

CITY OF DOTHAN, ALABAMA
CITY COMMISSION POLICY - NO. 10

PURCHASING

I. PURPOSE

To set forth the purchasing authorities and procedures of the City of Dothan (the City).

II. DEFINITIONS

The following terms shall have the meaning ascribed to them herein unless the context clearly indicates otherwise:

1. *Emergency purchase.* A purchase made without following normal purchasing procedures in order to obtain goods or services to meet an urgent and unexpected requirement where health and public safety or the conservation of public resources are at risk.
2. *Public works contract.* A contract between the City and a contractor pursuant to Code of Ala. 1975, § 39-2-1 et seq., for the construction, repair, renovation, or maintenance of public buildings, structures, sewers, waterworks, roads, bridges, docks, underpasses, and viaducts as well as any other improvement to be constructed, repaired, renovated, or maintained on public property and to be paid, in whole or in part, with public funds or with financing to be retired with public funds.
3. *Purchasing Agent.* As stated in the Code of Alabama, the Purchasing Agent of the City is the City Manager. The City Manager may designate an employee as the Purchasing Agent and authorize the employee to consummate all purchases of the City. Such purchases will be for a municipal purpose, for which funds have been appropriated by the City and in accordance with all applicable local and state laws. This employee shall be referred to as the Purchasing Agent in the remainder of this policy.
4. *Purchase order.* A written authorization on a form supplied by the Purchasing Agent for a vendor to provide materials, equipment, supplies, other personal property, or services to be paid for with City funds at a specified price over a specified time period. Acceptance of the purchase order constitutes a purchase contract and is legally binding on all parties.
5. *Purchase requisition or requisition.* An internal document, on a form supplied by the purchasing division by which a department requests the purchasing division to initiate procurement for items that are equal to or exceed the limit allowed by the Code of Alabama for each item. Items below the limit and approved items are maintained in purchasing software for the creation of a purchase order.

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6. *Sole source.* Those goods and/or services authorized to be purchased without competitive bid pursuant to applicable provisions of Code of Ala. 1975, § 41-16-51(13).
7. *State bid limit.* The ceiling amount, as authorized by Code of Ala. 1975, § 41-16-50, above which all purchases of labor, services, work, or for the purchase of materials, equipment, supplies or other personal property within a fiscal year (with the exception of public works contracts and contracts for professional services exempt from the bid law), are required to be competitively bid before a purchase order can be obtained from the purchasing division.

III. PURCHASING PROCEDURES

The provisions herein establish policies regulating the procedures to be followed in the purchase of materials, equipment, supplies, other personal property, or services, depending on the costs of the items to be purchased, set by the City Commission and includes:

1. *Splitting purchases.* The splitting of purchases into smaller orders to avoid these requirements is strictly prohibited.
2. *Purchase order.* Except as otherwise stated herein, a purchase order, generated from a properly documented requisition, duly issued by the Purchasing Agent or their designee, is required in every instance in which there is a need to purchase materials, equipment, supplies, other personal property, or services with City funds in excess of two thousand five hundred dollars (\$2,500) per purchase, except for purchases made with an authorized City procurement credit card. Purchases made with an authorized City procurement credit card shall not exceed two thousand five hundred dollars (\$2,500), unless prior authorization and limit adjustment is requested. A purchase order generated from a purchase requisition must be received prior to placing any order in excess of two thousand five hundred dollars (\$2,500) with any vendor or supplier unless the purchase can be classified as an emergency and proper limit adjustments have been completed.
3. *Purchase requisition.* A purchase requisition (requisition) must be submitted or transmitted to the Purchasing Agent in order to receive a purchase order to acquire materials, equipment, supplies or other personal property costing two thousand five hundred dollars (\$2,500) or more per purchase. The requisition shall be initiated and properly documented by the requisitioning department and sent to the Purchasing Agent.
4. *Capital purchases.* A requisition is submitted to the Purchasing Agent for capital purchases with a purchase amount of five thousand dollars (\$5,000) or more per item, and utilizes restricted expenditure accounts, for the purpose of identifying and tracking City assets. All capital purchases are reviewed for budgetary compliance.

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Exception to Purchasing Procedures:

1. The Purchasing Agent, or their respective designees, may declare exceptions to the two thousand five hundred dollars (\$2,500) purchase order requirement and procurement card limit at their discretion for payment of invoices for recurring expenses such as, but not limited to, utility payments, fuel, insurance premiums, licenses, membership fees, and subscriptions.

Exclusions from Purchasing Procedures:

1. *Purchases in excess of state bid limit.* Departments seeking to purchase materials, equipment, supplies, other personal property, or services that may exceed the state bid limit and are not otherwise exempt, within a fiscal year are required to competitively bid the purchase of said materials, equipment, supplies, other personal property, or services through the Purchasing Agent before a requisition can be submitted and purchase order can be issued. Public works contracts and other items exempt from the Alabama bid law are exempt from this requirement. All public works contracts must be procured pursuant to Title 39, Public Works, and Title 41, Article 3 of Code of Alabama - Competitive Bidding on Contracts of Certain State and Local Agencies, Etc., Code of Alabama, 1975, as amended, and as may be subsequently amended, is applicable and adopted by reference as an integral part of this policy.
2. *Sole source purchases.* Requisitions may be submitted and purchase orders may be issued for materials, equipment, supplies or other personal property, services and commodities in excess of the bid law limit for which there is only one vendor or supplier and contractual services and purchases of personal property which by their very nature are impossible to award by competitive bidding pursuant to Code of Ala. 1975, § 41-16-51(13); provided, however, proper documentation and verification of the facts supporting the same shall be submitted to the Purchasing Agent and approved by the City Commission. Such documentation must demonstrate that the service, goods or items sought to be acquired must be unique; that uniqueness must be substantially related to the intended purpose, use and performance of the service, good or item such that the department requesting the same must be able to show that other similar goods, services or items cannot perform the desired objectives.

IV. PROCUREMENT STANDARDS

1. All procurements of professional service contracts shall comply with all applicable federal, state and local laws, rules and regulations. To the extent this policy may conflict with any valid superseding federal or state law, it shall automatically conform to such federal or state law, if utilizing federal funding.
2. All procurements of public works construction and other non-professional service contracts shall comply with all applicable federal, state and local laws, rules and/or regulations. To the extent this policy may conflict with any valid superseding federal or state law, it shall automatically conform to such federal or state law, if utilizing federal funding.

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3. Unless otherwise required by federal law, rule, and/or regulation, all City contract procurements shall comply with stricter of applicable state competitive bid and public works laws.
4. Unless otherwise required by federal law, rule and/or regulation, competitive bidding shall not be required to procure the following:
 - A. Contracts for securing services of attorneys, physicians, architects, teachers, superintendents of construction, artists, appraisers, engineers, consultants, certified public accountants, public accountants, or other individuals possessing a high degree of professional skill where the personality of the individual plays a decisive part.
 - B. Contracts for fiscal or financial advice or services.
 - C. The selection of paying agents and trustees for any security issued by the City.
 - D. Professional services contracts for codification and publication of the laws and ordinances of the City.
 - E. The purchase of insurance.
5. Unless otherwise required by federal law, rule and/or regulation, the City Commission may adopt a resolution authorizing and awarding a professional service contract as described in subsection (IV)(4) in its discretion and without utilization of a formal or informal competitive bid process.
6. Notwithstanding the foregoing, the City may, in its discretion, issue a request for proposal ("RFP") or request for statement of qualifications ("RFQ") to introduce a competitive element into the selection of any professional service. Generally, the RFP or RFQ may require a statement of experience and qualifications, references, a price/hourly rate quote (if applicable), and any other requirement deemed appropriate by the City that does not conflict with federal, state or local law; provided, however, that the final form of any lawful RFP or RFQ shall be in the discretion of the City and may or may not include any of the abovementioned elements, and may include additional elements.
7. The purchasing procedure provisions hereof do not apply to public works contracts made pursuant to Code of Ala. 1975, § 39-2-1 et seq., or to contracts for the provision of professional services pursuant to Code of Ala. 1975, § 41-16-50, if authorized by the City Commission. However, a purchase order issued by the Purchasing Agent or their designee for public works or professional services contracts is required.
8. Title 34-8-8, Professions and Businesses State of Alabama General Contractors License Requirements for bidding on Contracts of Certain State and Local Agencies, Etc., Code of Alabama, 1975, as amended, and as may be subsequently amended, is applicable and adopted by reference as an integral part of this policy.

9. Title 2 Grants and Agreements, Subtitle A, Office of Management and Budget Guidance for Grants and Agreements, Chapter II, Office of Management and Budget Guidance, Part 200 Uniform Administrative Requirements, Costs Principles and Audit Requirements for Federal Awards, as amended, and as may be subsequently amended, is applicable and adopted by reference as an integral part of this policy. All procurement of labor, services, or materials made with federal grant funds shall conform to these requirements, which are available for viewing at the following link: <https://www.govinfo.gov/content/pkg/CFR-2023-title2-vol1/pdf/CFR-2023-title2-vol1-part200.pdf>.

V. PURCHASING POLICY

Purchases for the City shall be made through the Purchasing Division by following the established purchasing procedures of the City of Dothan.

Purchase orders will only be issued for the purchase of materials, equipment, supplies, other personal property, or services, pursuant to the provisions hereof for legitimate public purposes and solely for the use and benefit of the City and its operations and shall not inure to the private or personal benefit of any employee, person, firm or corporation.

The department making the purchase shall be responsible for insuring product quality and conformance with specifications.

Whenever possible, the department making the purchase shall consolidate requisitions in order to obtain quantity buying.

No member or employee of the governing body of the City shall be financially interested or have any personal beneficial interest, either directly or indirectly, in the purchase of, or contract for, any personal property or contractual service for the City, nor willfully make any purchase or award any contract in violation of this provision.

1. Purchasing Limits

- A. Department Heads, or their designees, may execute purchases on their own authority for each purchase less than \$2,500 in value.
- B. The Purchasing Agent may execute purchases on their own authority up to the limit allowed by the Code of Alabama for each item.
- C. All purchases beyond the limits authorized by others in this section must be approved by a majority of the City Commission.

2. Purchases Under \$2,500

- A. A field purchase order or purchasing card transaction shall be used to document all expenditures of public funds for internal control or voucher purposes.
- B. Purchases shall not be divided into parts for the purpose of avoiding solicitation of quotes or bids.

3. Purchases Above \$2,500 to Allowed Code of Alabama Limit

- A. A purchase order shall be used to document purchases from \$2,500 up to the limit required by the Code of Alabama (\$30,000). A purchase order will be approved only after quotations are received from at least three responsible suppliers. These quotes will be included with the purchase requisition. If a purchase is a sole source purchase, comments shall be included in the purchasing system with the requisition to justify the purchase from one vendor only. Exceptions to this requirement may be granted by the Purchasing Agent for those purchases excluded from competitive bid in state law and for the following reasons properly documented to substantiate the decision to include:
 - a) Items where such purchase price has been set by the Federal Government, or the State of Alabama;
 - b) Requirements to maintain a degree of continuity with the original or existing decor, equipment, or programs, where an attempt to quote could result in operational or functional inconsistency;
 - c) When a quote attempt results in no response, orders will be placed with the first reliable source with a suitable price, quality, and delivery;
 - d) When the Purchasing Agent determines that three quotes cannot feasibly be obtained.
- B. Prior to the issuance of a purchase order, the Finance Department shall approve the requisition for available funding and purpose.

4. Formal Bids

- A. Purchases of personal property in the amount estimated to equal or exceed the amount specified by the Code of Alabama (\$30,000) shall be made through formal bid procedures as established by the Code of Alabama. Exceptions to this rule are items listed in Sec. 41-16-51 of the Code of Alabama.
- B. When a formal bid procedure is required, the Purchasing Agent shall invite bids from all responsible perspective vendors on the bidders list.

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- C. Bids are invited with the understanding that alternates may or may not be accepted. The bid form may contain the words "all products or equipment on alternate bids must be submitted for test or inspection prior to bid opening."
- D. Quoted prices of vendors and suppliers will remain confidential until all quotes are received and opened in the bid opening. The quote of one vendor will not be used to negotiate a lower price from another.
- E. Bids shall be awarded to the lowest responsible bidder taking into consideration the qualities of the commodities proposed to be supplied, their conformity with specifications, and the purposes for which required, the terms of delivery, transportation charges and the dates of delivery.
- F. If two or more bids received are for the same total amount or unit price, quality and service being equal, the Purchasing Agent and the Department Head will determine the bid award. Any dispute of the award may be directed to the City Manager and/or City Commission.
- G. A vendor having a place of business physically located within the city limits of Dothan and having a valid City of Dothan business license shall be entitled to a three (3) percent preference in bid award. A copy of a valid business license must be provided with sealed bids. Failure to include the business license copy with the sealed bid will result in disqualification of the 3% preference for that bid.
- H. The Purchasing Agent may reject all bids and re-advertise if the department making the purchase deems the price too high or the products offered are not acceptable.
- I. Any agreement or collusion among bidders is restraint of freedom of competition. By agreement to bid at a fixed price or to refrain from bidding or otherwise be in collusion shall constitute a violation of this policy, render the bids of such bidders void and shall cause such bidders to be permanently removed from the City of Dothan's bid list.

Exception to Formal Bid Process:

- A. In case of an emergency affecting public health, safety, or convenience, purchases in excess of the amount specified by state law may be made without bids. Such action and the reasons therefore shall be stated by resolution of the City Commission as soon as possible.

5. Procurement of Contracts Subject to 2 CFR § 200 Requirements:

- A. *Applicability.* The requirements of this section apply to procurements related to the expenditure of all federally originated funds.

- B. *City procurement procedures to conform to federal law.* The City will use its own procurement procedures which reflect applicable state and local laws and regulations, provided that the procurements conform to applicable federal law and the standards identified in 2 CFR § 200.318.
- C. *Grant/Contract administration system.* The City will maintain a grant/contract administration system through the establishment of a Program Manager for each grant. The Program Manager will monitor contract performance and consult with the Office of the City Attorney as required to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- D. *Standards of conduct; conflicts of interest.* Elected officials, staff or agents of the City are prohibited from personally benefitting from procurements under this section. No employee, officer or agent of the City shall participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest as defined in 2 CFR § 200.318(c)(1), real or apparent, would be involved. Such a conflict would arise when the employee, officer or agent, or any member of his or her immediate family, his or her partner, or an organization which employs, or is about to employ, any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The City's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subcontracts. Violations of such standards by the officers or employees of the City, or agents, or by contractors or their agents shall be reported to the state ethics commission pursuant to Code of Ala. 1975, § 36-25-17.
- E. *Unnecessary/duplicative items.* Prior to award, the City shall perform a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration shall be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
- F. *Responsible contractors.* The City will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. The City will require contractors to execute a "disbarment and suspension statement" certifying/verifying that the contractor is not suspended or disbarred or otherwise excluded from or ineligible for participation in federal assistance programs or activities. See 2 CFR § 200.213.

- G. *Records*. The City will maintain records sufficient to detail the history of a procurement. These records will include but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- H. *Protest procedures*. Protests made under this section shall be presented in writing to the designated City Manager and/or City Commission within three (3) business days of bid opening. Further protest may be handled and resolved pursuant to the same procedure established in Code of Ala. 1975, § 41-16-61. To wit, any taxpayer of the area within the jurisdiction of the City and any bona fide unsuccessful bidder on a particular contract shall be empowered to bring a civil action in the appropriate court to enjoin execution of any contract entered into in violation of the provisions of this section. The City shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust this remedy before pursuing a protest with the federal agency.
- I. *Intergovernmental agreements*. The City shall enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.
- J. *Value engineering clauses*. The City shall use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions whenever such use is feasible.
- K. *Competition*. All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of 2 CFR § 200.319.
- L. *Contractor disqualification*. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals are excluded from competing for such procurements.
- M. *Situations restrictive of competition*. Some of the situations considered to be restrictive of competition, and therefore prohibited, include but are not limited to:
- a) Placing unreasonable requirements on firms in order for them to qualify to do business;
 - b) Requiring unnecessary experience and excessive bonding;
 - c) Noncompetitive pricing practices between firms or between affiliated companies;
 - d) Noncompetitive awards to consultants that are on retainer contracts;
 - e) Organizational conflicts of interest;

- f) Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement;
 - g) Any arbitrary action in the procurement process.
- N. *Methods of procurement.* Any method of procurement under this section shall comply with the requirements of 2 CFR § 200.320 and any other applicable federal, state or local law, rule or regulation, whichever requirement is stricter.
- O. *Micro-Purchases.* The micro-purchase threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (definitions). It is fifteen thousand dollars (\$15,000) except as otherwise discussed in Subpart 2.1 of that regulation, but this threshold is periodically adjusted for inflation. To the extent practicable, the City shall distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the City considers the price to be reasonable. The City procurement procedure by field purchase order under \$2,500 for the acquisition of supplies or services, conforms with the aggregate dollar amount established the micro-purchase threshold ([2 CFR] § 200.67 micro-purchase).
- P. *Simplified acquisitions.* Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. To the extent the Alabama Competitive Bid and/or Public Works Laws establish stricter standards for procurement by small purchase procedures, the City shall apply the stricter state law standards. Generally, all expenditure of funds of whatever nature for labor, service, work, or for the purchase of materials, equipment, supplies, or other personal property involving thirty thousand dollars (\$30,000) or more must be competitively bid pursuant to the requirements of the state bid law.
- Q. *Procurement by sealed bids (formal advertising).* Bids shall be publicly solicited and a firm-fixed-price contract (lump sum or unit price) shall be awarded to the responsible, responsive bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method shall be the preferred method for procuring construction. The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bid. The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond. All bids will be publicly opened at the time and place prescribed in the invitation for bids. A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid

is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of. Any or all bids may be rejected if there is a sound documented reason. To the extent the Alabama Competitive Bid and/or Public Works Laws establish stricter standards for procurement by sealed bids (formal advertising), the City shall apply the stricter state law standards. Before entering into any Public Works contract involving an amount in excess of one hundred thousand dollars (\$100,000), the City shall advertise for sealed bids. In order for sealed bidding to be feasible, the following conditions must be present:

- a) A complete, adequate, and realistic specification or purchase description is available;
 - b) Two or more responsible bidders are willing and able to compete effectively for the business;
 - c) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
- R. *Procurement by competitive proposals.* This method shall be conducted with more than one source submitting an offer, and with either a fixed-price or cost-reimbursement type contract to be awarded. This method shall be generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
- a) Requests for proposals require public notice, and all evaluation factors and their relative importance must be identified. Proposals must be solicited from multiple qualified entities. To the maximum extent practicable, any proposals submitted in response to the public notice must be considered;
 - b) The City must have written procedures for conducting technical evaluations and making selections;
 - c) Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the City considering price and other factors;
 - d) The City may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby the offeror's qualifications are evaluated, and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where the price is not used as a selection factor, can only be used to procure architectural/engineering (A/E) professional services. The method may not be used to purchase other services provided by A/E firms that are a potential source to perform the proposed effort.

- S. *Procurement by noncompetitive proposals.* Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:
- a) The aggregate amount of the procurement transaction does not exceed the micro-purchase threshold;
 - b) The item is available only from a single source;
 - c) The public exigency or emergency for the requirement will not permit a delay resulting from providing public notice of a competitive solicitation;
 - d) The recipient or subrecipient requests in writing to use a noncompetitive procurement method, and the Federal agency or pass-through entity provides written approval;
 - e) After soliciting several sources, competition is determined inadequate.
- T. *Contracting with small and minority firms, women's business enterprise and labor surplus area firms.* Pursuant to 2 CFR § 200.321, the City when possible, should ensure that small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms are considered as set forth below. Such consideration means:
- a) These business types are included on solicitation lists;
 - b) These business types are solicited whenever they are deemed eligible as potential sources;
 - c) Dividing procurement transactions into separate procurements to permit maximum participation by these business types;
 - d) Establishing delivery schedules (for example, the percentage of an order to be delivered by a given date of each month) that encourage participation by these business types;
 - e) Utilizing organizations such as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce;
 - f) Requiring a contractor under a Federal award to apply this section to subcontracts.

- U. *Domestic preferences for procurement.* Pursuant to 2 CFR § 200.322 the City should, to the greatest extent practicable and consistent with law, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards, contracts, and purchase orders under Federal awards.

- V. *Contract cost and price.* Pursuant to 2 CFR § 200.324, the City shall perform a cost or price analysis in connection with every procurement action in excess of the simplified acquisition threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the City must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g. under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price. The City will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work. Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with federal cost principles. The City may reference its own cost principles that comply with the applicable federal cost principles. The "cost plus a percentage of cost" and "percentage of construction cost" methods of contracting shall not be used.

- W. *Federal awarding agency or pass-through entity review.* Pursuant to 2 CFR § 200.325, the City must make available, upon request of the federal awarding agency or pass-through entity, technical specifications on proposed procurements where the federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. These review requirements shall be governed by 2 CFR § 200.320.

- X. *Bonding requirements.* Pursuant to 2 CFR § 200.326, for construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the following minimum requirements shall apply:
 - a) The City shall require a bid guarantee from each bidder equivalent to five percent of the bid price. The bid guarantee must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute any required

contractual documents within the specified timeframe;

- b) The City shall require a performance bond on the part of the contractor for one hundred (100) per cent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
 - c) The City shall require a payment bond on the part of the contractor for one hundred (100) per cent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.
 - d) To the extent the Alabama Competitive Bid and/or Public Works Laws establish stricter standards for bonding requirements, the City shall apply the stricter state law standards.
- Y. *Contract provisions.* Contracts procured pursuant to 2 CFR § 200.327 shall contain the following contract provisions as provided in Appendix II Part 200 of 2 CFR § 200.327:

- a) *Violation or breach of contract terms.* Contracts for more than the simplified acquisition threshold currently set at three hundred fifty thousand dollars (\$350,000), which is the inflation adjusted amount determined by the civilian agency acquisition council and the defense acquisition regulations council (councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. To wit, if the contractor is adjudged as bankrupt, or if he makes a general assignment for the benefit of his creditors, or if a receiver is appointed on account of his insolvency, or persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or otherwise is guilty of a substantial violation of a provision of the agreement, or is assessed liquidated damages as set forth herein, then the City may, without prejudice to any of its other rights or remedies and after giving the contractor and his surety, if any, seven (7) days' written notice, during which period the contractor fails to cure the violation, terminate the employment of the contractor. In such case, the contractor shall not be entitled to receive any further payment from the City.
- b) *Termination for cause and for convenience.* For all contracts in excess of ten thousand dollars (\$10,000), the City reserves the right with or without cause to terminate the agreement by giving written notice to contractor of such termination at least fifteen (15) days before the effective date thereof. In the event of termination, contractor shall cease performing any work pursuant to the agreement and be entitled to compensation for services rendered through the effective date of termination.

- c) *Equal employment opportunity.* Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- d) *Davis-Bacon Act.* When required by federal program legislation, all prime construction contracts in excess of two thousand dollars (\$2,000) awarded by the City must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The City must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The City must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The City must report all suspected or reported violations to the federal awarding agency.
- e) *Contract Work Hours and Safety Standards Act.* Where applicable, all contracts awarded by the City in excess of one hundred thousand dollars (\$100,000) that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under forty (40) U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of forty (40) hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half (1½) times the basic rate of pay for all hours worked in excess of forty (40) hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to

the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- f) *Rights to inventions made under a contract or agreement.* If the federal award meets the definition of "funding agreement" under 37 CFR § 401.2(a) and the City wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the City must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
- g) *Clean Air Act and the Federal Water Pollution Control Act.* Contracts and subgrants of amounts in excess of one hundred fifty thousand dollars (\$150,000) must contain a provision that requires the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the federal awarding agency and the regional office of the Environmental Protection Agency (EPA).
- h) *Debarment and suspension.* A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the system for award management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Verification will be conducted by the City prior to award to ensure contract is not issued to a party listed on the governmentwide exclusions in SAM. Parties listed on exclusion list could be disqualified from award. The City may at its discretion provide time for the party to take necessary measures to remedy their status. The City will verify quarterly during a grant award period the party maintains compliance and is in good standing with SAM.
- i) *Byrd anti-lobbying amendment.* Contractors that apply or bid for an award exceeding one hundred thousand dollars (\$100,000) must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

Z. *Retention of records.* The City is required to retain all records as required by applicable federal law for three (3) years after the City or any or subgrantee makes final payments and all other pending matters are closed pursuant to 2 CFR § 200.334 .

AA. *Access to records.* The City, any subgrantee, the federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to the contract for the purpose of making audit, examination, excerpts, and transcriptions pursuant to 2 CFR § 200.337.

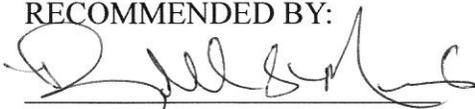
VI. RESERVATION OF AUTHORITY

The City Commission reserves the right to amend, modify or change this policy.

VII. APPROVAL AND EFFECTIVE DATE

This policy is adopted and approved in Regular Session of the City Commission on this 4th day of November, 2025.

RECOMMENDED BY:



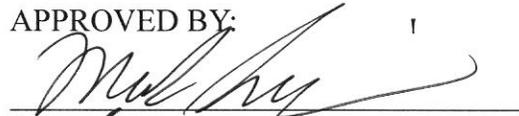
City Manager

ATTEST BY:



City Clerk

APPROVED BY:



Mayor



Associate Commissioner District 1



Associate Commissioner District 2



Associate Commissioner District 3



Associate Commissioner District 4



Associate Commissioner District 5



Associate Commissioner District 6

BOARD OF CITY COMMISSIONERS