

## CITY OF MANASSAS PUBLIC PROCUREMENT POLICY

### Section 1. Title, purposes.

- A. The following may be cited as the Manassas Public Procurement Policy, hereinafter "this policy".
- B. The City's procurement division will oversee the procurement of goods and services for the entire City, except the Manassas Public Schools. This oversight shall include the Manassas Volunteer Fire Company and the Greater Manassas Volunteer Rescue Squad. Accordingly, the word "city" when used in this policy shall be construed to mean all City departments, except Manassas Public Schools.
- C. The purposes of this policy are (i) to prescribe how the city is to conduct procurements from nongovernmental sources; (ii) to prescribe policies and procedures based on competitive principles generally applicable to the city's procurement of goods and services that the city adopts as policies in lieu of certain provisions of the Virginia public procurement act, as allowed by Va. Code § 2.2-4343; and (iii) to adopt and supplement other provisions of the Virginia public procurement act.

### Section 2. Definitions.

- A. The definitions contained in the Virginia public procurement act, including without limitation, those at Va. Code §2.2-4301, apply to this policy.
- B. In addition to the definitions contained in the Virginia public procurement act, the following definitions apply to this policy:
  - 1. "Business day" means a day that the city of Manassas governments' offices are officially open for business.
  - 2. "City manager" means the city manager of the city of Manassas or designee(s), and, if the city manager is absent or unable to carry out his duties, the person acting as city manager during such period of absence or incapacity.
  - 3. "City attorney" means the city attorney of the city of Manassas or designee(s), and if the city attorney is absent or unable to carry out his duties, the person acting as city attorney during such period of absence or incapacity.
  - 4. "Claim" means a demand or assertion by a contractor seeking, as a matter of right, adjustment or interpretation of contract terms, payment of money, extension of time, or other relief with respect to the terms of a contract with the city. "Claim" also includes other disputes and matters in question between the contractor and the city arising out of, or relating to, a contract between the contractor and the city.
  - 5. "Contractor" means the person entering into a contract with the city, as well as any successor, authorized assign, surety, or insurance company claiming contractor's rights through contractor's privity of contract with the city. "Contractor" does not include subcontractors, vendors, suppliers, or lower tier subcontractors lacking privity of contract with the city.
  - 6. "Day" means calendar day unless otherwise indicated.
  - 7. "Occurrence" is an event when a condition is encountered by a contractor that may result in a claim by the contractor against the city. In construction, an "occurrence" is a condition encountered as a project progresses (including without limitation, a differing site condition, alleged delay in, or interference with, contractor's performance by the city or its architect, engineer, or consultant or alleged errors or

omissions in plans or specifications) that the contractor contends would entitle it to a change in the contract's price, schedule, or manner of performance.

8. "Principal" means any officer, partner, managing member, or other person with responsibility for the operation of a business, however designated.
9. "Purchasing manager" means the purchasing manager for the city of Manassas or their designee(s), and, if the purchasing manager is absent or unable to carry out his duties, the person acting as purchasing manager during such period of absence or incapacity.

### **Section 3. Methods of city procurement from nongovernmental sources.**

Unless otherwise authorized by law and approved by the city manager or purchasing manager, all procurement by the city from nongovernmental sources shall be conducted pursuant to this policy.

### **Section 4. Provisions of Virginia public procurement act that are and are not part of the Manassas public procurement policy.**

- A. All provisions of the Virginia public procurement act applicable to local government shall be a part of the Manassas public procurement policy except the following: Va. Code § 2.2-4302.2, Va. Code § 2.2-4303.G., Va. Code § 2.2-4359 through § 2.2-4363, Va. Code § 2.2-4364 A, C, E, and F, and Va. Code § 2.2-4365 through § 2.2-4366.
- B. In lieu of Va. Code § 2.2-4359 the city has adopted the policies and procedures in Section 5.
- C. In lieu of Va. Code § 2.2-4360 through § 2.2-4363, Va. Code § 2.2-4364 A, C, E, and F, and Va. Code § 2.2-4365 through § 2.2-4366, the city has adopted the policies and procedures in Sections 6 and 7.
- D. In lieu of Va. Code § 2.2-4302.2, the city has adopted the policies and procedures in Section 8
- E. Pursuant to Va. Code § 2.2-4303.G., the city has adopted small purchase policies and procedures in Section 10.

### **Section 5. City's policies on determination of non-responsibility in lieu of Va. Code § 2.2-4359.**

The following are the procedures for a bidder to protest a determination by the city that the bidder is not responsible:

- A. Following the public opening and announcement of bids received on an Invitation to Bid, the city shall evaluate the bids in accordance with element 4 of Va. Code § 2.2-4302.1. Following bid opening, the city also shall determine whether the apparent low bidder is responsible. If the city so determines, then it may proceed with an award in accordance with element 5 of VA. Code § 2.2-4302.1. If the city determines that the apparent low bidder is not responsible, it shall proceed as follows:
  1. The city first shall (i) notify the apparent low bidder in writing of its initial determination, (ii) disclose the factual support for the determination, and (iii) allow the apparent low bidder an opportunity to inspect any documents that relate to the determination, if so requested by the bidder within five (5) business days after receipt of the notice. The notification shall state that the initial determination shall become final unless, within ten (10) business days after delivery of the notice, the bidder submits rebuttal information challenging the city's determination.
  2. If timely rebuttal information is submitted by the bidder, the city shall issue its final written determination of responsibility based on all information in the city's possession, including any rebuttal information timely received from the bidder, within fifteen (15) business days after the city received the bidder's rebuttal information. The city shall notify, with return receipt requested, the bidder in writing of the city's final determination stating the basis for the determination which shall be final and conclusive.

3. Notwithstanding the existence of information from which the city could determine the bidder not to be responsible, the bidder may offer the city additional assurances of responsible performance if it were to be awarded the contract, either pending the city's final written determination of whether bidder is responsible or during pendency of any appeal of a final determination of the bidder's non-responsibility, which the city, in its sole discretion, may consider and accept as curing the city's concerns with bidder's apparent non-responsibility.
- B. The provisions of this Section 5, shall not apply to procurements involving the prequalification of bidders, VA. Code 2.2-4317, and the rights of any potential bidders under such prequalification to appeal a decision that such bidders are not responsible.
- C. If, upon appeal to the Prince William County circuit court, it is determined that the final determination of non-responsibility by the city was not (i) an honest exercise of discretion, but rather was arbitrary or capricious or (ii) in accordance with applicable state law or regulation, or the terms or conditions of the invitation to bid, the sole relief shall be a finding that the bidder is a responsible bidder for the contract in question.
- D. A bidder contesting a determination that he is not a responsible bidder for a particular contract shall proceed under this section and may not protest the award or proposed award under the provisions of Section 6.
- E. No bidder shall have the right to challenge the responsibility of another bidder.
- F. Nothing contained in this section shall be construed to require the city, when procuring by competitive negotiation, to furnish a statement of the reasons why a particular proposal was not selected.

**Section 6. City's policies on protest of award or decision to award a contract in lieu of Va. code § 2.2-4360 through § 2.2-4362 and Va. code § 2.2-4364.A, and C.**

- A. The following are the procedures for a bidder or offeror to protest the city's award or decision to award a contract:
  1. Any protest to award a contract shall be in writing and shall be delivered so that it is received by the purchasing manager not later than five (5) business days after announcement of the award or decision to award, whichever comes first. Otherwise any such protest shall be deemed to be waived. Public Notice of the award or the announcement of the decision to award shall be given by the City in the manner prescribed in the Invitation to Bid or Request for Proposal.
  2. Except for a protest of an emergency or sole source procurement, a protest of a city award or decision to award a contract may only be made by a person who submitted a bid or proposal for the procurement at issue and who was reasonably likely to have its proposal accepted but for the city's decision. In the case of an emergency or sole source procurement, a protest may only be made by a person who can show that he was reasonably likely to have submitted a successful bid or proposal if the procurement had been other than emergency or sole source.
  3. Protests shall only be granted if (1) the protester has complied fully with this Section 6 and there has been a violation of law, the Manassas public procurement policy, or mandatory terms of the solicitation that clearly prejudiced the protestor in a material way, or (2) a statute requires voiding of the decision.
  4. The purchasing manager shall issue a written decision on a protest within fifteen (15) business days of its receipt by the purchasing manager. The purchasing manager's decision shall be final and conclusive.

5. The city should defer award of a contract where the decision to award has been protested unless there is a written determination by the purchasing manager that proceeding without delay is necessary to protect the public interest or unless the bid or offer of the prospective awardee would expire.
  6. The validity of a contract awarded and accepted in good faith shall not be affected by the fact that a protest or appeal is filed.
  7. The exclusive relief allowed if a protest is granted is to void the decision being protested. If a contract has already been awarded and performance under the contract has begun, the contract need not be voided if not in the public interest to do so. Under no circumstances will any monetary amount be allowed to the protestor as part of any relief granted.
  8. Strictly following these procedures shall be a mandatory prerequisite for protest of the city's award or decision to award a contract. Failure by a bidder to follow these procedures strictly shall preclude that bidder's protest and be deemed to constitute a waiver of any protest.
- B. A protest may not be based upon the alleged non-responsibility of a person to whom the city awards or makes a decision to award a contract.

**Section 7. City's policies on contractual claims in lieu of Va. code § 2.2-4363, Va. code § 2.2-4364 E, and Va. code § 2.2-4365 through § 2.2-4366.**

Unless otherwise provided in the contract, any contractual claims by a contractor or anyone claiming on the contractor's behalf against the city arising under or relating to any contract between the city and the contractor shall only be resolved as follows:

- A. Initial notice, submission of claim, and consideration.
1. The contractor shall give the city written notice of any claim within seven (7) days of the beginning of the occurrence of the event leading to the claim being made. The written notice shall be a document from the contractor addressed to the purchasing manager or employee designated by the contract to receive such notice, or if no one is so designated, to the city manager. The written notice shall clearly state the contractor's intention to make a claim, shall describe the occurrence involved, and shall be transmitted in a manner to ensure receipt by the purchasing manager or employee designated in the contract to receive such notice, or if no one is so designated, by the city manager, within the seven (7) days. The contractor shall submit the claim and any supporting data to the city within thirty (30) days after the occurrence giving rise to the claim ends. The burden shall be on the contractor to substantiate that it has given written notice and submitted its claim in accordance with this provision.
  2. The claim must be certified under oath as true and correct by a principal of contractor; must be for specific relief; if any money is sought, must specify the dollar amount sought; and must contain sufficient supporting documentation to reasonably allow its consideration, including without limitation, any documentation required by the contract. The burden shall be on the contractor to substantiate the claim.
  3. In circumstances where the terms and conditions of a contract require the contractor to submit a claim to an architect, engineer, or consultant for decision or to appeal a decision of an architect, engineer, or consultant, or to provide additional supporting documentation for its claim, the contractor shall comply with such terms and conditions in addition to these procedures. No decision by the architect, engineer, or consultant shall be binding on the city, but such decision shall have whatever effect on the contractor that the contract provides.
  4. Following consideration by the architect, engineer, or consultant, if applicable, and following initial, informal consideration by the city manager or purchasing manager, the parties shall endeavor to resolve any claim through direct negotiations.

5. Should the claim remain unresolved for more than sixty (60) days after it is submitted, then the city manager shall, within no later than ninety (90) days after the claim's submission, render a written decision on the claim on behalf of the city. The contractor may not institute any legal action with respect to the claim until after the city manager renders his written decision or ninety (90) days from its receipt by the purchasing manager has passed, whichever comes first.

B. Appeal of denial of claim.

1. If the city denies in whole or part a claim by a contractor or more than ninety (90) days have passed since the claim was received by the purchasing manager but no written decision has been issued, the contractor may appeal denial of the claim by instituting a lawsuit in the Prince William County circuit court, Manassas, Virginia, and may thereafter pursue all available appeals in Virginia state courts, to the extent they have jurisdiction.

2. The contractor must initiate its appeal of the claim within sixty (60) days of the date it first has the right to do so or the claim will be barred and the city manager's decision will be binding and conclusive.

C. In the event of any claim arising, contractor shall continue its performance diligently during such claim's pendency and thereafter as if no claim had arisen. During the pendency of any claim in connection with the payments of moneys, contractor shall be entitled to receive payments for non-disputed items, subject to any right of set-off by the city.

D. Any purportedly binding arbitration provision in a contract with the city shall be void and of no effect unless the arbitration has expressly been considered and specifically approved in writing by the city manager and city attorney.

E. These procedures shall be deemed automatically incorporated by reference into any contract entered into by the city. However, the purchasing manager or designee(s) should ensure this section is referenced or included in all the city's contracts.

F. Complete satisfaction of this Section 7 is a prerequisite for contractor to pursue a claim arising under or relating to the contract. Failure by contractor to satisfy any provision of this Section 7 shall constitute a waiver by contractor of the claim and shall preclude the contractor's further pursuit of such claim.

**Section 8. City's policies on the process for competitive negotiation in lieu of Va. code § 2.2-4302.2.**

A. The process for competitive negotiation shall include the following:

1. Issuance of a written Request for Proposal indicating in general terms that which is sought to be procured, specifying the factors that will be used in evaluating the proposal and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities, specifications or qualifications that will be required. In the event that a numerical scoring system will be used in the evaluation of proposals, the point values assigned to each of the evaluation criteria shall be included in the Request for Proposal or posted at the location designated for public posting of procurement notices prior to the due date and time for receiving proposals;

2. Public notice of the Request for Proposal at least ten (10) days prior to the date set for receipt of proposals by posting on the city's and state's websites or publishing in a newspaper of general circulation in the area in which the contract is to be performed so as to provide reasonable notice to the maximum number of offerors that can be reasonably anticipated to submit proposals in response to the particular request. In addition, proposals may be solicited directly from potential contractors; and

3. For goods, nonprofessional services, and insurance, selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. Price shall be considered,

but need not be the sole or primary determining factor. After negotiations have been conducted with each offeror so selected, the city shall select the offeror which, in its opinion, has made the best proposal and provides the best value, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so provided in the Request for Proposal, awards may be made to more than one offeror. Should the city determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror; or

4. For professional services, the city shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. The Request for Proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. These discussions may encompass nonbinding estimates of total project costs, including, but not limited to, design, construction, life-cycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined herein, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the city shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious.

Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the city can be negotiated at a price considered fair and reasonable, and pursuant to contractual terms and conditions acceptable to the City, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Notwithstanding the foregoing, if the terms and conditions for multiple awards are included in the Request for Proposal, the city may award contracts to more than one offeror. Should the city determine in writing and in its sole discretion that only one offeror is fully qualified or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

- B. Multiphase professional services contracts satisfactory and advantageous to the completion of large, phased, or long term projects may be negotiated and awarded based on a fair and reasonable price for the first phase only, where the completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases.

## **Section 9. Preference for local products and firms.**

The Manassas city council, in the case of a tie bid, gives preference to goods, services and construction produced in Manassas, Manassas Park, or Prince William County or provided by persons, firms or corporations having principal places of business in Manassas, Manassas Park, or Prince William County, if such a choice is available, otherwise the tie shall be decided by lot, unless Va. code § 2.2-4324 applies. This provision shall apply only to bids submitted pursuant to a written Invitation to Bid.

## **Section 10. Small purchase procedures.**

### Goods and Services

Subject to such small purchase procedures as are established in the procurement manual adopted by the purchasing manager pursuant to Section 14, the purchasing manager may enter into single or term contracts for goods and services other than professional services without requiring competitive sealed bids or competitive negotiation if the aggregate or sum of all phases is not expected to exceed one hundred thousand dollars (\$100,000.00). Such small purchase procedures shall provide for competition wherever practicable,

including, without limitation, when such small purchases are for over five thousand dollars (\$5,000.00), use of three quotes wherever practicable.

### Transportation – Related Construction

Subject to such small purchase procedures as are established in the procurement manual adopted by the purchasing manager pursuant to Section 14, the purchasing manager, may enter into single or term contracts for transportation – related construction without requiring competitive sealed bids or competitive negotiation if the aggregate or sum of all phases is not expected to exceed twenty-five thousand dollars (\$25,000.00), however, such small purchase procedures shall provide for competition wherever practicable.

### Professional Services

Subject to such small purchase procedures as are established in the procurement manual adopted by the purchasing manager pursuant to Section 14, the purchasing manager may enter into single or term contracts for professional services without requiring competitive negotiations, provided the aggregate or the sum of all phases is not expected to exceed sixty thousand dollars (\$60,000.00), however, such small purchase procedures shall provide for competition wherever practicable.

## **Section 11. Negotiations when all bids exceed available funds.**

- A. Unless cancelled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted, except that, if such bid exceeds available funds, and if the city deems it appropriate to do so rather than cancel the solicitation, the city may negotiate with the lowest responsive, responsible bidder to obtain a contract price within available funds using the procedures set out in this section.
1. If the using agency wishes to conduct negotiations pursuant to this section, it shall provide the purchasing manager with a written determination that the bid from the lowest responsive, responsible bidder exceeds available funds. The using agency shall also provide the purchasing manager with suggested measures to bring the proposed purchase within budget through negotiations with the lowest responsive, responsible bidder, including reductions in scope, changes in quality, changes in quantity, value engineering, changes in terms and conditions, or changes in schedule.
  2. The purchasing manager shall advise the lowest responsive, responsible bidder, that the proposed purchase exceeds available funds. He shall further invite proposed measures, such as a reduction in scope, change in quality, change in quantity, value engineering, changes in terms or conditions, or changes in schedule for the proposed purchase, and invite the lowest responsive, responsible bidder to amend its bid based upon the proposed measures to bring the purchase within available funds.
  3. Informal discussions between the city and the lowest responsive, responsible bidder, either in person, by e-mail, by telephone, or by other means, may be used to attempt to obtain a contract within available funds.
  4. Following any successful negotiations, the lowest responsive, responsible bidder shall submit a proposed addendum to its bid, which addendum shall include the specific changes in the proposed purchase, the reduction in price, and the new contract value. The addendum shall be reviewed by the purchasing agency, and the purchasing manager for acceptability.
  5. If an addendum is acceptable to the city, the city may award a contract within funds available to the lowest responsive, responsible bidder based upon the amended bid proposal.
  6. If the city and the lowest responsive, responsible bidder cannot negotiate a contract within available funds, all bids shall be rejected.

- B. These procedures shall be deemed to be incorporated automatically in all Invitations to Bid issued by the city. However, the purchasing manager or designee(s) should ensure this section is set out in all Invitations to Bid.

## **Section 12. Debarment and Suspension.**

The purchasing manager may, in the public interest, debar individuals or firms for any of the causes in subsection A, using the debarment procedures in subsection B. The existence of a cause for debarment under subsection A, however, does not necessarily require that individuals or firms be debarred. The seriousness of the individual's or firm's acts or omissions showing non-responsibility; the ability and willingness of individuals or firms to promptly correct them; any mitigating factors; and the public interest should be considered in making any debarment decision. Debarment does not relieve the contractor from its responsibilities for existing obligations to the city.

- A. Causes for debarment. The purchasing manager may debar an individual or firm for any of the causes listed in paragraphs 1 through 4 following:

1. Conviction of or civil judgment of the firm or any of its principals within the last five years for:
  - a. commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public contract or subcontract;
  - b. violation of federal or state antitrust statutes;
  - c. commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or
  - d. commission of any other offense indicating a lack of moral or business integrity or business honesty that seriously and directly affects the present responsibility of a government contractor or subcontractor.
2. Violation of the terms of a government contract or subcontract, including but not limited to:
  - a. deliberate failure without good cause to perform in accordance with the terms of one (1) or more contracts; or
  - b. a history of failure to perform, or of unsatisfactory performance of, one (1) or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment.
3. Any other cause indicating that the individual or firm is not a responsible bidder or offeror as defined in Va. Code § 2.2-4301.
4. Violation of the ethical standards set forth in the Code of Virginia.

- B. Procedures for debarment. The following procedures governing the debarment decision-making process are designed to be as informal as practicable, consistent with principles of fundamental fairness:

1. Debarment shall be initiated by the purchasing manager, after coordinating with the city attorney, notifying the individual or firm by certified mail, return receipt requested, that debarment is being considered. This notice shall include:
  - a. The reasons for the proposed debarment in terms sufficient to place the individual or firm on notice of the circumstances upon which it is based;

- b. The procedures the individual or firm may take to examine evidence the city has supporting the proposed debarment;
  - c. The procedures the individual or firm may take to oppose the proposed debarment; and
  - d. The potential effect of the proposed debarment.
2. The individual or firm may submit to the purchasing manager, within ten (10) business days after receipt of notice, written information and argument to the proposed debarment, including any additional specific information that raises a genuine dispute over a material fact. The individual or firm may request a hearing in person, with counsel present, before the purchasing manager and city attorney.
  3. The purchasing manager, may in his discretion, hold a hearing in person with the individual or firm and the individual's or firm's attorney and take such other action on the debarment as the evidence and circumstances warrant.
  4. Debarment shall be for a period not to exceed three (3) years and a debarred individual or firm may be reinstated by the purchasing manager during the term of debarment at any time it is in the city's best interest.
- C. The purchasing manager may temporarily suspend from consideration for award of any city contract an individual or firm whom the city notifies that it is considering for debarment if the public interest so requires.
1. A notice of suspension, including a copy of such determination, shall be sent to the suspended prospective contractor. Such notice shall state that:
    - a. the suspension is for the period it takes to complete an investigation into possible debarment including any appeals of a debarment decision but not for a period in excess of three months; and
    - b. bids or proposals will not be solicited from the suspended prospective contractor, and, if they are received, they will not be considered during the period of suspension.
  2. The suspended prospective contractor may submit information and argument over the proposed suspension, and request a hearing in person, as with a proposed debarment.
  3. The suspended prospective contractor may appeal the suspension to circuit court as provided with debarments in this policy. If the suspended prospective contractor is also debarred and appeals the debarment, the appeal of the suspension and the appeal of the debarment will be consolidated as a single action.
- D. The purchasing manager shall maintain and update a list of debarred and suspended persons.

### **Section 13. Procedures for withdrawal of bid due to error.**

- A. To withdraw a bid after bid opening due to error, a bidder must satisfy the substantive requirements of Va. Code §2.2-4330. In addition, the following procedures shall apply:
1. The bidder shall give notice in writing of his claim of right to withdraw his bid within two (2) business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice.
  2. The mistake shall be proved only from the original work papers, documents and materials delivered as required herein. The work papers, documents and materials submitted by the bidder shall, at the bidder's request, be considered trade secrets or proprietary information subject to the conditions of subsection F of 2.2-4342 if, and only if, the bidder, at or before the time the work papers, documents and materials are delivered to the City, (a) designates all or part of the work papers, documents and

materials as trade secrets or proprietary information and (b) states the reasons why protection is necessary.

- B. This section shall be deemed to be incorporated automatically into all Invitations to Bid issued by the city. Nonetheless, the purchasing manager or designee(s) should ensure that this section is set out in all Invitations to Bid.

#### **Section 14. Adoption of procurement manual.**

The purchasing manager is authorized to establish and adopt procedures, which may be in the form of a procurement manual, to implement and supplement the provisions of this policy.

#### **Section 15. Delegations of procurement authority and responsibilities.**

- A. Subject to the restrictions in Section 15.C. city manager, purchasing manager and city attorney are delegated the authority by city council to take all actions for the city pursuant to this policy.
- B. Subject to the restrictions in Section 15.C. and to the procedures adopted by the purchasing manager pursuant to Section 14, the purchasing manager may delegate any of his duties and authority he has under this policy to other city officials and employees.
- C. The following authority may NOT be delegated:
  - 1. The purchasing manager's authority under Section 12 to take final action on a debarment.
  - 2. The authority given in Section 15.D. to sign contracts and contract modifications.
- D. The authority to commit the city is vested with the council and is delegated as follows:
  - 1. The city manager is authorized to sign all procurement contracts. The city manager is further authorized to sign contract modifications, however, no fixed price contract may be increased by more than twenty-five percent (25%) of the original contract amount or \$50,000, whichever is greater, without council approval.
  - 2. The purchasing manager is authorized to sign procurement contracts up to an estimated or actual amount not to exceed \$250,000. The purchasing manager is further authorized to sign contract modifications less than \$250,000, however, no fixed price contract may be increased by more than twenty-five percent (25%) of the original contract amount or \$50,000, whichever is greater, without council approval.
  - 3. Purchasing Card (Pcard) holders are delegated individual levels of purchasing authority, up to the cardholder's limits, recommended by the cardholder's department director and approved by the Finance Director for the procurement of goods and services as described in the Purchasing Card Procedures in the procurement manual.
- E. All personnel delegated purchasing authority shall be responsible for using that authority in conformance with this policy.
- F. All contracts shall be reviewed and approved by the city attorney as per Policy Statement P-99-08 before signature by the delegated authority.
- G. The city manager may place such conditions and restrictions deemed appropriate on the exercise of any authority granted to the purchasing manager by this policy and on the exercise of any authority delegated by the purchasing manager to any city official or employee pursuant to this policy.

H. Nothing in this Section 15 shall be construed as granting authority to any person to incur any contract obligation on behalf of the city beyond appropriations available for that purpose or otherwise beyond an individual's authority.

**Section 16. Severability.**

If any provision of this policy or any application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this policy that can be given effect without the invalid provision or application, and to this end, the provisions of this policy are declared to be severable.