and contract requirements shall not be broken down into smaller components merely to permit the use of small purchase procedures.
- (B) A minimum of three consultants are required to satisfy the adequate number of qualified sources reviewed.
- (C) Contract costs may be negotiated in accordance with state small purchase procedures; however, the allow ability of costs shall be determined in accordance with the federal cost principles.
- (D) The full amount of any contract modification or amendment that would cause the total contract amount to exceed the established simplified acquisition threshold would be ineligible for federal-aid funding. The FHWA may withdraw all federal-aid from a contract if it is modified or amended above the applicable established simplified acquisition threshold.

5-403. Noncompetitive method. The noncompetitive method involves procurement of engineering and design related services when it is not feasible to award the contract using competitive negotiation or small purchase procurement methods. The following requirements shall apply to the noncompetitive procurement method:

- (A) The Columbus Consolidated Government may use their own noncompetitive procedures which reflect applicable state and local laws and regulations and conform to applicable federal requirements.
- (B) The Columbus Consolidated Government shall establish a process to determine when noncompetitive procedures will be used and shall submit justification to, and receive approval from, the FHWA before using this form of contracting.
- (C) Circumstances under which a contract may be awarded by noncompetitive procedures are limited to the following:
 - (i) The service is available only from a single source;
 - (ii) There is an emergency which will not permit the time necessary to conduct competitive negotiations; or
 - (iii) After solicitation of a number of sources, competition is determined to be inadequate.
- (D) Contract costs may be negotiated in accordance with the Columbus Consolidated Government noncompetitive procedures; however, the allowability of costs shall be determined in accordance with the federal cost principles.

5-404. Additional procurement requirements.

- (1) *Common grant rule.*
 - (A) The Columbus Consolidated Government must comply with procurement requirements established in state and local laws, regulations, policies, and procedures which are not addressed by or in conflict with applicable federal laws and regulations (as specified in 49 CFR 18.36).
 - (B) When state and local procurement laws, regulations, policies, or procedures are in conflict with applicable federal laws and regulations, the Columbus Consolidated Government must comply with federal requirements to be eligible for federal-aid reimbursement of the associated costs of the services incurred following FHWA authorization (as specified in 49 CFR 18.4).
- (2) *Disadvantaged business enterprise (DBE) program.*
 - (A) The Columbus Consolidated Government shall give consideration to DBE consultants in the procurement of engineering and design related service contracts subject to 23 U.S.C. 112(b)(2) in accordance with 49 CFR part 26. When DBE program participation goals cannot be met through race-neutral measures, additional DBE participation on engineering and design related services contracts may be achieved in accordance with the Columbus Consolidated Government's FHWA approved DBE program through either:
 - (i) Use of an evaluation criterion in the qualifications-based selection of consultants (as specified in § 172.7(a)(1)(iii)(D)); or;
 - (ii) Establishment of a contract participation goal.
 - (B) The use of quotas or exclusive set-asides for DBE consultants is prohibited (as specified in 49 CFR 26.4).
- (3) **Suspension and debarment.** The Columbus Consolidated Government must verify suspension and debarment actions and eligibility status of consultants and subconsultants prior to entering into an agreement or contract in accordance with 49 CFR 18.35 and 2 CFR part 180.

Part E: Procurement Requirements for METRA Projects using Federal Transportation Act (FTA) Funding

5-501.METRA's procurement policies and procedures. For all METRA procurements using FTA funding, the Columbus Consolidated Government shall comply with Part 200 of Title 2, Subtitle A of the Code of Federal Regulations (CFR), *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, and the requirements of FTA Circular 4220.1F. METRA's Procurement Policies and Procedures includes the requirements of Part 200 and may be amended from time to time to incorporate updated federal requirements. A copy of METRA's Procurement Policies and Procedures, together with any updated version, will remain on file with the clerk of council. METRA will continue to adhere to the CCG Procurement Ordinance. If there is a conflict in the provisions of federal and CCG policy, METRA will comply with the more stringent requirement.

ARTICLE 6. DEBARMENT OR SUSPENSION

Part A: Procedures

6-101.Authority to debar or suspend.

- (1) *Debarment.* After reasonable notice to the person involved and reasonable opportunity for that person to be heard, and after consulting with the city attorney, the purchasing manager is authorized to debar a person from consideration for award of contracts for cause. Debarment shall be for a period of not more than three years. Causes for debarment include:
 - 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 laws for embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business honesty which currently, seriously, and directly affects responsibility as a city contractor;
 - c. Conviction under state or federal anti-trust laws arising out of the submission of bids or proposals,
 - d. Violation of contract provisions as set forth below, of a character regarded by the purchasing manager to be so serious as to justify debarment action:
 - i. Deliberate failure, without good cause, to perform in accordance with the specifications or the time limit stated in the contract; or
 - ii. A recent record of failure to perform or unsatisfactory performance in accordance with the terms of one or more contracts, provided that failure to perform or unsatisfactory performance caused by the acts beyond the control of the contractor shall not be considered to be a basis for debarment; or
 - e. Any other cause the purchasing manager determines to be so serious and compelling as to affect responsibility as a city contractor, including debarment by another governmental entity for any cause listed in this ordinance.
- (2) *Suspension.* After reasonable notice to the person involved and reasonable opportunity for that person to be heard, and after consulting with the city attorney, the purchasing manager is authorized to suspend a person from consideration for award of contracts if there is probable cause to believe that the person has engaged in any activity which might lead to debarment. Suspension shall be for a period not to exceed three months.

6-102.Decision to debar or suspend. The purchasing manager shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken and inform the debarred or suspended person involved of its rights concerning judicial or administrative review.

6-103. Notice of decision. A copy of the decision required by section 6-102 above shall be mailed or otherwise furnished immediately to the debarred or suspended person.

6-104. Finality of decision. A decision under section 6-102 above shall be final and conclusive unless fraudulent, or unless the debarred or suspended person within ten days after receipt of the decision takes an appeal to the city council or commences a timely action in court in accordance with applicable law.

ARTICLE 7. SURPLUS MANAGEMENT

Part A: Procedures

7-101. Supply management regulations required. The purchasing manager shall promulgate regulations governing management of supplies during their entire life cycle: sale, donation, lease or disposal of such surplus supplies by public auction, competitive sealed bidding, or other appropriate method designated by regulation: and the transfer of excess supplies.

7-102. Records and proceeds. Unless otherwise provided by law, the purchasing manager shall turn all records of and proceeds from the sale, donation, ease, or disposal of surplus supplies over to the accounting manager and finance director.

ARTICLE 8. APPEALS AND REMEDIES

Part A: Types and Procedures

8-101. Right to protest

- (1) *Right of protest.* Any actual or prospective bidder offeror, or contractor who is aggrieved in connection with a solicitation or award of a contract may protest to the purchasing manager initially. All protests shall be filed in the manner prescribed herein. Protests that do not comply with the following rules shall be deemed invalid and of no effect.
- (2) The protest must be in writing, executed by a company officer that is authorized to execute agreements on behalf of the bidder or offeror or provided by an authorized legal representative of the protestor.
- (3) A protest with respect to an invitation for bids or request for proposals shall be submitted in writing no less than five business days prior to the opening of bids or the closing date of proposals or qualification statements.
- (4) *Stay of procurement during protests.* If there is a timely protest submitted as described above, the purchasing manager shall not proceed further with the solicitation or award of the contract until all administrative remedies have been exhausted or until the city council, mayor, or city manager makes a determination on the record that the award of the contract without delay is necessary to protect substantial interests of the city.

8-102. Contract claims.

- (1) *Decision of the purchasing manager.* All claims by a contractor against the city relating to a contract, except bid protests, shall be submitted in writing to the purchasing manager for a decision. The contractor may request a conference with the purchasing manager on the claim. Claims include, but are not limited to, disputes arising under a contract and those based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission.
- (2) *Notice to the contractor of the purchasing manager's decision.* After any requested conference and a full review of the matter, the purchasing manager shall promptly issue a written decision which shall immediately be mailed or otherwise furnished to the contractor. The decision shall state the reasons for the decision reached and shall inform the contractor of its appeal rights under subsection (3) below.

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- (3) *Finality of purchasing manager's decision: Contractor's right to appeal.* The purchasing manager's decision shall be final and conclusive unless, within five business days from the date of receipt of the decision, the contractor mails or otherwise delivers a written appeal to the city manager with a copy to the purchasing manager.
 - (4) *Failure to render timely decision.* If the purchasing manager does not issue a written decision regarding any contract controversy within five business days after receiving the written request for a final decision, or within such longer period as may be agreed upon between upon between the parties, then the aggrieved party may proceed as if an adverse decision had been received.

8-103. Remedies for illegal solicitations or awards.

- (1) *Prior to bid opening or closing date for receipt of proposals.* If, prior to the bid opening or the closing date for receipt of proposals, the purchasing manager determines (after consultation with the city attorney) that a solicitation is in violation of federal, state, or municipal law, then the solicitation shall be cancelled or revised to comply with applicable law.
- (2) *Prior to award.* If, after bid opening or the closing date for receipt of proposals but prior to the contract award, the purchasing manager determines (after consultation with the city attorney) that a solicitation or a proposed award of a contract is in violation of federal, state, or municipal law, then the solicitation or proposed award shall be cancelled.
- (3) *After award.* If, after an award, the purchasing manager determines (after consultation with the city attorney) that a solicitation or award of contract was in violation of applicable law, then:
 - a. If the person awarded the contract has not acted fraudulently or in bad faith, the contract may be ratified and affirmed if such action is in the best interest of the city, or the contract may be terminated, and the person awarded the contract compensated of the actual costs reasonable incurred under the contract (plus a reasonable profit) prior to the termination; or
 - b. If the person awarded the contract has acted fraudulently or in bad faith, the contract may be declared null and void or voidable, if such action is in the best interests of the city.

ARTICLE 9. COOPERATIVE PURCHASING

Part A: Procedures

9-101. Cooperative purchasing authorized. Any local public procurement unit may either participate in sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies, services, or construction with one or more local public procurement unite or external procurers in accordance with an agreement entered into between the participants. Such cooperative purchasing may include but is not limited to joint or multi-party contracts between public procurement units and external procurers.

9-102. Sale, acquisition, or use of supplies. Any public procurement unit may sell to, acquire from, or use any of the supplies belonging to another public procurement unit or external procurer.

9-103. Cooperative use of supplies or services. Any public procurement unit may enter into an argument with any other public procurement unit or external procurer for the cooperative use of supplies or services under terms agreed upon between the parties.

9-104. Joint use of facilities. Any public procurement unit may enter into agreements for the common use or lease of warehousing facilities, capital equipment, and other facilities with another public procurement unit or an external procurer under the terms agreed upon between the parties.

9-105. Supply of personnel and services.

- (1) *Supply of personnel.* Any public procurement unit is authorized at its discretion upon written request from another public procurement unit or external procurer, to provide personnel to the requesting

public procurement unit or external procurer. The public procurement unit or external procurer making the request shall pay the public procurement unit providing the personnel the direct and indirect cost of furnishing the personnel, in accordance with an agreement between the parties.

- (2) *Supply of service.* The informational, technical, and other services of any public procurement unit may be made available to any other public procurement unit or external procurer provided that the requirements of the public procurement unit tendering the services shall have precedence over the requesting public procurement unit or external procurer. The requesting public procurement unit or external procurer shall pay for the expenses of services so provided, in accordance with an agreement between the parties.
- (3) *Information services.* Upon request, the purchasing manager may make available to public procurement units or external procurers the following services, among others:
- a. Standard forms,
 - b. Printed manuals,
 - c. Product specifications and standards,
 - d. Quality assurance testing services and methods,
 - e. Qualified products lists,
 - f. Source information,
 - g. Common use commodities listings,
 - h. Supplier pre-qualification information,
 - i. Supplier performance ratings,
 - j. Debarred and suspended bidders' lists,
 - k. Forms for invitations for bids, request for proposals, instructions to bidders or offerors, general contract provisions, and other contract forms; and
 - l. Contracts or published summaries thereof, including price and time of deliver information.
- (4) *Technical services.* The consolidated government, through the purchasing manager, may provide the following technical services, among other:
- a. Development of products specifications,
 - b. Development of quality assurance testing methods, including receiving, inspection, and acceptance procedures,
 - c. Use of product testing and inspection facilities; and,
 - d. Use of personnel training programs.

ARTICLE 10. ASSISTANCE TO DISADVANTAGED BUSINESS ENTERPRISES (DBE): SMALL, WOMEN-OWNED AND MINORITY BUSINESS ENTERPRISES

Part A: Policy Statement

10-101.DBE utilization policy statement. The Consolidated Government of Columbus, Georgia ("the city") is committed to using disadvantaged business enterprises (DBEs) (small, women-owned and minority business enterprises) to the greatest extent practical in all solicitations and day-to-day procurement needs of the city and to taking specific affirmative actions to meet these commitments.

With the exception of METRA transit system, the purchasing manager will assign the duties of the DBE liaison officer to a purchasing division staff member, and shall develop, apply, and administer the city's current DBE policy statement and program, working with contractors, subcontractors, and city staff to see that the program is understood and carried out.

Consistent with the constitutional guarantee of equal protection under the law and with the availability of qualified DBEs, our goal is to use DBEs for a given minimum percentage of construction contracts, and to encourage DBEs to participate in all city contracts. Our objective is to better the chances for DBEs to participate in city procurements, to help them gain both experience and profit, and through this to contribute to the economic development of the minority and disadvantage business community—which in turn works for the general good of the entire community.

We believe this policy is fair. It shall be used together with the general principles of sound procurement, to achieve the maximum practical use of DBEs by the city and its contractors and subcontractors.

The city shall provide equal opportunities for all and shall not discriminate against anyone, regardless of race, color, national origin, religion, age, sex, or disability. The city's current DBE policy statement and program shall be sent to all concerned community and business organizations and to affected city staff.

The liaison officer will conduct annual seminars to inform local DBEs about business opportunities available with the city. Pre-bid conferences to discuss and answer questions about the city's DBE program will be held at the request of interested bidders or proposers.

10-102. METRA transit system DBE program policy statement. The Consolidated Government of Columbus, Georgia (the city) has established a Disadvantaged Business Enterprises (DBE Program) in accordance with the regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The city receives federal financial assistance from the department of transportation, and as a condition of receiving the assistance, the city has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the Consolidated Government of Columbus, Georgia DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is our policy:

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT-assisted contracts;
6. To assist in the development of firms so that they may compete successfully in the marketplace outside of the DBE Program.

The transit compliance officer has been designated as the DBE liaison officer for METRA transit, the public transportation agency for the city. In that capacity, the DBE liaison officer is responsible for implementing all aspects of the DBE program as they relate to METR[A] transit. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the Consolidated Government of Columbus, Georgia in its financial assistance agreements with the department of transportation.

Columbus Consolidated Government shall disseminate this policy statement to the Mayor, Columbus Council, and all relevant components of our organization. We shall distribute this statement to DBE and non-DBE communities that perform work for us on DOT-assisted contracts by including the statement in procurement documents and by posting the statement on the webpage of METRA Transit System, the public transportation entity of the Consolidated Government of Columbus, Georgia.

ARTICLE 11. ETHICS IN PUBLIC CONTRACTING

Part A: Standards and Regulations

11-101.Criminal penalties. To the extent that violations of the ethical standards of conduct set forth in this article constitute violations of the state criminal code, they shall be punishable as provided herein. Such penalties shall be in addition to the civil sanctions set forth in this article. Criminal, civil, and administrative sanctions against employees or non-employees which are in existence on the effective date of this ordinance shall not be impaired.

11-102.Employee conflict of interest. All elected officials, appointed officials, and employees of the Consolidated Government of Columbus participating directly or indirectly in the purchasing process shall be governed by the Code of Ethics located in Appendix Two of the Charter of Columbus, Georgia and Columbus Code Sections 2-3.05 and 2-3.06.

11-103.Gratuities and Kickbacks.

- (1) *Gratuities.* It shall be unethical for any person to offer, give, or agree to give any city employee or former city employee (or for any city employee or former city employee to solicit, demand, accept, or agree to accept from another person) a gratuity or an offer of employment in connection with any decision, approval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement of a contract of subcontract, or to any solicitation of proposal therefor.
- (2) *Kickbacks.* It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor to a prime contractor or higher-tier subcontractor or any person associated therewith (or for a prime contractor or higher-tier subcontractor, or any person associated therewith, to solicit, demand, accept, or agree to accept such payment, gratuity or offer of employment from a subcontractor), as an inducement for the award of a subcontract or order.
- (3) *Contract clause.* The prohibition against gratuities and kickbacks prescribed in this section shall be conspicuously set forth in every contract and solicitation therefor.

11-104.Prohibition against contingent fees. It shall be unethical to retain a person or for a person to be retained to solicit or secure city contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, or anything of monetary value, except for retention of either bona fide employees of bona fide established commercial selling agencies for the purpose of securing businesses.

11-105.Contemporaneous employment prohibited. It shall be unethical for any city employee participating either directly or indirectly in the procurement process to become or to be, while such a city employee, the employee of a person contracting with the governmental body employing the city employee.

11-106.Waivers. The city council may grant a waiver of the employee conflict of interest provision (section 11-102) or the contemporaneous employment provision (section 11-105) upon the purchasing manager's written determination that:

- (a) The contemporaneous employment or financial interest of the city employee has been publicly disclosed;
- (b) The city employee will be able to perform procurement functions without actual or apparent bias or favoritism; and
- (c) The award will be in the best interests of the city.

11-107. Use of confidential information. It shall be unethical for any employee or former employee to use confidential information knowingly for actual or anticipated personal gain, or for the actual or anticipated gain of any other person.

11-108. Sanctions.

- (1) *Employees.* The department director of a city employee violating the ethical standards in this article, and/or the city manager, may impose any one or more of the following sanctions on such city employee:
 - (a) Oral or written warnings or reprimands,
 - (b) Suspension with or without pay for specified periods of time; or
 - (c) Termination of employment.
- (2) *Non-employees.* The city council may impose any one or more of the following sanctions on a non-employee for violations of the ethical standards in this article:
 - (a) Written warnings or reprimands,
 - (b) Termination of contracts; or
 - (c) Debarment or suspension as provided in section 6-101 (authority to debar or suspend) above.

11-109. Recovery of value transferred or received.

- (1) *General provisions.* The value of anything transferred or received in breach of the ethical standards of this ordinance by a city employee or a non-employee may be recovered from both city employee and non-employee.
- (2) *Recovery of kickbacks by the city.* Upon a showing that a subcontractor made a kickback to a prime contractor or a higher-tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the city and will be recoverable hereunder from the recipient. In addition, that amount may also be recovered from the subcontractor making the kickback. Recovery from one offending party shall not preclude recovery from other offending parties.

(Ord. No. 20-053, § 1, 11-17-20)