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# Procurement Policy

for the

## City of Alpharetta, GA

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*Financial Management Policy*

*Adopted Date: November 3, 2014*

*Effective Date: January 1, 2015*

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# I. INTRODUCTION

## I. Introduction

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### A. Purpose

The purpose of this Policy is to state the City of Alpharetta's (City's) position, regarding procurement responsibility and authority. This Policy clarifies the procurement function and outlines procedures, as well as describes departmental relationships, responsibilities, and participation in the procurement cycle.

### B. Objectives

1. To provide a uniform system for procurement;
2. To ensure a system of quality and integrity in procurement;
3. To simplify, clarify, and modernize methods for governing procurement, encouraging advance planning, reducing small purchases and/or emergency purchases, and reducing paperwork where feasible;
4. To maximize open and fair competition, assuring the best value is received for the tax dollars expended;
5. To obtain the best value for the usage of public funds, taking into consideration such factors as, but not limited to, product safety, environmental impact, total cost of ownership, product performance, compatibility issues, and availability of goods/services;
6. To encourage the use of environmentally preferable and economically sustainable goods and services to reduce the City's environmental impact;
7. To enhance public confidence in the City's procurement;
8. To promote the fair and ethical treatment of all suppliers of goods/services; and
9. To encourage active participation by local businesses.

### C. Ethics in Procurement

To maintain the public trust, each person involved in the procurement process must adhere to the highest standard of ethics and avoid any appearance that their actions are motivated by private or personal interest. Actions such as the acceptance of gratuities or kickback are expressly prohibited. Unethical actions by employees or vendors will not be tolerated. As a guideline for the City's procurement activities, the National Institute of Governmental Purchasing (NIGP) Code of Ethics and NIGP's Guidelines to the Code of Ethics is included in the Appendix.

# I. INTRODUCTION

The following ethical principles shall govern the conduct of all City employees engaged in the procurement process:

1. Consider the best interest of the City in all procurement transactions;
2. Purchase without prejudice, seeking to obtain the best value for each tax dollar expenditure in accordance with the required quality standards;
3. Subscribe to and demonstrate honesty and truth in purchasing and avoid all forms of conflicts of interest, as well as the appearance of such conflicts of interest;
4. Avoid all unethical practices and the appearance of any unethical practices, including the improper or unlawful attempt to influence the outcome of the procurement process.

City employees found in violation of one or more of the ethical standards set forth in this Policy will face disciplinary action pursuant to established policy/procedures.

## D. Definitions

When used in this Policy, the following words, terms, and phrases, and their derivations, shall be the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

1. *Alpharetta Vendor*: A person or business entity that meets the following eligibility requirements:
  - a. Has a permanent place of business with full-time employee(s) within City limits for a minimum of six months prior to the issuance date of any formal solicitation to which the business will be responding. The permanent place of business must distribute goods/services and cannot be a post office box or a residence.
  - b. Has a valid business license from the City.
  - c. Is not delinquent on any taxes/fees owed to the City (e.g. property taxes, business license fees, etc.).

The Alpharetta Vendor will be required to certify their eligibility as part of the formal solicitation process.

2. *Best value*: The most advantageous balance of price, quality, time, environmental impact, and performance considerations at competitive costs over the useful life of the goods/services, which best meet the operational needs of the user department. When applicable, procurement decisions should include costs beyond the initial purchase (e.g. total cost of ownership principles which include maintenance, support, useful life, efficiencies, operational savings, etc.).
3. *Budget*: The annual appropriations for each user department together with any subsequent budget amendments.

# I. INTRODUCTION

4. *Department Director*: The director of the user department requesting the procurement. Where applicable, (User) Department Director will also refer to his/her designee.
5. *Emergency*: An immediate threat or danger to public health, safety or welfare, loss of public or private property, or interruption in the delivery of an essential governmental service.
6. *Environmentally preferable*: Goods/services that have a lesser or reduced effect on human health and the environment when compared with competing goods/services that serve the same purpose. This comparison may consider raw material acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposition.
7. *Goods*: Tangible commodities purchased by the City to assist in the delivery of goods/services to our customers.
8. *Invitation to Bid (ITB)*: A method of formal solicitation requesting prospective vendors to submit sealed price bids. The award is made to the lowest responsive and responsible bidder, based on the criteria (e.g. specifications, scope of work, etc.) set forth in the ITB. When applicable, the ITB should be structured to include best value principles (e.g. support costs). The ITB may also be referred to as a Competitive Sealed Bid (CSB) or Request for Bid (RFB).
9. *Non-Alpharetta Vendor*: Vendor that does not meet the eligibility requirements of an Alpharetta Vendor.
10. *Procurement*: The acquisition of goods/services that meets the City's needs.
11. *Procurement Official*: The principal purchasing official of the City. The Finance Director is the City's Procurement Official. Where applicable, Procurement Official will also refer to his/her designee.
12. *Professional Services*: Services that involve specialized education, knowledge, labor, judgment, and skill which are predominantly mental or intellectual (as opposed to physical or manual) in nature. Professional services typically require professional licensing such as architects, auditors, engineers, etc. The Procurement Official makes the final determination on which services are classified as professional services.
13. *Public Works Construction Project (O.C.G.A. Chapter 91 of Title 36)*: Public works construction means the building, altering, repairing, improving, or demolishing of any public structure or building or other public improvements of any kind to any public real property other than those projects covered by O.C.G.A. Chapter 4 of Title 32 (highways and bridges). Such term does not include the routine operation, repair, or maintenance of existing structures, buildings, or real property, or any energy savings performance contract or any improvements or installations

## I. INTRODUCTION

performed as part of an energy savings performance contract.

14. *Request for Proposal (RFP)*: A method of formal solicitation requesting prospective vendors to submit sealed proposals. The award is made to the responsive and responsible vendor whose proposal is determined to provide the best value to the City based on evaluation criteria provided in the solicitation document (cost is not the primary criteria). When applicable, the RFP should be structured to include best value principles (e.g. total cost of ownership).
15. *Responsible vendor*: A vendor who has the capability in all respects to fully perform the contract requirements and the experience, integrity, perseverance, reliability, capacity, facilities, equipment, and credit which will assure good faith performance.
16. *Responsive vendor*: A vendor who has submitted an ITB/RFP (or any derivation thereof) which conforms in all material respects with all requirements, specifications, terms, and conditions contained therein.
17. *Services*: Intangible commodities purchased by the City to assist in the delivery of goods/services to our customers.
18. *Single source*: A vendor which demonstrates the unique knowledge, skills, and/or performance required to ensure successful consultation, implementation, installation, maintenance, etc. of a requested good/service which is an integral component of the City's existing infrastructure, equipment, and/or operations.
19. *Sole source*: Only one vendor possesses the unique and singularly available capability to provide the goods/services.
20. *User department/division*: The department which has the authority and responsibility for determining the need of goods/services, their related specifications, delivery dates, etc. The user department is responsible for ensuring their procurement is consistent with, and in support of, their budget prior to committing funds.

### E. Application of Federal and State Law

It is intended that this Policy shall conform to all applicable provisions of the laws of the United States and State of Georgia, and the provisions hereof shall be so construed wherever possible. In the event any portion of this Policy shall be declared invalid for its failure to conform to state or federal law, such invalidity shall not affect the remaining portions hereof. Notwithstanding any other provision of this Policy, the City may enter into any contract, follow any procedure, or take any action that is otherwise at variance with this Policy if necessary or convenient to receiving funds from the government of the United States, State of Georgia, or other governmental/public entities.

# I. INTRODUCTION

## F. Equal Opportunity

The City of Alpharetta hereby gives public notice that it is the policy of the City to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and related statutes and regulations in all programs and activities. It is our policy that no person in the United States of America shall, on the grounds of race, color, national origin, sex, age, or disability be excluded from the participation in, be denied the benefits of or be otherwise subjected to discrimination under any of our programs or activities.

## G. Public Access to Procurement Information

Interested persons shall have access to information regarding City procurement transactions in accordance with City policy and the Georgia Open Records Act, O.C.G.A. §50-18-70, *et seq.*

## H. Unauthorized Purchases

No purchases of materials, supplies, equipment, or services shall be made in the name of the City or one of its departments, except such as required for official use by the City or one its departments. Purchases in the name of the City or a department for a personal use by an individual or for any purpose other than official use are prohibited, and no City funds will be expended or advanced therefore.



## II. STAFF RESPONSIBILITIES

### II. Staff Responsibilities

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#### A. Authority and Duties of the Procurement Official

1. The Procurement Official shall have the authority and duty as provided throughout this Policy including, but not limited to, the following:
  - a. Administer procurement of goods/services in accordance with applicable law;
  - b. Establish operating procedures to guide procurement functions pursuant to applicable law;
  - c. Maintain purchasing data sources (e.g. bidder lists, supplier lists, sole source lists, etc.);
  - d. Monitor and create procurement activity reports as requested by the City (e.g. City Council Purchase Order report);
  - e. Maintain records which support the City's procurement actions/decisions (e.g. requisition justification, evaluation committee notes, etc.);
  - f. Execute requisitions, purchase orders, and change orders;
  - g. Require bonds, insurance, and other forms of protection (as applicable) for the City in the process of procuring goods/services; and
  - h. Terminate/reject procurements for goods/services, when, in the opinion of the Procurement Official, it is in the City's best interest to do so and allowable under law. This includes termination for breach of contract or anticipated breach of contract (including after contract execution).
2. The procedures established by the Procurement Official shall provide sufficient competition to ensure that the goods/services being procured represent the best value to the City. Such procedures and processes shall require advanced planning, as well as the preparation and maintenance of written records which adequately document quotations/bids/proposals obtained, properly account for the funds expended, and facilitate an audit of the purchases made.

#### B. Duties of the User Department

1. The User Department has responsibilities as provided throughout this Policy including, but not limited to, the following:
  - a. Need determination: The user department is responsible for determining the need for the goods/services and for providing appropriate documentation and justification, including initiating a purchase requisition (if applicable).
  - b. Funding determination: The user department is responsible for ensuring budget is available and that their procurement is consistent with, and in

## II. STAFF RESPONSIBILITIES

support of, their budget prior to committing funds. Specific account numbers and project numbers (if applicable) must be on all applicable procurement documentation (e.g. ITB/RFP requests).

- c. Specification determination: The user department is responsible for determining the specifications/scope-of-work (e.g. quantity, quality, dimensions, duration, and all other necessary specifications) of the goods/services to be procured. Specifications should be determined by the user department. Use of targeted vendor specifications reduces the competitive procurement of goods/services and is not in the best interest of the City.
- d. Procurement documentation: Depending on the dollar amount of the items to be purchased, the user department will gather phone, email, fax, or written quotations, or work with the Procurement Official to create an ITB/RFP (or any derivation thereof).
- e. Approval process: The user department is tasked with obtaining appropriate approvals, based on the procurement threshold and in accordance with procedures established by the Procurement Official, up to and including the creation and presentation of an agenda item to the City Council if applicable.

## III. COMPETITIVE PROCUREMENT

### III. Competitive Procurement

#### A. Small Purchases

Small Purchases			
Purchase Amount	Procurement Method(s)	Minimum Quotes	Approval Authority
\$2,499.99 or less	Procurement Card, Direct Payment, Purchase Order	0	Department Director
\$2,500.00 to \$5,000.00	Purchase Order	1	Department Director, Procurement Official

1. Quotes for small purchases may be written, emailed, or faxed. Backup should be submitted to the Finance Department once all applicable processing parameters have been fulfilled.
2. The Procurement Official is tasked with establishing procurement card single/max transaction limits and creating procedures for the processing of procurement card transactions, requisitions, purchase orders, change orders, and payment requests.
3. The Procurement Official can authorize the use of Procurement Cards for targeted purchases in excess of \$2,499.99 upon written justification that: (1) no other feasible payment options exist (e.g. vendor will not accept a purchase order; vendor will not invoice; etc.); (2) delays associated with other payment methods (e.g. purchase order process) would have a detrimental effect; and/or (3) the City can realize savings through early payment discounts, rebates, etc.

### III. COMPETITIVE PROCUREMENT

#### B. Informal Procurement (e.g. Quotations)

Informal Procurements			
Purchase Amount	Procurement Method	Minimum Quotes	Approval Authority
\$5,000.01 to \$20,000.00	Purchase Order	3	Department Director, Procurement Official
\$20,000.01 to \$35,000.00	Purchase Order	3	Department Director, Procurement Official, City Administrator, Mayor
\$35,000.01 to \$50,000.00	Purchase Order	3	Department Director, Procurement Official, City Administrator, Mayor, City Council Liaison

1. The user department may collect written, emailed, or faxed price quotes. Quotes should include (at a minimum) the following: the name, address, and contact information of the business submitting the quote, the date and amount of each quotation, quantity and a description of the goods/services being procured. Additionally, quotes that do not expressly provide an expiration date are assumed to expire in 45 days from the date of issuance.
2. Goods/Services (excluding professional services): The user department will recommend the responsive and responsible vendor that can provide the procurement for the lowest quoted cost while meeting all aspects of the required specifications. When applicable, the quotes should be structured to include best value principles (e.g. include support/maintenance to determine a total cost of ownership as opposed to simply acquisition costs).
3. Professional Services: The user department will recommend the responsive and responsible vendor that can provide the procurement for the best value while meeting all aspects of the required specifications. The user department is tasked with determining the evaluation criteria (e.g. work history, references, professional staff, etc.), of which cost is one component, in advance of soliciting the quotes/proposals.
4. Backup should be submitted to the Finance Department once all applicable processing parameters have been fulfilled.
5. The Procurement Official is tasked with creating procedures for the processing of requisitions, purchase orders, change orders, and payment requests.

### III. COMPETITIVE PROCUREMENT

#### C. Formal Procurement (ITBs, RFPs, or any derivation thereof)

**Purchases of \$50,000.01 or greater:** These purchases must be made through a formal procurement process (e.g. ITB, RFP, or any derivation thereof), cooperative purchasing agreement, existing unit-price/on-call contract, or other method allowed under this Policy. The Procurement Official shall make the determination of the method of procurement. Once the procurement process is complete, it is the user department's responsibility to prepare an agenda item and make the presentation to the City Council to obtain approval for contract award.

##### 1. Invitation to Bid (ITB) or any derivation thereof

- a. *Conditions for use.* ITBs may be used when:
  - i. The proposed procurement is \$50,000.01 or greater;
  - ii. Precise specifications of the needed goods/services are known and can be described in an ITB; and
  - iii. Price is the primary basis of award. When applicable, the ITB should be structured to include best value principles (e.g. include support/maintenance to determine a total cost of ownership as opposed to simply acquisition costs).
- b. *Content.* The ITB shall state, or incorporate by reference, all specifications, proposed contractual terms and conditions, performance and/or payment bond requirements, and other information applicable to the procurement.
- c. *Advertisements/public notice.* Advertisements/public notice of the ITB shall be given in accordance with law and to maximize competition as appropriate.
- d. *Pre-bid conference.* A pre-bid conference to explain the procurement requirements may be held at the discretion of the Procurement Official and the user department.
- e. *Modification or clarification.* The terms of an ITB may be modified or clarified through a written addendum issued by the Procurement Official. Addenda will be posted to the City website and provided to known bidders (e.g. bidders registered through a pre-bid conference). Each bidder shall acknowledge receipt of all addenda in writing.
- f. *Receipt of bids.* No bid shall be eligible for consideration unless it is placed in a sealed envelope or package and actually received by the City by the date, time, and location specified in the ITB. All bids received will be stamped with the date and time and secured until the designated opening time. A bid delivered late shall not be eligible for consideration by the City and shall be (a) returned unopened to the bidder (at bidder's expense) or (b) destroyed (if directed to

### III. COMPETITIVE PROCUREMENT

do so by the bidder).

- g. *Bid opening.* Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the ITB. After opening each bid, the bidder's name and bid amount shall be recorded. Such bid records shall be open to public inspection, including being posted on the city website, as provided by law.
- h. *Bid correction.* If an error is discovered prior to the opening, the bidder can submit a corrected bid. The corrected bid should be clearly marked that it supersedes the bid originally submitted. If an obvious clerical error is discovered after the bid has been opened, the bidder may submit a letter to the Procurement Official within two business days of opening requesting that the error be corrected. The letter must be on company letterhead and signed by an individual authorized to legally bind the firm. The bidder must present clear and convincing evidence that an unintentional error was made. The Procurement Official will review the correction request and a judgment will be made. Generally, modifications to opened bids for reasons other than obvious clerical errors are not permitted.
- i. *Bid withdrawal.* A bidder requesting to withdraw their bid prior to the ITB due date may submit a letter to the Procurement Official requesting to withdraw. The letter must be on company letterhead and signed by an individual authorized to legally bind the firm. A bidder requesting to withdraw after the bid has been opened will be required to submit a letter with documented facts supporting the reason for withdrawal within two business days of the opening. The letter must be on company letterhead and signed by an individual authorized to legally bind the firm. The bidder must present clear and convincing evidence that an unintentional error was made. The Procurement Official will review the withdrawal request and a judgment will be made. Generally, bid withdrawal after bids are opened for reasons other than obvious clerical errors is not permitted.
- j. *Modification of specifications after bid opening.* The City reserves the right to negotiate with the lowest responsive and responsible bidder after the bids have been opened and before an award is made in an effort to make sure that the specifications and the budget have been met. This will allow staff to add or delete parts for equipment or value-engineer a project if in the City's best interest.
- k. *Selection of bidder with whom to contract.* The award is made to the lowest responsive and responsible bidder, based on the criteria (e.g. specifications, scope of work, etc.) set forth in the ITB. When applicable, the ITB should be structured to include best value principles (e.g. include support/maintenance

### III. COMPETITIVE PROCUREMENT

to determine a total cost of ownership as opposed to simply acquisition costs). The user department is tasked with preparing an agenda item and making the presentation to the City Council to obtain approval for contract award.

- l. *Notice of selection.* The Procurement Official shall notify the selected bidder in writing of their contract award under the ITB.
- m. *Rejection of bids.* The Procurement Official may terminate/reject any and all bids if it is in the best interest of the City to do so and allowable by law.
- n. *Disqualification of bids.* The following types of bids shall be disqualified for consideration:
  - i. The bid arrives after the set time of submittal; and
  - ii. The bid is incomplete in any material aspect as determined by the Procurement Official (e.g. found non-responsive); and
- o. *Waiver of irregularities.* The Procurement Official shall have the authority to waive all nonmaterial irregularities on any and all bids except timeliness and signature requirements. Nonmaterial irregularities are those irregularities which do not affect price and/or competition.
- p. *Tie bids.* A tie bid exists when two or more bidders offer, at identical prices, goods/services that meet all specifications, terms, and conditions.

Bids received from two or more vendors, which are identical and meet the requirement of the bid specifications shall, in most instances, be awarded on the following basis:

- i. Past performance of the bidders;
  - ii. Earliest delivery date;
  - iii. Closest proximity to delivery site (e.g. in the event of ongoing services/maintenance);
  - iv. Discount terms;
  - v. Warranty terms;
  - vi. Any other factors which affect the bid;
  - vii. Flip of a coin (if all other factors are equal).
- q. *Re-bids.* To ensure sufficient competition for any procurement, a minimum of three bids is preferred. If less than three bids are received, the Procurement Official will make a determination on the necessity of rebidding based on the circumstances surrounding the bid responses and the feasibility/practicality of rebidding.

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#### 2. Request for Proposals (RFP) or any derivation thereof

- a. *Conditions for use.* An RFP may be used when:
  - i. The proposed procurement is \$50,000.01 or greater;
  - ii. A need can be identified, outlined, and the user department desires to utilize the expertise of proposers in arriving at a solution;
  - iii. The need or solution is fairly detailed or complex;
  - iv. The need or solution involves services or a combination of goods/services;
  - v. Specifications of the project or item cannot be clearly defined;
  - vi. The skills, expertise, or technical capability of the proposer will be evaluated;
  - vii. Factors other than lowest price will be considered when determining whether to make an award. Best value is determined by the combination of criteria or factors, of which price may only be one component; and
  - viii. Price negotiation is desired.
- b. *Content.* The RFP shall provide a statement of need or problem description for which proposed solutions are sought. Such RFP may include specifications, scope of work, and proposed contractual terms and conditions to which a proposer must respond. The RFP may encourage the proposal of alternative specifications, scope of work, and proposed contractual terms/conditions, if such alternatives are proposed as the best method of meeting the stated need or solving the stated problem. An RFP may include a request for qualifications (RFQ) or may be preceded by a request for information (RFI).
- c. *Advertisements/public notice.* Advertisements/public notice of the RFP shall be given in accordance with law and to maximize competition as appropriate.
- d. *Evaluation committee.* If appropriate because of the scope or technical difficulty of the procurement, an evaluation committee may be used. Such determination, as well as the composition of the committee, shall be made by the Procurement Official with the advice of the user department director.
- e. *Pre-proposal conference.* A pre-proposal conference to explain the procurement requirements may be held at the option of the Procurement Official and the user department.
- f. *Modification or clarification.* The terms of an RFP may be modified or clarified through a written addendum issued by the Procurement Official. Addenda will be posted to the City website and provided to known proposers (e.g. proposers



### III. COMPETITIVE PROCUREMENT

registered through a pre-proposal conference). Each proposer shall acknowledge receipt of all addenda in writing.

- g. *Receipt of proposals.* No proposal shall be eligible for consideration unless it is placed in a sealed envelope or package and actually received by the City by the date, time, and location specified in the RFP. All proposals received will be stamped with the date and time and secured until the designated opening time. A proposal delivered late shall not be eligible for consideration by the City and shall be (a) returned unopened to the proposer (at proposer's expense) or (b) destroyed (if directed to do so by the proposer).
- h. *Proposal opening.* No proposal shall be opened until the time designated in the public notice of the RFP. A record of each proposal shall be prepared containing identification of the RFP and name of each proposer. Such requests for proposal record shall be open to public inspection, including being posted on the City website, as provided by law.
- i. *Proposal correction.* If an error is discovered prior to the opening, the proposer can submit a corrected proposal. The corrected proposal should be clearly marked that it supersedes the proposal originally submitted. If an obvious clerical error is discovered after the proposal has been opened, the proposer may submit a letter to the Procurement Official within two business days of opening, requesting that the error be corrected. The letter must be on company letterhead and signed by an individual authorized to legally bind the firm. The proposer must present clear and convincing evidence that an unintentional error was made. The Procurement Official will review the correction request and a judgment will be made. Generally, modifications to opened proposals for reasons other than obvious clerical errors are not permitted.
- j. *Proposal withdrawal.* A proposer requesting to withdraw their proposal prior to the RFP due date and time may submit a letter to the Procurement Official requesting to withdraw. The letter must be on company letterhead and signed by an individual authorized to legally bind the firm. A proposer requesting to withdraw after the proposal has been opened will be required to submit a letter with documented facts supporting the reason for withdrawal within two business days of the opening. The letter must be on company letterhead and signed by an individual authorized to legally bind the firm. The proposer must present clear and convincing evidence that an unintentional error was made. The Procurement Official will review the withdrawal request and a judgment will be made. Generally, proposal withdrawals after proposal due date/time for reasons other than obvious clerical errors are not permitted.

### III. COMPETITIVE PROCUREMENT

- k. *Selection of proposer with whom to negotiate.* The user department director and the Procurement Official, after considering the recommendation of the evaluation committee, if applicable, shall select the proposal that is determined to provide the best value to the City. Such selection shall be based on the content of the proposal along with the following criteria:
  - i. The proposer's capacity to perform in terms of facilities, personnel, and financial viability;
  - ii. The skill, experience, performance, and reliability demonstrated by the proposer in performing contracts of a similar nature;
  - iii. The adherence to the scope of work/specifications; and
  - iv. The content of the proposal.
- l. *Contract negotiations.* Upon recommendation of the Procurement Official, user department director, and evaluation committee (if applicable), contract negotiations shall commence with the proposer. If fair and reasonable compensation, contract requirements, and contract documents can be agreed upon, the user department will prepare an agenda item and make a presentation to the City Council to obtain approval for contract award.

If contract terms cannot be agreed upon, the Procurement Official shall advise the proposer in writing of the termination of negotiations. After termination, negotiations may be conducted with such other proposer determined to be in the City's best interest (the "alternate proposer"). If contract terms can be agreed upon with the alternate proposer, the user department will prepare an agenda item and make a presentation to the City Council to obtain approval for contract award.
- m. *Notice of selection.* The Procurement Official shall notify the selected proposer in writing of their contract award under the RFP.
- n. *Rejection of proposals.* The Procurement Official may terminate/reject any and all proposals if it is in the best interest of the City to do so and allowable by law.
- o. *Disqualification of proposals.* The following types of proposals shall be disqualified for consideration:
  - i. The proposal arrives after the set time of submittal; and
  - ii. The proposal is incomplete in any material aspect as determined by the Procurement Official (e.g. found non-responsive).
- p. *Waiver of irregularities.* The Procurement Official shall have the authority to waive all nonmaterial irregularities on any and all proposals except timeliness and signature requirements. Nonmaterial irregularities are those irregularities which do not affect price and/or competition.

### III. COMPETITIVE PROCUREMENT

- q. *Reissue.* To ensure the best value for any procurement, a minimum of three proposals is preferred. If less than three proposals are received, the Procurement Official will make a determination on the necessity of reissuing the RFP based on the circumstances surrounding the responses and the feasibility/practicality of reissuing the RFP.

#### D. Cancellation of Formal Solicitations

An ITB, RFP, or other procurement solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when determined by the Procurement Official to be in the City's best interest. The reasons for cancellation or rejection shall be made part of the procurement file. Each ITB, RFP, or other procurement solicitation shall be subject to the following conditions.

1. The ITB/RFP may be canceled;
2. Any ITB/RFP may be rejected in whole, or in part;
3. Any action taken by the City in response to an ITB/RFP shall be made without any liability or obligation on the part of the City or its employees;
4. The selection, failure, or refusal to make a selection pursuant to such ITB/RFP shall be made without any liability or obligation on the part of the City or its employees;
5. Any termination of selection, withdrawal or cancellation of such ITB/RFP, either before or after selection of a bidder or proposer shall be made without any liability or obligation on the part of the City or its employees;
6. The City, in its sole discretion, reserves the right to determine the eligibility for selection of any party or parties submitting bids/proposals in response to any ITB/RFP;
7. All cost incurred in preparing or responding to an ITB/RFP are the sole responsibility of the responding party; and
8. The City and the party responding to an ITB/RFP will be contractually bound only if and when a written contract is fully executed.

#### E. Alpharetta Vendor Preference (a.k.a. Local Vendor)

It is the policy of the City to invest in the local community when appropriate through securing goods/services from local businesses at competitive pricing and terms. This section provides the framework to encourage local businesses to compete for City business for procurements solicited under a Formal Procurement process (Section III(C)) with a maximum contract value of \$500,000.00.

### III. COMPETITIVE PROCUREMENT

1. Invitation to Bid (ITB) or any derivation thereof
  - a. This section applies to bids whereby the lowest responsive and responsible bidder is a Non-Alpharetta Vendor.
    - i. An Alpharetta Vendor will be given preference in contract award if their responsive and responsible bid is within three percent (3.00%) of the lowest responsive and responsible bid.
    - ii. If multiple Alpharetta Vendors are within three percent (3.00%) of the lowest responsive and responsible bid, then contract award will go to the Alpharetta Vendor with the lowest responsive and responsible bid.
2. Request for Proposals or any derivation thereof
  - a. Alpharetta Vendor preference of three percent (3.00%), or equivalent unit of measure, shall be provided as an evaluation criterion.
3. Exceptions
  - a. Formal solicitations with a contract value of \$500,000.01 or greater.
  - b. Public Works Construction Projects totaling \$100,000.00 and greater (O.C.G.A. Chapter 91 of Title 36);
  - c. Sole Source, Single Source, Name Brand, and Cooperative Purchasing Agreements;
  - d. Federal or State law prohibits the use of local preference;
  - e. The work is funded in whole or part by a governmental entity that prohibits the use of local preference;
  - f. The Alpharetta Vendor is either non-responsive or non-responsible;
  - g. All bids submitted exceed the budget amount and supplemental funding is not available;
  - h. Emergency purchases; and
  - i. The Procurement Official, City Administrator and/or City Council may exempt any formal solicitation from the Alpharetta Vendor preference.

#### F. Additional Approvals

Dependent on the nature of the procurement, additional authorizations may be required prior to initiation of the procurement process.

1. For any fleet purchases of new or replacement vehicles, the Purchasing Official, in the absence of a citywide Fleet Manager, shall review and approve any such procurements to verify that it is consistent with the fleet replacement schedule and the City's strategic goals;

### III. COMPETITIVE PROCUREMENT

2. For technology compliance approval, the Information Technology Director will review and approve any technology related procurements involving the City's technology for verification of compatibility with existing equipment and consistency with the City's strategic goals. Technology related procurements include software that resides on the City's network and hardware that utilizes the City's network (e.g. cellphones, smartphones, tablets, printers, desktop and laptop computers, etc.); and
3. For grant administration compliance, the Grants Administrator will review and approve any grant related procurements.

#### G. Cooperative Purchasing Agreements

The Procurement Official may participate in, sponsor, conduct or administer a cooperative purchasing agreement for procurement (e.g. US Communities, National Cooperative Purchasing Alliance, National Joint Powers Alliance, etc.) including "piggy-backing" on governmental (e.g. local, state, national, etc.) and authority (e.g. utility authorities, development authorities, etc.) contracts. Cooperative purchasing agreements assists local government in reducing the cost of purchased goods and services through pooling the purchasing power of multiple public agencies. Due to the nature of cooperative purchasing agreements, competition has been established so additional quotes, bids, or proposals are not required. However, approval requirements based on the procurement dollar amount are still in effect.

#### H. On-Call/Unit-Price Contracts

On-call/unit-price contracts (e.g. on-call electrical services, on-call tree services, uniform vendors, etc.) awarded by the City through a competitive procurement process only require one quote assuming the procurement is (1) for work within the approved scope and (2) follows the approved contract pricing. However, approval requirements based on the procurement dollar amount are still in effect.

#### I. Other Procurement Methods and Requests

The Procurement Official may use other procurement methods determined to be in the city's best interest. Such methods may include, but are not limited to, request for qualifications (RFQ), requests for information (RFI), invitation to negotiate (ITN), invitation to participate (ITP), and request for letter of interest (RFLI).

#### J. Emergency Procurement

Notwithstanding any other provisions of this Policy, the City Administrator may authorize an emergency procurement when there exists an immediate threat or danger to public health, safety, welfare, loss of public or private property, or interruption in the

### III. COMPETITIVE PROCUREMENT

delivery of an essential governmental service. The user department director shall attest to the conditions that constitute the immediate threat, danger, or loss of service interruption, the type of emergency, the risks associated with delaying corrective actions, estimates of the time, costs, and work required to mitigate the situation and such other information as the City Administrator and the Procurement Official may require. All of the above listed information will be documented by the user department and provided to the Finance Department as sufficient justification for the procurement. The City Administrator will notify the City Council of the emergency as well as the vendor selection. When an emergency determination is made, the user department director shall seek as much competition as is practical and reasonable under the circumstances.

#### K. Change Orders

It is the policy of the City to limit change orders on procurements. However, the City recognizes that at times circumstances may dictate that changes be made to the scope of a project or procurement.

**All change order requests shall be accompanied with a description and justification** and will be reviewed by the Procurement Official for appropriateness including ensuring approval thresholds are not being subverted.

The following change order thresholds are cumulative over the life of the contract/procurement:

Informal Procurements/Small Purchases		
Original Purchase Order/Contract	Cumulative Increase in Original Purchase Order/Contract	Approval Authority
\$2,500.00 to \$50,000.00	$\leq 10.00\%$ of original PO/Contract	Department Director, Procurement Official
\$2,500.00 to \$50,000.00	$\geq 10.01\%$ of original PO/Contract	Department Director, Procurement Official, City Administrator

Formal Procurements		
Original Purchase Order/Contract	Cumulative Increase in Original Purchase Order/Contract	Approval Authority
\$50,000.01 or greater	$\leq 10.00\%$ of original PO/Contract	Department Director, Procurement Official
\$50,000.01 or greater	$\geq 10.01\%$ of original PO/Contract	City Council

1. On-call/unit-price contracts (e.g. on-call electrical services, on-call tree services,

### III. COMPETITIVE PROCUREMENT

uniform vendors, etc.) are included within the change order policy on an individual project basis (e.g. repair of electrical outlets at City Hall) as opposed to an overall contract basis (e.g. on-call electrical services).

#### L. Grants/Donations

Periodically, the City may be given public or private grants and donations from sources such as the federal government, state government, private corporations, foundations, etc. These funding sources often include restrictive stipulations and may dictate the procurement process and methodology that the City is to follow for contract award. Notwithstanding any other provision of this Policy, the City may enter into any contract, follow any procedure, or take any action that is otherwise at variance with this Policy if necessary or convenient to receiving funds from the government of the United States, State of Georgia, other governmental/public and private entities.

#### M. Technology

Procurement activities for the City should be automated whenever it is in the City's best interest.

1. Electronic ITB/RFP or any derivation thereof
  - a. *Electronic public notice allowed.* As an alternative to the public notices required, the Procurement Official may electronically distribute an ITB/RFP or other procurement solicitations. The Procurement Official may limit such electronic distribution to firms electronically registered with the City; and
  - b. *Use of private contractor.* If appropriate, the Procurement Official may contract with a private firm to manage the vendor registration process, bid lists, distribution of procurement documents, and master agreement catalogs.
2. Electronic submissions
  - a. *Electronic submissions.* The Procurement Official may receive procurement submissions electronically if the ITB/RFP or other procurement solicitation includes permission for such electronic submission;
  - b. *Digital signatures.* To assure the validity of procurement submissions received electronically, the Procurement Official may require vendors to adopt signature standards established by the State, the National Institute of Government Purchasing, or other recognized national organization; and
  - c. *Public records.* All procurement submissions received electronically shall be a public record and shall be made available to the public as provided by law.

### III. COMPETITIVE PROCUREMENT

#### N. Protests

1. *Right to protest.* Any bidder or proposer who is aggrieved in connection with an ITB/RFP or other solicitation may protest such procurement.
2. *Procedure.* A protest must be made in writing and shall state the reason for the protest. It shall be submitted to the Finance Director within seven calendar days of the first date that the aggrieved party knew or should have known of the facts giving rise to the protest. The Finance Director shall review the protest and issue a written decision as soon as practical after such a review is completed. The Finance Director's decision may be appealed in writing to City Council within seven calendar days after the date of the Finance Director's written decision. The decision of the City Council shall be final.
3. *Stay of procurement during protest.* Procurement which is the subject of a timely protest shall be stayed until a final decision by the Finance Director (or City Council, if appealed). The Procurement Official shall not proceed further with the ITB/RFP or other procurement solicitation which is the subject of the protest until all administrative remedies have been exhausted and a final decision has been rendered. If the Mayor makes a written determination that the execution of a contract without delay is necessary to protect substantial interests of the City, this provision shall not apply to the procurement which is the subject of the protest.



## IV. NON-COMPETITIVE PROCUREMENT

### IV. Non-Competitive Procurement

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#### A. Exceptions

The following items may be procured without competitive selection and the Procurement Official is authorized to execute the resulting transaction (e.g. procurement card transaction, direct payment, or purchase order) and subsequent change orders (if any).

1. Water, sewer, electrical, telephone (land line only; does not include cellular), gas, and other utility services where competition is not available;
2. Dues and memberships in trade or professional organizations;
3. Job-related seminars and training, whether provided through an outside organization or by the City for in-house training, including facilities and amenities needed for such training;
4. Hospitality services and expenses including hotel accommodations;
5. Travel including car rentals;
6. Subscriptions for periodicals;
7. Postage;
8. Advertisements (e.g. legal ads, special event ads, etc.);
9. Recreational service providers (e.g. recreation instructors);
10. Artists, artistic services including graphic design, music ensembles (bands) and other entertainment providers;
11. Entertainment venues (e.g. theme parks for recreation camps);
12. Vehicle and equipment repair;
13. Licensed computer software and associated support/maintenance;
14. Copyrighted materials not available from multiple sources;
15. Medical services;
16. Appraisal services;
17. Title insurance and Title Abstracts for real property;
18. Services required by proprietary ownership and original equipment manufacturers such as maintenance contracts;
19. Services or commodities provided by other governmental agencies; and
20. The following professional services:
  - a. Legal services including bond counsel;

## IV. NON-COMPETITIVE PROCUREMENT

- b. Bond financial advisory services (e.g. capital financing);
- c. Insurance policies competitively procured through the City's insurance broker; and
- d. Lobby services. The Mayor, City Administrator, and the Finance Director may select a person to provide lobbying services on behalf of the City without competitive selection.

### B. Sole/Single Source

Upon receipt of sufficient justification from the user department and subsequent research to corroborate the request, the City Attorney may deem a vendor to be a sole source or single source provider for a particular good/service. The determination will be limited to a specific timeframe and/or project and will be effective for no more than 3 fiscal years (initial year is the fiscal year of approval; expiration occurs on June 30<sup>th</sup> of the third fiscal year). After 3 fiscal years, the user department will submit a written request for the determination to be reevaluated by the City Attorney. The Finance Department will maintain a listing of sole source and single source vendors.

Once a vendor has been deemed sole source or single source, a user department may procure goods or services from this vendor without the need for quotes, ITBs, or RFPs. Unlike procurement exceptions (Section IV[A]), sole source and single source procurements are subject to the approval authority (i.e. signature requirements) set forth under Section III(A)(B)(C)(J).

## VI. APPENDIX

### VI. Appendix

#### NIGP CODE OF ETHICS



The Institute believes, and it is a condition of membership, that the following ethical principles should govern the conduct of every person employed by a public sector procurement or materials management organization:

- Seeks or accepts a position as head (or employee) only when fully in accord with the professional principles applicable thereto and when confident of possessing the qualifications to serve under those principles to the advantage of the employing organization.
- Believes in the dignity and worth of the service rendered by the organization, and the societal responsibilities assumed as a trusted public servant.
- Is governed by the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and inspire the confidence of the organization and the public being served.
- Believes that personal aggrandizement or personal profit obtained through misuse of public or personal relationships is dishonest and not tolerable.
- Identifies and eliminates participation of any individual in operational situations where a conflict of interest may be involved.
- Believes that members of the Institute and its staff should at no time, or under any circumstances, accept directly or indirectly, gifts, gratuities, or other things of value from suppliers, which might influence or appear to influence purchasing decisions.
- Keeps the governmental organization informed, through appropriate channels, on problems and progress of applicable operations by emphasizing the importance of the facts.
- Resists encroachment on control of personnel in order to preserve integrity as a professional manager.
- Handles all personnel matters on a merit basis, and in compliance with applicable laws prohibiting discrimination in employment on the basis of politics, religion, color, national origin, disability, gender, age, pregnancy and other protected characteristics.
- Seeks or dispenses no personal favors. Handles each administrative problem objectively and empathetically, without discrimination.
- Subscribes to and supports the professional aims and objectives of the National Institute of Governmental Purchasing, Inc.

## VI. APPENDIX

### GUIDELINES TO THE NIGP CODE OF ETHICS



#### RESPONSIBILITY TO YOUR EMPLOYER

- Follow the lawful instructions or laws of the employer
- Understand the authority granted by the employer
- Avoid activities which would compromise or give the perception of compromising the best interest of the employer
- Reduce the potential for any charges of preferential treatment by actively promoting the concept of competition
- Obtain the maximum benefit for funds spent as agents for the employer

#### CONFLICT OF INTEREST

- Avoid any private or professional activity that would create a conflict between your personal interest and the interests of your employer
- Avoid engaging in personal business with any company that is a supplier to your employer
- Avoid lending money to or borrowing money from any supplier

#### PERCEPTION

- Avoid the appearance of unethical or compromising practices in relationships, actions and communications
- Avoid business relationships with personal friends. Request a reassignment if the situation arises
- Avoid noticeable displays of affection, which may give an impression of impropriety
- Avoid holding business meetings with suppliers outside the office. When such meetings do occur, the meeting location should be carefully chosen so as not to be perceived as inappropriate by other persons in the business community or your peers.

#### GRATUITIES

- Never solicit or accept money, loans, credits or prejudicial discounts, gifts, entertainment, favors or services from your present or potential suppliers which might influence or appear to influence purchasing decisions
- Never solicit gratuities in any form for yourself or your employer. Items of nominal value offered by suppliers for public relations purposes are acceptable when the value of such items has been established by your employer and would not be perceived by the offeror, receiver or others as posing an ethical breach.
- Gifts offered exceeding nominal value should be returned with an explanation or if perishable either returned or donated to a charity in the name of the supplier. In the case of any gift, care should be taken to evaluate the intent and perception of acceptance to ensure that it is legal, that it will not influence your buying decisions, and that it will not be perceived by your peers and others as unethical.

#### BUSINESS MEALS

- There are times when during the course of business it may be appropriate to conduct business during meals. In such instances, the meal should be for a specific business purpose
- Avoid frequent meals with the same supplier. The purchasing professional should be able to pay for meals as frequently as the supplier
- Budgeted funds should be available for such purposes.

## VI. APPENDIX

### GUIDELINES TO THE NIGP CODE OF ETHICS continued



#### CONFIDENTIAL INFORMATION

- Keep bidders proprietary information confidential
- Develop a formal policy on the handling of confidential information.

#### RELATIONSHIP WITH THE SUPPLIER

- Maintain and practice, to the highest degree possible, business ethics, professional courtesy and competence in all transactions
- Association with suppliers at lunches, dinners or business organization meetings is an acceptable professional practice enabling the buyer to establish better business relations provided that the buyer keeps free of obligation. Accordingly, it is strongly recommended that if a seller pays for an activity that the buyer reciprocate.
- Purchase without prejudice, striving to obtain the maximum value for each dollar of expenditure
- Preclude from showing favoritism or be influenced by suppliers through the acceptance of gifts, gratuities, loans or favors. Gifts of a nominal value that display the name of a firm which is intended for advertisement may or may not be accepted in accordance with the recipients own conscience or jurisdictional rules
- Adhere to and protect the suppliers business and legal rights to confidentiality for trade secrets, and other proprietary information
- Refrain from publicly endorsing products

#### RELATIONSHIP WITH THE EMPLOYER

- Remain free of any and all interests and activities, which are or could be detrimental or in conflict with the best interests of the employer. Refrain from engaging in activities where the buyer has a significant personal or indirect financial interest
- Exercise discretionary authority on behalf of the employer. Avoid acquiring interest or incurring obligations that could conflict with the interests of the employer

#### RELATIONSHIPS WITH OTHER AGENCIES AND ORGANIZATIONS

- A buyer shall not use his position to exert leverage on individuals or firms for the purpose of creating a benefit for agencies or organizations that he may represent
- All involvement and transactions shall be handled in a professional manner with the interest of the buyers employer taking precedent

#### RELATIONSHIP WITH PROFESSIONAL PURCHASING ORGANIZATIONS AND ASSOCIATIONS

- It is the obligation and the responsibility of the buyer, through affiliation with professional organization, to represent that organization in a professional and ethical manner
- A buyer shall not use his position to persuade an individual or firm to provide a benefit to an organization

#### POLICY

- It is the policy of NIGP that any member of the Institute who personally, or on behalf of his local chapter, is involved in the process of acquiring advertisers and/or exhibitors on behalf of the Institute, shall act only in the capacity of providing referrals of potential or interested parties to the Institute. As a result of such referral, should the Institute form a contractual obligation, appropriate credit shall be given to the individual or chapter