

SPECIAL MEETING
APALACHICOLA CITY COMMISSION
TUESDAY, JUNE 21, 2022 – 4:00PM
BATTERY PARK COMMUNITY CENTER
1 BAY AVE., APALACHICOLA, FLORIDA 32320

Agenda

You are welcome to comment on any matter under consideration by the Apalachicola City Commission when recognized to do so by the Mayor. Once recognized please rise to the podium, state your name for the record and adhere to the three minute time limit for public comment. Comments may also be sent by email to the City Manager or to Commissioners.

I. Call to Order

II. Public Comments

III. Contract Approvals

- **Gouras and Associates**
- **Cindy Clark**
- **WastePro**

IV. Procurement Policy Approval

V. Adjournment

Any person who desires to appeal any decision at this meeting will need a record of the proceeding and for this purpose, may need to ensure that a verbatim record of the proceeding is made which includes testimony and evidence upon which the appeal is based. Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's Office 48 hours in advance of the meeting.

**APALACHICOLA CITY COMMISSION
REQUEST FOR BOARD ACTION
Meeting Date: 6/21/22**

SUBJECT: CDBG-DR Projects – Grant Services Award Recommendation

AGENDA INFORMATION:

Agenda Location:

Item Number:

Department: Grants

Presenter: Travis W./Mark G.

BRIEF SUMMARY:

City issued an RFP for Grant Consult services 5/12/22 – 6/3/22 for several grant initiatives, mainly including our multiple CDBG-DR efforts. (The Hill, Riverfront, etc.) The City went through this process previously, but they were not procured correctly due to the length of advertisement times. Gouras & Associates is the award recommendation of City staff.

RECOMMENDED MOTION AND REQUESTED ACTIONS: Motion to approve award to Gouras & Associates for the City of Apalachicola CDBG-DR grant consulting services.

FUNDING SOURCE: Covered within CDBG-DR funding of projects.

ATTACHMENTS: No attachments – full bid documents are large and are available for viewing at City Hall.

STAFF'S COMMENTS AND RECOMMENDATIONS: Approve award recommendation to Gouras & associates.

**APALACHICOLA CITY COMMISSION
REQUEST FOR BOARD ACTION
Meeting Date: 6/21/22**

SUBJECT: Resilient FL Grant Consult Award Recommendation

AGENDA INFORMATION:

Agenda Location:

Item Number:

Department: Grants

Presenter: Travis W./Mark G.

BRIEF SUMMARY:

City issued an RFP for Grant Consult services 5/12/22 – 6/3/22 for several grant initiatives, including grant writing and project management services.

RECOMMENDED MOTION AND REQUESTED ACTIONS: Motion to approve award to Bay Media Services, LLC. for the DEP Resilient Florida FY 21-22 program project: Update of Vulnerability Analysis and Flood and Stormwater Adaptation.

FUNDING SOURCE: Covered within project funding. (\$72,500)

ATTACHMENTS: No attachments – full bid documents are large and are available for viewing at City Hall.

STAFF'S COMMENTS AND RECOMMENDATIONS: Approve award recommendation to Bay Media Services LLC.

Professional Services Agreement

The City of Apalachicola hereby engages Bay Media Services, LLC to assist in grant management relating to the DHR Grant #21.h.fh.900.006 and DHR Grant #21.h.fh.900.018 in accordance with the following:

1. Bay Media Services shall provide the City with up to 357 hours at a rate of \$70 per hour, not to exceed the project budget amount of \$25,000 for the assistance in the planning, budgeting, scheduling, expediting, coordinating and supervision necessary for the timely execution of the project by all workpeople, suppliers of materials, contractors, subcontractors and others supplying materials for services to the Project. Bay Media Services, LLC shall assist in the completion of all project reporting requirements for the State in accordance with grant requirements.
2. This agreement will become effective _____ .
3. The contractor will not discriminate against any employee under this agreement or against any applicant for employment for race, color, religion, gender, national origin, age, pregnancy or handicap or marital status.
4. The City hereby indemnifies and holds harmless Bay Media Services, LLC from all debts, claims and liabilities incurred in the performance of the functions under the Agreement, provided that such functions are carried out within the scope of its authority. Further, Bay Media Services, LLC shall be specifically named in the City's liability policy as a professional services provider with liability protections afforded from the City.
5. Payment schedule shall be monthly with supporting documentation from Bay Media Services, LLC for hours and expenses.

Dated this _____ day of, _____ 2022.

Owner: Bay Media Services, LLC

Travis Wade, City Manager
City of Apalachicola

**APALACHICOLA CITY COMMISSION
REQUEST FOR BOARD ACTION
June 21, 2022**

SUBJECT: ITN 2022-1 - SOLID WASTE COLLECTION AGREEMENT

AGENDA INFORMATION:

Agenda Location: New Business
Item Number:
Department: Utilities
Contact: Travis Wade/Dan Hartman
Presenter: Dan Hartman/Travis Wade

BRIEF SUMMARY:

The City received two responses to its ITN-2022-1. The responses received were from WastePro (Existing provider) and WasteOne. WastePro was the initial selected bidder based upon the scoring criteria. As a result the City Manager and Attorney engaged in negotiations with WastePro which have resulted in the draft Agreement attached.

Special attention should be given to the rate sheet found at Exhibit A, rate adjustment provisions, terms of yard waste pickup and location of pickup service.

RECOMMENDED MOTION AND REQUESTED ACTIONS:

Should the Agreement meet with the Approval of the Commission a Motion to approve the Agreement, and authorize the Mayor to sign on behalf of the City.

FUNDING SOURCE:

N/A

ATTACHMENTS: (see attached Agreement and Exhibit A)

STAFF'S COMMENTS AND RECOMMENDATIONS:

Approve

CITY OF APALACHICOLA SOLID WASTE COLLECTION AGREEMENT

This Agreement made and entered into on this ____ day of June, 2022 by and between the City of Apalachicola, Florida, hereinafter referred to as "City.", and WastePro of Florida, Inc., hereinafter referred to as "Contractor."

WITNESSETH:

WHEREAS, the City is desirous of securing the services of the Contractor to operate a waste collection and hauling service for the City; and

WHEREAS, the Contractor desires to provide the operation of a waste collection and hauling service for the City;

NOW, THEREFORE, FOR AND IN CONSIDERATION of the respective covenants herein contained, the parties agree as follows:

Section 1. COMMENCEMENT OF WORK

The refuse collection and hauling work outlined in this Agreement shall commence no later than June 30, 2022.

Section 2. TERM

The initial term of the Agreement shall be for a period beginning July 1, 2022, and terminating June 30, 2027, with the option by the parties to renew for two additional five (5) year periods on the following terms. This Agreement shall be eligible for renewal under the following conditions. Contractor shall provide written Notice 180 days prior to the termination of the initial or any renewal term of its desire to renew the Agreement for an additional five (5) year period. The City shall confirm receipt of the Notice and the parties may enter into an amendment extending the term of this Agreement for a period of five (5) years on mutually agreeable terms and conditions.

Either party may provide written notice by certified mail, return receipt requested of intent not to renew at least 180 days prior to the end of the initial term or any renewal term.

Section 3. DEFINITION OF TERMS

3.1 Biohazardous Waste. Shall mean any solid waste or liquid waste, which is defined as biohazardous pursuant to Chapter 17-7, F.A.C.

3.2 Commercial Service Shall herein refer to the service provided to business

establishments, City owned property, churches, schools, Multiple Dwelling Units, office buildings, industrial facilities and other commercial establishments.

3.3 Commercial Trash. Shall mean any and all accumulations of paper, rags, excelsior or other packing materials, wood, paper or cardboard boxes or containers, sweepings, and any other accumulation not included under the definition of Garbage, generated by the operation of stores, offices, other business places and non-residential property.

3.4 Construction and Demolition Debris. Shall mean materials defined as such from time to time by the Department and Chapter 17-7, F.A.C.

3.5 Agreement. Shall mean this Agreement and the attached Exhibit(s).

3.6 Contractor. Shall mean WastePro of Florida, Inc.

3.7 Department. Shall mean the Florida Department of Environmental Regulation.

3.8 Disposal Costs. Shall mean the "tipping fees" or other costs charged to the Contractor during the contract term for disposal of the Refuse collected in the City by Contractor.

3.9 Front Door. Shall mean any physical location for the placement of Solid Waste Containers, intended or residential service collection and disposal, on the customer's property that is Curbside and accessible to the Contractor for collection. Accessible means not inside an enclosure or fenced area. Customers are responsible for placing containers curbside in an accessible location prior to collection.

3.10 Garbage. Shall mean all kitchen and table food waste and/or animal or vegetative waste that is attendant with or results from the storage, preparation, cooking, or handling of food materials; and any bottles, cans or other containers, utilized in normal household use, which due to their ability to retain water, may serve a breeding place for mosquitoes and other insects.

3.11 Garbage Receptacle. Shall mean a Contractor owned and provided 96-gallon rollout cart, or such other receptacle approved by the City and Contractor.

3.12 Garden and Yard Trash. Shall mean vegetative matter resulting from residential *yard* and landscaping maintenance and shall include materials such as tree and shrub trimmings, grass clippings, palm fronds, or small tree branches formed into a maximum 4' x 8' pile. Any pile larger than 4' by 8' will not be collected. Customers may negotiate directly with Contractor for collection of larger piles of Garden and Yard Waste.

3.13 Hazardous Waste. Shall mean any solid waste, (even though it *may* be part of a delivered load of waste) which:

(a) Is required to be accompanied by a written manifest or shipping document describing the waste as "Hazardous Waste", pursuant to any state or federal law, including, but not limited to, the Resource Conservation and Recovery

Act, 42 USC

7901, et seq. *as* amended and the regulations promulgated thereunder; or

(b) contains polychlorinated biphenyls or any other substance the storage, treatment or disposal of which *is* subject to regulation under the Toxic Substances Control Act, 15 USC 2601, et seq. *as* amended and the regulations promulgated thereunder; or

(c) contains a "reportable quantity" of one or more "Hazardous Substances", *as* defined in the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC 9601, et seq. *as* amended and regulations promulgated thereunder or *as* defined under Florida Administrative Code Section 17-7.020(24) and regulations promulgated thereunder; or

(d) contains a radioactive material the storage or disposal of which is subject to state or federal regulation.

3.14 Household Trash. Shall herein refer to accumulations of paper, magazines, packaging, containers, sweepings, jars, bottles, cans, rags, dust and all other accumulations of a nature other than Garbage or Garden and Yard Trash, which are usual to housekeeping and to the operation of residences, Special Waste, furniture, White Goods, and construction material *is/ are* Household Trash,

3.15 Landfill. Shall mean any solid waste land disposal area for which a permit, other than a general permit, is required by a state government, that receives solid waste for disposal in or upon land other than a land-spreading site, injection well, or a surface impoundment.

(a) Mechanical Container. Shall mean and include any detachable metal container designed or intended to be mechanically dumped into a loader/packer type of garbage truck used by the Contractor.

3.16 Multiple Dwelling Units. permanent living units, not including Container(s). Shall mean any building containing two (2) or more motels and hotels, which is serviced by mechanical

3.17 City. Shall mean City of Apalachicola.

3.18 Recyclable Materials. Shall mean any newspaper, cardboard, plastic, aluminum and other commercially viable recyclables as designated by Contractor that are generated within the Service Area.

3.19 Refuse. Shall mean Garbage, Commercial Trash and Household Trash. Construction and Demolition Debris, Garden and Yard Trash, Hazardous Waste, Biohazardous Waste and Special Waste are excluded.

3.20 Residential Service. Shall herein refer to the Refuse, Garden and Yard Trash collection service provided to persons occupying dwelling units within the designated area who are not receiving Commercial Service.

3.21 Service Area. Shall mean the *City* and any areas subsequently incorporated into the City by annexation.

3.22 Special Waste. Shall mean solid wastes listed in Exhibit attached hereto.

3.23 White Goods. Includes inoperative and discarded refrigerators, ranges, water heaters, freezers, small air conditioning units, and other similar domestic and commercial large appliances.

Section 4. GRANT OF RIGHT: GENERAL CONDITIONS

4.1 Contractor Duties. The Contractor shall provide in the manner set forth herein Garbage, Household Trash, Garden and Yard Trash and Commercial Trash collection and hauling services within the Service Area. The Contractor shall have the capacity to provide Solid Waste Collection and hauling service to the disposal site following emergencies such as hurricanes, storms, etc. In the event of an emergency, collection services may be scheduled at times not otherwise permitted provided the Contractor has received permission from the City.

4.2 Independent Contractor. Contractor shall be an independent contractor and shall provide, at his own expense, all labor, insurance, supervision, machinery and equipment, plant building, trucks and any other tools, equipment, accessories and things necessary to provide the service required herein. Contractor shall be in no respect an agent, servant or employee of the City of Apalachicola. Contractor shall be required to pay all federal, state and local taxes, license taxes, social security taxes and taxes of any kind which may be chargeable against the labor, material, equipment or other necessary items in the performance of this contract and shall be required to obtain an occupational license from the City.

4.3 Spillage. Contractor shall not litter or cause any spillage to occur upon the premises or the rights-of-way wherein the collection shall occur. Contractor may refuse to collect any Refuse that have not been placed in a receptacle, as provided herein.

4.4 Disposal Site. All Refuse shall be hauled a Site of the Contractors choice, or such Landfill or other disposal site as may be determined. The site must meet state and federal regulatory requirements.

4.5 Initiation of Service. Initiation of residential or commercial service for which the rates are controlled by this Agreement may be made by contacting the Contractor or the City.

4.6 Extraordinary Events. In the event garbage and trash levels rise above normal levels due to, without limitation, hurricanes, floods, fires or the like, and Contractor is required to remove and/or dispose of said garbage and trash, then Contractor and City hereby agree to negotiate a special fee for such above normal services to be provided by Contractor.

4.7 Bulky Waste and White Goods. Contractor shall provide by separate agreement for collection and price with the resident or business requiring such, collection and disposal of Bulky Waste and White Goods.

4.8 Disaster Preparedness Plan. In the event of a hurricane, tornado, major storm, or other natural disaster, the Contractor may be required to obtain additional equipment, employ additional personnel or work employees overtime hours to clean up resulting debris. To prepare for such events, the Contractor shall provide the City's Authorized Representative with a Disaster Preparedness Plan or an update of the prior year's approved plan by October 1 of each year, which is subject to the approval of the City. The Disaster Preparedness Plan shall include plans for securing additional personnel and equipment and proposed rates for collection services associated with the cleanup of natural disasters or other emergencies. Contractor shall provide services during declared Presidential/FEMA emergencies when requested by the City. Contractor will be compensated for such services, according to the rate schedule approved by the City in the Disaster Preparedness Plan, provided the Contractor's invoices are prepared in accordance with FEMA guidelines.

4.9 Quality of Service.

(a) Contractor shall be responsible for providing high quality service to both its residential customers and the City. The Contractor shall coordinate with the City to ensure that high quality service is maintained throughout the term of this Contract.

(b) Contractor's employees shall make collections with minimum noise and disturbance to residents, shall provide service with as little disturbance to residents as possible, shall be courteous at all times, and shall not use loud or profane language.

(c) Contractor shall exercise all reasonable care and diligence in the collection process. Contractor containers shall be thoroughly emptied and returned to the proper point of collection, unless otherwise permitted by the City.

(d) Contractor's employees shall follow established walkways for pedestrians while on private property, shall not trespass or loiter on private property, shall not cross property lines to the adjoining property, and shall not disturb or tamper with property not connected with their contractual duties.

(e) Contractor shall not litter or cause any spillage to occur on the premises, on the right-of-way, or in transport. During transport, all collected Solid Waste, Recyclables, and Yard Waste shall be contained, tied, or enclosed so that leaking, spilling, or blow-off does not occur. In the event of spillage or leakage caused by the Contractor, the Contractor shall promptly clean up all spillage or leakage at no cost to the City.

(f) Contractor shall be cognizant of all existing Utilities, operate with due care in the vicinity of such Utilities, and promptly repair or have repaired at no cost to the City or to the property owner and damage caused by its operations. If such repairs are made by or at the direction of the City or property owner, the Contractor shall reimburse the City or property owner for such repairs.

(g) Contractor shall provide all services as to avoid damage to adjacent private or public property, shall promptly respond to all complaints relating to such damage, and, within reasonable time but in no event more than five (5) days after notice to the Contractor (unless otherwise authorized by the City), shall repair or pay for any damaged caused by its operations.

(h) All vehicle operators shall carry a valid commercial driver's license (CDL).

4.95 Complaints

(a) To provide high quality collection services to the residents of the City, the Contractor shall promptly resolve all complaints received by the Contractor, either directory or by referral from the City, within the time limits specified in this Contract.

(b) Contractor shall utilize software that is compatible with the City's CIS system to receive customer complaints from the City.

(c) Contractor shall designate and provide the City with appropriate contact information, including cell phone number, for a contact person who is available during all normal business hours. If such contact person will be unavailable for any period of time, the Contractor shall designate an alternate contact person for that period of time. This contact person shall be authorized to act at the City's request in response to emergencies or circumstances requiring immediate action.

(d) Service quality will in part be measured by the number and nature of complaints received from the Contractor's customers. Any complaints received directly by the Contractor, from residential customers or from the City, shall be reported to the City by the end of each business day on a form approved by the City, which shall include the following information:

- (1) Customer's name, address and phone number;
- (2) Route number and truck number assigned to complaint address;
- (3) Type of service involved;

- (4) Nature of the complaint;
- (5) Date and time complaint was received;
- (6) Date and time problem occurred;
- (7) Action taken by Contractor;
- (8) Date and time the complaint was resolved; and
- (9) Name of person who resolved the complaint.

(e) All complaints shall be resolved by the next business day after being received by the Contractor unless a different time limit is specified in this Contract, When a complaint is received on a Saturday or the day preceding a holiday, it shall be resolved by the Contractor no later than the next business day.

(f) Contractor shall provide the City with a full written explanation of the disposition of any complaint involving a claim of damage to private or public property as a result of action of the Contractor's employees, agents, or subcontractors.

Section 5. RESIDENTIAL COLLECTION SERVICE

5.1 **Duties.** Contractor shall collect and dispose of all Refuse and garden and yard trash except Special Waste, Hazardous Waste, Construction and Demolition Debris, White Goods and Bio-Hazardous Waste from all single family homes, Multiple Dwelling Units and mobile homes in the Service Area. Contractor shall pick up garbage one day per week and garden and yard trash and household trash one day per week.

5.2 **Frequency of Collection.** Contractor shall collect Refuse and garden and yard trash from places of residence within the Service Area once per week. Initially, the Contractor will notify the Town of the collection day. After the initial service day is established, the Contractor will not change the day of service without prior written notification to and written consent from the City.

5.3 **Point of Pickup or Residential Refuse.** Collection of residential Refuse shall be in the alley ways except in areas where an alleyway does not exist or is not utilized in which case service shall be provided at curbside or on street right-of-ways as selected by the City. Special consideration will be given to persons not able to roll their Garbage Receptacle to the standard pickup location and where the City determines that because of health, safety or welfare concerns as to an individual unit or areas along streets or alleys. In addition, service will be done in streets or rights-of-way at the curb of City as designated by the City.

5.4 **Handicap Persons Service:** The Contractor shall provide Front door residential service to handicapped persons at regular curb side rates upon the customer providing to the Contractor, on a form prepared by the Contractor, the same proof of handicapped status as required by Section 320.0848(1) (a), Florida Statutes, or as otherwise required by the Contractor, and certifying that no able-bodied person resides in the household. Yard trash will be picked up curbside at such premises as directed by the City.

5.5 Maintenance of Carts The Contractor agrees to provide and maintain 96 gallon carts for residential and small commercial customers during the term of this agreement.

Section 6, COMMERCIAL COLLECTION SERVICE

6.1 Duties. Contractor shall collect and dispose of Refuse and Garden and Yard Trash from or generated by any commercial or industrial use, and any use not included within residential service. City will also bill Commercial Services directly to the customer. City shall be allowed to bill additional amounts over the charges by Contractor for Commercial Collection service.

6.2 Frequency of Collection. Commercial waste not in residential areas may be collected at any time except on holidays and collection shall be available by Contractor in sufficient frequency to prevent containers from becoming overloaded.

6.3 Point of Pickup of Commercial Refuse. Commercial Refuse customers shall accumulate Refuse at locations that are mutually agreed upon by the customer and Contractor.

6.4 Method of Collection of Commercial Refuse. Contractor shall make collections with as little disturbance as possible. Any Refuse spilled by Contractor, or spilled as result of Contractor missing a-pick-up, shall be picked up promptly by Contractor, unless spillage is caused by overloaded containers not caused by failure of contractor to pickup and dispose of the same in which case the customer shall be responsible for picking up the spillage.

6.5 Exclusions. Special Waste, Hazardous Waste, Biohazardous Waste, Construction and Demolition Debris, White Goods are excluded from Contractor's obligation to collect and dispose of Commercial Refuse.

6.6 City Service. Notwithstanding any other provision to the contrary, the Contractor shall provide free regular service to the City of Apalachicola and its agencies and subdivisions. The City shall reimburse Contractor for all disposal costs relating to providing City service limited to the amounts actually charged to Contractor by the applicable disposal facility.

Section 7. SCHEDULES AND ROUTES

7.1 Schedules. Contractor shall provide City with schedules for all residential collection routes.

7.2 Holidays. Contractor **will** not provide service on the following holidays: New Years Day, Fourth of July, Thanksgiving and Christmas. If the regular collection day falls on any of the aforementioned holidays, Contractor shall collect the Refuse on the next day, or the soonest day as the City allows.

7.3 Hours. Collection shall be made in residential areas no earlier than 6:00

A.M. and no later than 6:00 P.M., Easter Time, with no service on Sunday, except in time of emergency or to maintain schedules due to holidays. No collection service shall occur on the following holidays: New Years Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Such pick up hours may be altered under special circumstances by the City.

Section 7.5. COLLECTION EQUIPMENT AND PERSONNEL

7.5.1 The Contractor shall be responsible for the furnishing of all labor, equipment and supplies necessary to provide garbage, trash, and refuse service to the residents of the City of Apalachicola and commercial establishments therein which are necessary to adequately and efficiently perform its duties hereunder.

7.5.2 Supervision. The supervision of solid waste collection shall be by competent and qualified personnel. The Contractor shall provide sufficient personnel, time and attention to direct sanitation services under this agreement so as to insure satisfactory performance.

7.5.3 Uniforms. The Contractor's collection personnel shall wear a uniform bearing the Contractor's name and the name of the employee. Such identification shall be easily visible to the public.

7.5.4 Cover. During conveyance by the Contractor, all solid waste shall be contained, tied or enclosed so that spilling and blowing is prevented.

7.5.5. Body. The body of all collection vehicles shall be sufficiently secure so as to prevent any leakage of fluid prior to unloading at the disposal site. The vehicle shall have an enclosed cab, well located hand holds, adequate door fastenings, hydraulic unloading capabilities and ample racks or supports for tools, containers and other equipment.

7.5.6 Designation. All collection vehicles shall be painted uniformly. The Contractor's name and business telephone number shall be painted uniformly on both sides of each vehicle.

7.5.7. Parking. The Contractor's collection vehicles shall not be parked in residential areas except for loading.

Section 8. SPECIAL WASTE COLLECTION

Contractor may offer Special Waste collection and disposal services to customers in the Service Area upon terms and conditions acceptable to Contractor and the customer generating the Special Waste.

Section 9. CONTRACTOR'S OFFICE

The Contractor shall provide at its expense, a suitable office located in Franklin County with a local telephone number as to Apalachicola where any complaints shall be received, recorded and handled during normal working hours of each week and shall

provide for prompt handling of emergency complaints and all other special or emergency complaints or calls. Contractor shall keep a record of all complaints received and the disposition thereof for a period of one year after receipt and shall provide a copy of the same monthly to the City and City further shall have the right to review Contractor's records regarding the receipt and handling of complaints.

Section 10. PAYMENT AND BILLING

10.1 Billing. The City shall pay to the Contractor the amount per Residential, Multi-family and Commercial customer as agreed herein for collection and hauling services at the rates set forth in the Rate Sheet attached as Exhibit "A" beginning on the effective date of this Agreement. Said monies shall be paid to Contractor for each month of service in a lump sum on or before thirty (30) days after the end of the month for which service was provided by Contractor.

10.2 Adjustments to Rates.

(a) Changes in Collection Price. Compensation payable to Contractor for all solid waste services hereunder shall be adjusted upward or downward as follows:

Ninety percent (90%) of the rate shall be adjusted based on one hundred percent (100%) of the percentage change in the Consumer Price Index (CPI) and Ten percent (10%) of the rate shall be adjusted based on the percentage change in the Diesel.

CPI Adjustment: Beginning on July 1, 2023 and the rate shall be adjusted annually based on the percentage change in the Consumer Price Index between the month of May in the previous year and the month of May in the current year. Contractor will utilize the Consumer Price Index for the Urban Wage Earners and Clerical Workers (CPI-W), published by the United States Department of Labor, Department of Labor Statistics.

Fuel/Diesel Adjustment:

Fuel adjustment: Beginning of October 1, 2022, the rate will be adjusted quarterly by the Lower Atlantic (PADD IC) No. 2 Diesel Ultra Low Sulfur (0-15 ppm) Retail Prices (Cents per Gallon), U.S. Department of Energy, Energy Information Administration. Contractor will utilize the most recent published price index.

If the Consumer Price Index or Fuel Index is discontinued or substantially altered, the County may select another relevant price index published by the United States Government or by a reputable publisher of financial and economic indices.

(b) Change in Law. The compensation shall be increased or decreased to offset the change in costs of Contractor as a result of direct increases or decreases in costs

of operations resulting from changes in federal, state or local environmental or other law or regulation which changes affect operations on or after the date hereof concerning the receipt, handling, transportation, or disposal of solid waste pursuant to this Agreement. No change shall be allowed hereunder for increases due to increases in income taxes or increases already compensated for pursuant to 10.4(a).

(c) Change in Disposal Site. Should the City designate a disposal site other than the choice of the Contractor, the Contractor shall be entitled to an equitable adjustment in rates to take into consideration distance, tipping fees, transportation costs, time and other relevant factors. Contractor shall provide City with supporting documentation for such adjustment and City shall respond to such claim within 30 days of receipt of it.

d) Change in Disposal Cost The parties recognized that, from time to time, the actual Disposal Cost charged to Contractor for disposal of residential solid waste pursuant to this agreement can change. In the event such a change in Disposal Costs occurs, the collection rates shall be adjusted to compensate the Contractor for the actual change in Disposal Costs. Decreases in Disposal Cost shall be cause for a like dollar decrease in collection rates. Adjustments to the per unit rate will be based on each resident generating 1.0 tons of Refuse per year. The density of commercial service shall be 100 lbs per cubic yard.

e) Contract Prices. The contract prices are contained in Exhibit "A" of this agreement and are subject to change only as provided herein.

Section 11. PRESENTATIONS AND WARRANTIES OF CONTRACTOR

Contractor makes the following representations and warranties:

11.1 Organization, Power and Authority. Contractor is a corporation duly organized and validly existing under the laws of the State of Florida, with full corporate power and authority to enter into this Agreement and perform its obligations hereunder.

11.2 Due Authorization: Binding Obligation. The execution, delivery and performance of this Agreement and all other agreements contemplated hereby and the consummation of the transactions contemplated hereby have been duly authorized by all necessary corporate action on the part of Contractor. This Agreement has been duly executed and delivered by Contractor and is a valued and binding obligation of Contractor enforceable in accordance with its terms.

Section 12. DEFAULT

If the Contractor fails to collect the solid waste materials herein specified during a period in excess of five (5) consecutive, working days (Monday through Friday) or fails to operate in a satisfactory manner in accordance with this contract, upon similar period, the City may declare Contractor in default and may move as follows and any action taken shall be deemed taken with the permission, authority and consent of Contractor and said permission is hereby irrevocably granted (provided such failure is not due to war insurrection, riot, act of God, strikes or any other causes beyond the Contractor's control):

- 1) if all consequences thereof not be corrected and eliminated within an additional two (2) days, take over and operate any or all of the Contractor's equipment used in the performance of this contract and said permission is hereby irrevocably granted by the Contractor for the City to do so, and
- 2) use and operate the same itself until such matter is resolved and the Contractor is again able to carry out his operation under this contract, but in no event shall such time period exceed sixty (60) calendar days from the date on which the City first takes over any of Contractor's equipment. Any and all operating expenses incurred by the City in so doing shall be reimbursed by the Contractor or the City shall make claim against the Contractor's performance bond or at its option deduct the monies from that to be paid Contractor hereunder. The City at its option may also
- 3) take legal action necessary to assume operation of the system using funds made available through the performance bond provided below and such other monies as may be paid to the City for collection of garbage and trash. Termination pursuant to the terms of this agreement shall not relieve the Contractor from paying any damages incurred by the City by reason of any breach of this agreement or default by the Contractor, provided, however, that the Contractor shall in no event be liable for damages not caused by it. It is understood by the parties hereto that title to Contractor's equipment will at all times remain fully vested with Contractor.

The occurrence of any of the following, without limitation, shall constitute a default by the Contractor:

(a) Material failure to comply with any of the terms or conditions of any Contract with the City or any amendments thereto, except for noncompliance issues addressed through liquidated costs, as applicable, pursuant to this Agreement.

(b) The filing of a voluntary petition under Federal Bankruptcy Code for consenting to the appointment by a court of a receiver or trustee of all or a substantial portion of the property or business of the Contractor, or the making by the Contractor of any arrangements with or for the benefit of its creditors involving an assignment to a trustee, receiver, or similar fiduciary, regardless of how discounted, of all or a substantial portion of the Contractor's properties or business.

(c) Final adjudication of the Contractor as bankrupt after the filing of any involuntary petition under the Bankruptcy Code. No such adjudication is final unless and until the same is no longer being contested by the Contractor or until an order or adjudication can no longer be appealed.

(d) Material failure to comply with any local, state or federal environmental regulation pertaining to the collection of Solid Waste, Recyclables, Yard Waste, Bulky Waste or White Goods.

In the event of a default by the Contractor and failure to cure such default within thirty (30) days following receipt of written notice to such default from the City, the City, without further notice, shall have the right to declare such Contract, together with all the rights granted the Contractor thereunder, terminated. By terminating the Contract or by pursuing other remedies as set forth herein, the City shall not be deemed to have waived any rights to relief that it may otherwise have under applicable law.

12.1 Governing Law.

All titles or subtitles appearing herein have been inserted for convenience and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof, The language of this Contract shall be construed according to its fair meaning, not strictly for or against the City or Contractor. The singular shall include the plural; use of feminine, masculine, or neuter genders shall be deemed to include the genders not used. This Contract shall be construed and governed by the laws of the State of Florida, any legal action related to this Contract must be brought in a court of appropriate jurisdiction in Franklin County, Florida and each party hereby consents to the transfer of venue to such county in any action not so filed.

Section 13. PERMITS AND LICENSES

Contractor shall obtain, at its own expense, all permits and licenses required by law or ordinance and maintain the same in full force and effect and shall obtain a license from the City of Apalachicola.

Section 14. INSURANCE REQUIREMENTS AND PERFORMANCE BOND

14.1 Certificate. During the life of this Agreement, Contractor shall procure and maintain insurance of the types and to the limits specified below. Contractor shall provide City with a certificate to insurance evidencing the required coverage and naming the City as an additional insured on all but the Workers' Compensation coverage. Cancellation or modification of said insurance shall not be effected without third (30) days prior written notice to City. Contractor shall require each of its subcontractors to procure and maintain, until completion of that subcontractor's services, insurance of the types and to the limits specified below, unless the subcontractor's work is covered by the protection afforded by Contractor's insurance. It shall be the responsibility of Contractor to ensure that all its subcontractors comply with all of the insurance requirements contained herein relating to such subcontractors.

Except as otherwise stated, the amounts and type of insurance shall conform to the following minimum requirements and shall be as set forth in the attached Certificate of

Liability Insurance of Contractor along with coverages required by this Agreement, if any.

14.2 Workers' Compensation. Contractor shall provide and maintain during the life of this Agreement, at his own expense, Workers' Compensation Insurance coverage to apply for all employees for statutory limits in compliance with the applicable state and federal laws. In addition, the policy must include employers' liability insurance with a limit of \$1,000,000 each accident.

14.3 Comprehensive General Liability, Contractor shall provide and maintain during the life of the Agreement, at his own expense Comprehensive General Liability and shall have City as additional insured. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability Policy filed by the Insurance Services Office and must include:

Minimum limits of \$1,000,000 per occurrence combined single limit for bodily injury liability and property damage liability, a general aggregate of \$2,000,000, and product liability of \$1,000,000.

Premises and/or operations.
Independent contractors.
Products and/or completed operations.

14.4 Business Automobile Policy. Contractor shall provide and maintain during the life of the Agreement, at his own expense, Comprehensive Automobile Liability Insurance. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Auto Policy filed by the Insurance Services Office and must include:

Minimum limits of \$100,000,000 per occurrence combined single limit for bodily injury liability and property damage liability and \$2,000,000 general aggregate.

Hired and non-owned vehicles.
Employer's non-ownership.

14.45 Environmental Liability Insurance.

\$1,000,000 limit per occurrence for property damage and personal injury, for clean up, disposal, and transportation of solid and hazardous materials. Coverage shall also extend to bodily injury and property damage resulting from or arising in any way from solid and hazardous waste material.

14.46 All Coverage Provisions.

- (a) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the City Contract Administrator.
- (b) If Contractor, for any reason, fails to maintain insurance coverage which is required pursuant to this Contract, the same shall be deemed a material

breach of Contract. City, at its sole option, may terminate this Contract and obtain damages from the Contractor resulting from said breach.

- le) Alternatively, City *may* purchase such required insurance coverage (but has no special obligation to do so), and without further notice to Contractor, City may deduct from sums due to Contractor any premium costs advanced by City for such insurance.

14.5 Contractor shall provide City with a performance bond in an amount equal to the estimated annual contract price. The form of the bonds shall be in accordance with Section 255.05 of Florida Statutes.

(a) Within fifteen days following the signing of this Contract, Contractor must furnish the City and shall maintain during the term of this Contract, including any extensions thereof, the above referenced performance bond security to guarantee the faithful performance by the Contractor of the requirements of this Contract. Such bond shall be furnished and shall be issued in a form and by a surety acceptable to the City such acceptance to be determined at the sole discretion of the City.

(b) Such security may be issued for a period shorter than the term of the Contract, but no less than one year. If a bond is issued, it may be extended by continuation certificate executed by the Surety, at the option of the Surety for an additional annual term. Neither non-continuation by the Surety, nor failure, nor inability of the Contractor to file acceptable replacement security shall constitute a loss recoverable under the bond. Failure of the Contractor to furnish and maintain adequate security shall be considered a material default by the contractor, but not the surety.

(c) In the event of a default under this provision by the Contractor, the City, without terminating the Contract and in addition to other equitable, legal, and contractual remedies available to it, may withhold further payment for services until such time as security meeting the requirements of this Section is delivered by the Contractor and accepted by the City.

Section 15. BOOKS AND RECORDS

City shall have the right upon reasonable notice to inspect and review Contractor's books and records regarding Contractor's performance of services hereunder, City shall maintain such records in a confidential manner to the extent permitted by law.

Section 16, NOTICES

Notice sent certified mail return receipt requested to a party at its business address shall be sufficient notice whenever required for any purpose under the Agreement.

All notices required to be given pursuant to the terms of this agreement shall be

given at the following address: Contractor: 316 Commerce Circle, Midway, Florida 32343; City: City of Apalachicola, City Hall, P.O. Box 10, Apalachicola, Florida 32320, No notice or change of address shall be effective unless such notice is in writing and sent to the other party at the address set forth herein; otherwise, notices to either party at the address herein stated shall constitute lawful notice under the provisions of this contract. All notices shall be sent by certified or registered mail, return receipt requested.

Section 17. SEVERABILITY

If any provisions of the Agreement shall be declared illegal, void or unenforceable, the other provisions shall not be affected but shall remain in full force and effect.

Section 18. BANKRUPTCY

It is agreed that if the Contractor shall file a petition for bankruptcy or be adjudicated bankrupt, voluntarily or involuntarily, then this contract shall at the opinion of the City terminate effective on the date and at the time bankruptcy petition is filed, provided that the Contractor shall continue to be entitled to payment for any services rendered properly hereunder while not in default.

Section 19. LAWS AND REGULATION. COMPLIANCE

The Contractor shall abide by all existing applicable federal, state and municipal laws and regulations applicable to this contract and this contract shall be created and to be enforced by Franklin County, Florida, and any suit filed regarding this agreement shall be brought and maintained in Franklin County.

Section 20. HOLD HARMLESS AND IDENTIFICATION

Each of the parties to the agreement agreed that the City, its commissioners, officers, agents and employees shall not be liable to anyone for loss, damage, or injury to or sustained by persons on property or for environmental harm or mandated clean up arising, occurring, or resulting from the exercise by Contractor of the right and privileges hereby granted or in the maintenance or operation by Contractor hereunder and Contractor's doing of any work or conducting any business herein authorized, and Contractor shall hold or save the City, its Commission, employees, or otherwise, jointly and severally harmless from and against any and all such loss, damage and injury sustained by them, or any of them, also any and all liability for loss, damage or injury sustained by persons or property or for environmental harm or mandated clean-up by reason of any act, omission, negligence of Contractor or any of the Contractor's agents or servants, or employees failure to comply with the laws of the State of Florida or any valid ordinance, rule or regulation relative to the subject matter hereof and by reason of Contractor's use of public thoroughfares of the City and for this purpose Contractor shall defend at Contractor's own cost and expense any claims that might be made or any suits that might be brought against the City, its Councilmen, officers, agents, employees, or otherwise, in connection therewith and shall pay all costs and expenses of such protection and defense, including reasonable attorney's fees, and all valid judgments or

orders obtained in connection therewith.

Section 21. NONWAIVER

The failure of either party to object to any violation of any provision of this agreement or any default of a party shall not be construed as a waiver of such objection or forbid a party to insist upon compliance with the provisions of this agreement.

Section 22. ILLEGAL PROVISIONS

If any provision of the contract shall be declared illegal, void or unenforceable, the other provisions shall not be an affected, but shall remain in full force and effect.

Section 23 ASSIGNMENT AND SUBLETTING

No assignment of this contract or any right occurring under this contract shall be made in whole or part by the Contractor without the express written consent of the City, which consent shall not be unreasonably withheld. In the event of any assignment, the assignee shall assume the liability of the Contractor.

In the event that of such assignment Contractor shall cause its assignee to execute an Agreement of Acceptance, subject to the approval of City evidencing that such assignee accepts assignments subject to any and all the terms, conditions and limitations imposed hereby, and which, acceptance shall include an affirmative statement evidencing such assignee's intent to fulfill the obligations imposed upon Contractor and shall guarantee the performance of its assignee and such assignment shall always be with lull recourse to Contractor.

A transfer of more than Fifty One (51%) of the issued or outstanding stock of Contractor shall constitute an assignment for the purpose of this section. Likewise, any transfer of the voting right attendant to Fifty One percent (51%) or more of the issued or outstanding stock of Contractor shall constitute an assignment for the purpose.

Section 24. MODIFICATION

This contract constitutes the entire agreement and understanding of the parties hereto and it shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year above first written.

DATED this _____ day of June 2022, by the City of Apalachicola, Florida

CITY OF APALACHICOLA, FLORIDA

By: _____
Brenda Ash, Mayor

Attest:

Deborah Guillotte, City Clerk

Approved as to form and correctness

Daniel W. Hartman, City Attorney

DATED this _____ day of June 2022, by the Historic Apalachicola Foundation, Inc.

Witnesses as to the execution on behalf of: WASTEPRO OF FLORIDA, INC.
the WastePro of Florida, Inc.:

Witness By: _____
Print Name:
Its:

Witness

EXHIBIT A

RATES

City of Apalachicola

Description		Rate
Residential		
Carts(CT)	\$	21.65
Commercial (Com)		
10 CT/4 x Week	\$	1,306.80
5 Com Carts 2 x week	\$	326.70
1 CT 3 x week	\$	98.01
1 com split 3 businesses	\$	10.89
2yd 1 x week	\$	69.11
2yd 2 x week	\$	138.23
4yd 1 x week	\$	149.80
4yd 2 x week	\$	299.64
4yd 3 x week	\$	449.45
6yd 1 x week	\$	224.68
6yd 2 x week	\$	449.36
6yd 3 x week	\$	674.18
6yd 4 x week	\$	898.91
6yd 5 x week	\$	1,123.64
8yd 1 x week	\$	298.50
8yd 2 x week	\$	597.01
8yd 3 x week	\$	894.86
8yd 4 x week	\$	1,198.29
Com CT 2 x week	\$	65.34
8yd 2 x week (4 businesses)	\$	149.82

Note: The Rates above are for Garbage Only. Bulk will priced initially at \$25.00/ cubic yard.

**APALACHICOLA CITY COMMISSION SPECIAL MEETING
REQUEST FOR BOARD ACTION
Meeting Date: June 21, 2022**

SUBJECT: Procurement Policy

AGENDA INFORMATION:

Agenda Location:

Item Number:

Department: Administration

Contact: Travis Wade

Presenter: Travis Wade/Dan Hartman

BRIEF SUMMARY: The Florida Department of Economic Opportunity required the City to update our Procurement Policy and have it approved by them and the City Commission prior to publishing the RFP for engineering services for the new wastewater treatment plant. The City Attorney has made the required changes to the policy and DEO has approved them.

RECOMMENDED MOTION AND REQUESTED ACTIONS: Approve the Policy

FUNDING SOURCE: N/A

ATTACHMENTS: Procurement Policy

STAFF'S COMMENTS AND RECOMMENDATIONS:

CITY OF APALACHICOLA PROCUREMENT AND PURCHASING POLICIES

CONSULTANTS COMPETITIVE NEGOTIATION ACT

The purpose of this section is to ensure compliance with Section 287.055 Florida Statutes, known as the Consultants Competitive Negotiation Act (CCNA) as it may be amended from time to time. Architectural, engineering, landscaping architectural, registered land surveying and registered mapping services are required to be requested through a Request for Qualifications in accordance with the CCNA.

1. Public Announcement

It is the policy of the City to publicly announce all requirements for professional architectural, engineering, landscape architectural, land surveying, and mapping services, and to negotiate such contracts on the basis of demonstrated competence and qualifications at fair and reasonable prices. In the procurement of such services, the Procurement Division may require firms to submit a statement of qualifications, performance data, and other information related to the performance of professional services.

2. Scope of Project Requirements

A. For specific projects, the City department requesting the professional services shall submit to the Procurement Division written project requirements indicating the nature and scope of the professional services needed by the requesting department, including but not limited to the following:

- (1) the general purpose of the service or study.
- (2) the objectives of the study or service.
- (3) estimated period of time needed for the service or the study.
- (4) the estimated cost of the service or study.
- (5) whether the proposed study or service would or would not duplicate any prior or existing study or service; and
- (6) the desired qualifications, listed in order of importance, applicable to the scope and nature of the services requested.

B. For Continuing Services, the City department requesting the professional services shall submit to the Procurement Division, written project requirements indicating the nature and scope of the professional services needed, including but not limited to the following:

- (1) the general purpose of the service or study.
- (2) estimated period of time needed for the service or the study.
- (3) the estimated cost of the service or study.
- (4) the desired qualifications, listed in order of importance, applicable to the scope and nature of the services requested.

3. Review of Project Requirements

The Procurement Division shall review the scope of project requirements and prepare a draft Request for Qualifications. The draft Request for Qualifications shall be submitted to the requesting department for consideration and revision, as may be needed, prior to public distribution of the Request for Qualifications.

4. Distribution of Request for Qualifications

The Procurement Division can distribute the Request for Qualifications in accordance with standard procedures including publication of legal notice and provide notification of the date and time when such quotes are due.

5. Exemptions

This section shall not apply to any requirement for professional services if a continuing services contract is in effect and a determination is made to utilize the continuing contract to obtain such services in accordance with 287.055(2)(g), Florida Statutes, where the estimated construction cost of each individual project under the contract does not exceed \$4 million or for a study activity if the fee for the professional services for each individual study does not exceed \$500,000.00.

6. Evaluation

The following language shall be used in its substantial form in solicitations where evaluations are required. The solicitation document shall specify evaluation procedures.

- A. The City Manager or designee shall determine the Evaluation Group that will best serve the needs of the City.
- B. Contact with the Evaluation Group. Members of the Evaluation Group are prohibited from discussing a project with any professional or professional firm that may submit a proposal during the procurement process, except in formal meetings.
- C. Evaluation of Proposals. Only written responses of statements of qualifications, performance data, and other data received in the Procurement office by the publicized submission time and date shall be evaluated.
- D. The initial ranking of proposals is based upon the criteria specified in the solicitation.
- E. The City will only award Contracts to respondents that possess the ability to perform successfully under the terms and conditions specific to the proposed procurement. When making such a determination the City may consider factors including but not limited to: record of past performance, strength of financial and technical resources, integrity and compliance with public policy.
- F. Presentations/Interviews. The Evaluation Group may choose to conduct formal presentations/interviews with firms prior to final ranking.
- G. Final Ranking. The Evaluation Group shall use the ordinal process to rank the firms. The respondents shall be listed in order of preference. The list of best-qualified respondents shall be forwarded to the City Manager or the City Commission, as appropriate, for approval prior to beginning contract negotiations.

7. Negotiation

Contract negotiations may be conducted by the requesting department or by a Negotiation Group to be determined by the City Manager or designee.

- A. Negotiation Group. Membership of the Negotiation Group may include:

- (1) Procurement Manager or designee,
 - (2) Agent of the requesting department or designee,
 - (3) City Attorney or designee.
- B. Negotiation. The Negotiator(s) shall negotiate a contract with the firm considered to be the most qualified to provide the services at compensation and upon terms which the Negotiator(s) determines to be fair and reasonable to the City. In making this decision, the Negotiator(s) shall consider the estimated value, the scope, the complexity, and the professional nature of the services to be rendered. Should the Negotiator(s) be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, negotiations with that firm may be formally terminated. The Negotiator(s) shall then undertake negotiations with the second most qualified firm. Failing with the second most qualified firm, the Negotiator(s) may formally terminate negotiations, and may then undertake negotiations with the third most qualified firm. Should the Negotiator(s) be unable to negotiate a satisfactory contract with any of the selected firms, the Selection Group may select additional firms in order of their competence and qualifications, and the Negotiator(s) may continue negotiations in accordance with this Section until an agreement is reached or until a determination has been made not to contract for such services.

DESIGN-BUILD CONTRACTS

1. Use of Design-Build Contracts (See F.S. Section 287.055)

The requesting department will determine if the design-build method is appropriate for a particular requirement subject to approval by the City Manager or designee. In determining whether design-build or contracting separately for professional design and construction services is in the best interest of the City, the following factors should be considered:

 - A. The potential for cost savings and/or cost reduction.
 - B. The need or potential for reducing the time to complete the project.
 - C. The need or potential for enhancing revenue production by expediting completion, activation and operational use of the project.
 - D. The need or potential to expedite the completion, activation and operation of the project due to public service considerations or user department operational needs and requirements.
 - E. The potential for collaboration to develop designs and construction methodology that could provide a project with enhanced qualities of aesthetics, innovative use of materials, economy of construction, operational efficiency, and/or functional effectiveness.
 - F. The ability of each respondent to perform successfully under the terms and conditions specific to the proposed procurement. When making such a determination the City may consider factors including but not limited to: record of past performance, strength of financial and technical resources, integrity and compliance with public policy.
 - G. The need or potential for protecting, preserving and enhancing the health, safety and welfare of the public.

2. Design Criteria Package (DCP)

A DCP must be prepared and sealed by a design/engineer professional on staff or retained by the department. A design criteria professional who prepares the DCP is not eligible to render services under the same design-build contract that utilizes the DCP.

3. Review and Evaluation

The Evaluation Group shall review and evaluate all submittals that have been received prior to the announced deadline. This evaluation shall include a determination that the firms submitting proposals meet the design-build firm definition. Qualifications of the firm and project manager shall be considered for the design team as well as the construction team. The group shall select no fewer than three design-build firms as the most qualified, based on the qualifications, availability, and past work of the firms, including the partners or members of the firms.

4. Technical and Price Proposals

When using an adjusted score method, the selected design-build firm shall be required to submit a technical and price proposal. These proposals shall form the basis of contract negotiation and award of the design-build contract.

5. Design-Build Contract Award

The Evaluation Group shall submit a recommendation for award to the City Manager or designee for selection of one firm and two ranked alternates, and approval to negotiate and award a design-build contract with the selected firm, provided the final negotiated price does not exceed the project budget. Prior to award and execution of the design-build contract, the City may negotiate minor changes in the technical proposal and contract price for the purpose of clarifying and/or refining the project requirements and the services to be performed and/or the work to be done.

PIGGYBACK

Departments may request to piggyback on contracts for goods and services with other governmental entities, except for emergency purchases. The following must be submitted as a part of the request and specifications package:

1. A copy of the other agency's solicitation to include the awarded vendor's submittal.
2. A copy of the other agency's Purchase Order or contract and expiration date.
3. A letter from the awarded vendor, offering to honor the same prices under the same terms and conditions as indicated in the other agency's solicitation and subsequent contract.
4. Verification from the other agency that the vendor is performing satisfactorily.
5. Evidence and documentation of the procurement method used by the other agency.

SOLE SOURCE/NON-COMPETITIVE NEGOTIATIONS

Non-competitive selection of vendors and non-competitive purchasing may be used as a

procurement method for purchases of products or services when available from only one source (sole source), or when it is determined by the City Manager, unless otherwise delegated, that there is only one practicable and reasonable source wherein competitive bidding is not feasible or not advantageous to the City.

The Procurement Division may negotiate and use a sole source/non-competitive supplier or vendor if one or more of the following justifications exist:

1. The item is a component or replacement part for which there is no commercially available substitute and can be purchased only from the manufacturer, sole distributor or provider.
2. Compatibility is the overriding consideration.
3. A statement that describes why there is only one qualified sole source and a list of how many attempts and to who alternative sources were made.
4. A non-competitive purchase will result in verifiable financial savings to the City.
5. The needed product or service is available from only one known source, and such determination has been made by the Procurement Manager or Logistics Director.
6. The product or service is wanted for experimental trial/pilot or testing (Non-competitive Purchase).
7. The product is purchased for resale.
8. Additional products or services are needed to complete an ongoing vital task (Non-competitive Purchase).
9. A product or service is purchased from, or a sale is made to, another unit of government.
10. The needed product or service may be available from more than one source. However, due to documented advantages such as uniqueness, vendor qualifications, timeliness, etc., a non-competitive purchase may be initiated when such determination has been justified that there is only one practicable and reasonable source, with confirmation by the Procurement Manager or Logistics Director.
11. Funds have become readily available through a grant process and must be spent in a time frame that does not permit competitive bidding.

The requesting department must complete the sole source provider form (See Exhibit A) including appropriate signature(s) and provide it to the Procurement Division with the request for procurement.

In the event of a non-competitive procurement consistent with 2 CFR 200.320(c) the City must obtain written approval from the Florida Department of Economic Opportunity to award a contract over \$25,000.00.

RENEWAL; EXTENSION AND RECORD KEEPING

Renewals are pursuant to contract terms specifically providing for such renewal. Contract renewal options approved by the City Commission may be executed by the City Manager or designee.

The City Finance Director shall cooperate with applicable City Departments and Divisions in the procurement of supplies and equipment, and shall maintain adequate records

necessary to create an audit trail for all Purchasing transactions. This shall include procurement of all goods and services contemplated under this Policy. All such financial records shall be maintained in a combination of paper and electronic format. All electronic copies are backed up and retained pursuant to the City record retention schedule or as otherwise required by law.

TIE BIDS

A thorough review of all tie bids shall be conducted by the Evaluation Group. Award recommendations shall be based upon delivery dates, reputation of the vendors involved, past performance, and location of the vendor. If all factors and conditions relating to the bids are equal, then the awarding of the bid will be determined by a flip of a coin, facilitated by the Procurement Division, with all appropriate and relevant parties in attendance, unless attendance is otherwise waived by a relevant party.

CHANGE ORDERS

After a contract has been approved by the City Commission or the City Manager, as applicable, if a change order is required to correct errors, omissions, or discrepancies, or to direct other changes to meet unforeseen field, emergency, climatic, regulatory, or market conditions, the following shall apply:

1. All change orders must be in writing and include the additional scope of work or quantities, the amount of the change order, and any additional days added to the term or delivery date.
2. Change orders exceeding a cumulative total of ten percent (10%) of the contract price or a cumulative cost exceeding \$100,000, whichever amount is less, or where there is a materially significant change in the scope of services, the change shall be approved by the City Commission.
3. If direct purchasing is being utilized in connection to a construction project, a deduct change order to the contractor in the amount of the direct purchase, shall be made in writing.
4. If the project is unable to proceed without the immediate approval of a change order, the City Manager has the authority to approve the change order and bring it before the City for ratification, as required, at the next regularly scheduled Commission meeting with documented explanation of the condition.

ADVERTISING FOR COMPETITIVE BIDS AND PROPOSALS

The solicitation of competitive bids or proposals by the City for construction projects that are projected to cost more than \$200,000 shall be publicly advertised at least once in a newspaper of general circulation in Franklin County, Florida at least 21 days prior to the established bid opening and at least 5 days prior to any scheduled prebid conference. The solicitation of competitive bids or proposals for any City construction project that is projected to cost more than \$500,000 shall be publicly advertised at least once in a newspaper of general circulation in Franklin County, Florida at least 30 days prior to the

established bid opening and at least 5 days prior to any scheduled prebid conference. Bids or proposals shall be received and opened at the location, date, and time established in the bid or proposal advertisement. In cases of emergency, the procedures required in this section may be altered by the local governmental entity in any manner that is reasonable under the emergency circumstances. If the location, date, or time of the bid opening changes, written notice of the change must be given, as soon as practicable after the change is made, to all persons who are registered to receive any addenda to the plans and specifications. A construction project may not be divided into more than one project for the purpose of evading the requirements in this section. Notwithstanding the above the advertising process followed by the City shall at all time be in compliance with the provisions of section 255.0525, F.S.

LOCAL PREFERENCE

Local preference may be applied to formal competitive solicitations, if authorized first by the City Manager. Local preference is prohibited to be used for any FEMA or Federal related projects or any State Revolving Fund (SRF) projects, or other funding sources which preclude a Local preference. The use of Local preference will sunset no later than October 1, 2026 and will no longer be used.

1. Local business. A business which:
 - A. Has had a fixed office located in and having a street address within Franklin County, Florida for at least twelve (12) months immediately prior to the issuance of the request for competitive bids or request for proposals by the City, which office shall operate and perform business on a daily basis; and
 - B. Is the principal bidder who is a single bidder; a business that is the prime contractor and not a subcontractor; or a partner or joint ventures submitting an offer in conjunction with other businesses; and
 - C. If applicable, holds or obtains any business license required by the City of Apalachicola.

2. Preference in bidding. In purchasing of, or letting of contracts for procurements, personal property, materials, or contractual services, the purchasing authority of the City of Apalachicola may give a preference to a local business in making such purchase or awarding such contract as follows:
 - A. A qualified and responsive local business that has a principle place of business located within Franklin County, at least six (6) months prior to advertisement of the solicitation, and which meets all of the criteria for a local business, shall have the opportunity to submit an offer to match the price(s) offered by the overall lowest, qualified and responsive non-local bidder if their bid is within five percent (5%) of the overall lowest, non-local bid price.
 - B. A qualified and responsive local business that does not have a principle place of business located within Franklin County, Florida, at least six (6) months prior to the advertisement of the solicitation, and which meets all of the criteria for a local business, shall have the opportunity to submit an offer to match the

price(s) offered by the overall lowest, qualified and responsive non-local bidder if their bid is within three percent (3%) of the overall lowest, non-local bid price.

3. Preference in request for proposals and request for qualifications. In purchasing, or letting of contracts for procurement, personal property, materials, contractual services or professional services related to the Consultant's Competitive Negotiation Act (CCNA), developed with evaluation criteria, the purchasing authority of the City of Apalachicola may give a preference to a local business by adjusting the total score of the local business as follows:
 - A. A qualified and responsive local business that has a principal place of business located within Franklin County, Florida, at least six (6) months prior to advertisement of the solicitation, and which meets all of the criteria for a local business, shall be given preference in the amount of five percent (5%).
 - B. A qualified and responsive local business that does not have a principal place of business located within Franklin County, Florida, at least six (6) months prior to advertisement of the solicitation, and which meets all of the criteria for a local business, shall be given preference in the amount of three percent (3%).

ACCESSIBILITY OF PROCUREMENT DOCUMENTATION

All procurement documents will be available on the City Website at www.cityofapalachicola.com. These documents will be Accessible electronically in compliance with Section 508 via demonstrated compliance with WCAG 2.0 level AA guidelines.

DISCLOSURE AND CONFIDENTIALITY

Florida's Public Records Law, Chapter 119, Florida Statutes, includes numerous exemptions to the general requirement to disclose information to the public in response to a public record's request. Exemptions are found in various provisions of the Florida Statutes, including but not limited to Section 119.071, Florida Statutes (General exemptions from inspection or copying of public records), and Section 119.0713, Florida Statutes (Local government agency exemptions from inspection or copying of public records). Section 815.045, Florida Statutes (Trade secret information), provides that trade secret information as defined in Section 812.081, Florida Statutes (Trade secrets; theft, embezzlement; unlawful copying; definitions; penalty) is confidential and exempt from disclosure because it is a felony to disclose such records. The Parties understand and agree that Florida's Public Records Law is very broad and that documents claimed by a Party to be confidential and exempt from public disclosure pursuant to the Public Records Law may in fact not be deemed such by a court of law. Accordingly, the following provisions shall apply:

- (i) Identifying Trade Secret or Otherwise Confidential and Exempt Information. For any records or portions thereof that bidder claims to be Trade Secret or otherwise confidential

and exempt from public disclosure under the Public Records Law, bidder shall:

- a. Specifically identify the records or specific portions thereof that are confidential and exempt and reference the particular Florida Statute that grants such status. Provide one redacted copy of the record and one copy of the record with the confidential and exempt information highlighted as outlined in items 1 and 2 on the following page. Bidder shall take care to redact only the confidential and exempt information within a record.
- b. Provide an affidavit or similar type of evidence that describes and supports the basis for Contractor's claim that the information is confidential and exempt from public disclosure.

(ii) Request for Trade Secret or Otherwise Confidential and Exempt Information.

- a. In the event City receives a public records request for a record with information labeled by bidder as Trade Secret or otherwise as confidential and exempt, City will provide the public record requester with the redacted copy of the record and will notify bidder of the public records request.
- b. However and notwithstanding the above, in the event that City in its sole discretion finds no basis for bidder's claim that certain information is Trade Secret or otherwise confidential and exempt under Florida's Public Records Law, then City shall notify bidder in writing of such conclusion and provide bidder a reasonable amount of time to file for declaratory action requesting a court of law to deem the requested information as Trade Secret or otherwise as confidential and exempt under Florida's Public Records Law. If bidder fails to file for declaratory action within the reasonable amount of time provided, then City will disclose the information requested.
- c. If a public records lawsuit is filed against CITY requesting public disclosure of the information labeled by bidder as Trade Secret or otherwise as confidential and exempt, CITY shall notify bidder and bidder shall intervene in the lawsuit to defend the nondisclosure of such information under Florida's Public Records Law.
- d. Bidder hereby indemnifies and holds CITY, its officers and employees harmless from any and all liabilities, damages, losses, and costs of any kind and nature, including but not limited to attorney's fees, that arise from or are in any way connected with bidder's claim that any information it provided to CITY is Trade Secret or otherwise confidential and exempt from public disclosure under Florida's Public Records Law.

How to Designate Trade Secret or Otherwise Confidential and Exempt Information

If a bidder believes that its response contains trade secret or otherwise confidential and exempt information (as defined by Florida or Federal law) and should be withheld from disclosure to the public, in such cases the bidder must provide a redacted copy of the proposal for public access.

- Redacted means that the confidential/proprietary information in the proposal has been obscured so that it cannot be read.
 - Unredacted means that the entire document, including the confidential/proprietary information, has not be obscured and is visible for the evaluation team to use in their evaluation process.
1. Deliver version of the response of the complete UNREDACTED proposal. Include "UNREDACTED, CONFIDENTIAL" in document title. This is the version that will be used by the evaluators when they are reviewing your proposal. It is essential that the items that will be redacted are highlighted in yellow to prevent the evaluation team from

discussing these items after the award. The first page of the document for the **unredacted** document should provide a general description of the information bidder has designated as confidential and/or exempt, and provide a reference to the appropriate Florida or Federal statute supporting the confidential and/or exempt classification.

2. In addition a REDACTED copy of the proposal should be delivered contemporaneously. Include "REDACTED" in the document title. This copy will be used to support any public records requests that may arise from this solicitation.

How the City will Handle Material Identified as Trade Secret or Otherwise Confidential and Exempt Information.

The City's evaluators will be provided with the complete unredacted proposal, including any trade secret or otherwise confidential and exempt information. The City evaluators will maintain the confidentiality of the information through the evaluation process, including any recorded evaluation team meetings.

In the event a public record request is made to view the information which bidder claims is confidential and/or exempt, the City will notify the bidder and give the bidder a reasonable opportunity (generally 2 business days) to institute appropriate legal action to prevent the disclosure of the information claimed as confidential and/or exempt.

All public records submitted to the City, including those claimed as confidential and/or exempt, will be retained by the City and will not be returned to a bidder at the conclusion of the bidding process.

CONE OF SILENCE/PROHIBITION ON COMMUNICATIONS

To ensure fair consideration, consistent and accurate dissemination of information for all bidders, the City prohibits communication to or with any department, employee, or agent evaluating or considering proposals during the submission process, except as authorized by the Procurement Division representative. Additionally, the City prohibits communication initiated by a bidder to any city official or employee evaluating or considering the proposals (up to and including the City Commissioners) before the time an award decision has been made. Any communication between proposer and the City required to obtain information or clarification for preparing a bid or to enable a proper, accurate evaluation of a proposal will be handled solely through the Procurement Division staff as the single point of contact. Any communications initiated between the bidder and the City outside these parameters may be grounds for disqualifying the offending bidder from consideration for award of the proposal and/or any future proposal.

During the Cone of Silence (formerly called Blackout period) as defined in the next paragraph, except as pursuant to an authorized appeal, no person may lobby as defined above on behalf of a competing party in a particular procurement process, City officials or employees except the Procurement designated staff contact in the Procurement Division. Violation of this provision shall result in disqualification of the party on whose behalf the lobbying occurred.

The Cone of Silence is the period between the issue date of the procurement, which allows for immediate submittals to the City of Apalachicola Procurement Division for the Invitation

to Negotiate and the time the City Officials and Employee awards the contract.

BID PROTEST PROCEDURES

In any competitive solicitation context, no later than seventy-two hours (72) following the day approval is granted, the Procurement Division will electronically notify a representative of each respondent of the award decision. Notification of an award does not constitute formation of a contract.

After notification of the award decision, any party with standing may challenge the decision by initiating an action in the Circuit Court of the Second Judicial Circuit in and for Franklin County against the City of Apalachicola. If a party intends to initiate such an action, it must electronically notify the Procurement Manager and the City Attorney no later than one (1) business day after notice of the award. If no such notice is received by the City, the City may proceed to execute a contract to formalize the award decision. If the City does receive notice of intent to challenge the decision, the City will stay the contracting process, unless the City Manager or designee determines that the contract must proceed without delay to protect substantial interests of the City. If a party notifies the City of its intent to challenge a decision under this subsection, it must file its challenge within five (5) business days after providing its notice with the 2nd Judicial Circuit Court in and for Franklin County. If the party fails to file its action within this period, the City may proceed with the contracting process. If the party files its action, the Court will uphold the City's decision unless the Court determines that the awarding authority did not act in good faith and the challenger demonstrates illegality, fraud, oppression or misconduct by the City or anyone acting on the City's behalf.

No action other than an award decision can be protested, including (i) requests for quotations or requests for qualifications; (ii) rejection of some, all or parts of bids or proposals; (iii) disqualification of bidders as non-responsive or non-responsible; or (iv) recommended awards less than the mandatory bid or proposal amount.

FEDERAL PROCUREMENTS

When property or services are procured using funds derived from a Federal grant or agreement (whether directly to the City or "pass-through" from another entity such as the State), the City is required to and will follow the Federal procurement standards in the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards", 2 C.F.R. Sections 200.213 and 200.317 through 200.326. All procurements must be conducted in a manner that provides full and open competition. Micro-purchases of \$10,000 or less, do not require competition or a cost/price analysis provided the City considers the price reasonable. Small purchases, \$10,000 to \$250,000, require price and rate quotes from an adequate number of qualified sources. Sealed bids, competitive proposals and noncompetitive proposals may be used pursuant to the

requirements of 2 C.F.R. Section 200.320.

1. It is the responsibility of the requesting department to notify the Procurement Division whether federal funds will be used on any project and of any special conditions that are imposed upon the City through such federal funding.
2. The City shall use the same procedures as otherwise contained in this Procurement Manual to the extent that they do not conflict with the Federal procurement standards. The requirements of 2 C.F.R. Sections 200.213 and 200.317 through 200.326 will apply in the case of a conflict. Applicable Davis-Bacon wage determinations shall be submitted by the requesting department together with technical specifications. Departments should ensure that Federal grant requirements do not prohibit the use of previously awarded vendors. The following additional procedures shall apply:

A. Equipment.

Management and disposition of equipment purchased with funds deriving from Federal grants shall be in accordance with 2 C.F.R. Section 200.313. All property acquired must be used for federally authorized purposes until project funding ceases or until the property is no longer needed for the project and shall not be encumbered without approval of the federal awarding agency. Property will be managed and disposed of as follows:

- (1) Property records will be maintained that include a description of all federally funded equipment, a serial number, the source of funding including the FAIN, record of title, the date of acquisition, the cost, the percentage of Federal participation in the purchase, the property location, use and condition, and the ultimate disposition of the property.
- (2) A physical inventory of the property will be taken, and the results reconciled once every two (2) years.
- (3) The City's existing and customary property control system will be utilized to ensure against loss, damage or theft.
- (4) Property authorized for sale shall be sold in a manner ensuring the highest possible return.
- (5) Surplus property no longer needed for its original purpose may be used for other federally supported activities.
- (6) The City may sell or otherwise dispose of federally funded equipment with a current fair market value under \$5,000 in accordance with current disposition policy.
- (7) The City will request permission from the Federal granting entity prior to disposal of equipment with a current fair market value over \$5,000.

B. Conflicts of Interest.

All City employees and officers are subject to the provisions of the Code of Ethics for Public Officers and Employees (Sections 112.311, Florida Statutes); Division 3, the Conflict of Interest provisions herein and the provisions governing Federal conflicts of interest outlined herein.

For Federal procurements, no employee or officer of the City may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, 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 above has a financial or other interest in, or a tangible personal benefit from a firm considered for a contract. Except as limited by City Policy, officers, employees, and agents of the City may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. Any potential conflicts of interest must be disclosed, in a timely manner and in writing, to the Federal awarding or pass-through agency. The assigned Grant Coordinator for the federally funded project is responsible for making this disclosure.

In addition to the penalties provided in the Florida Statutes, a violation of any provision of the Code of Ethics for Public Officers and Employees; or this section, may subject an employee to disciplinary action up to and including discharge from employment.

- C. Suspension and Debarment. The City is subject to the debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 C.F.R. Part 180.

The City may not enter into an agreement for property or services with an entity or person who has been disqualified (suspended or debarred) from participation in Federal programs or activities, unless the Federal granting agency grants an exception.

The City shall take reasonable steps to determine whether any vendor, contractor or consultant is or has been excluded or disqualified from participating in such transaction. Prior to awarding any bid, the Grants Coordinator shall check with SAMS EPLS to ensure that the bidder or subcontractors, if applicable, are not disbarred or suspended from working with federally funded contracts.

The City shall include a provision in all agreements requiring contractors, vendors or consultants to comply with Part 180 when entering into covered transactions with subcontractors, sub-vendors and subconsultants, etc.

The City shall comply with all reporting requirements as mandated by the Federal granting agency.

- D. Settlement of Procurement and Contract Disputes. Any person or entity wishing to dispute the award of a bid, acceptance of a proposal, other procurement of property or services, or the application or interpretation of a contract or agreement relating to property or services procured using Federal grant funds shall submit all relevant information to the Procurement Manager. Protested awards shall follow procedures

set forth in the City of Apalachicola Procurement Manual. For all other disputes, the Procurement Manager shall review all information presented and shall conduct such further investigation as he or she deems appropriate under the circumstances. After review of all relevant information, the Procurement Manager shall render a decision concerning the dispute, which decision shall be the final decision of the City. Persons not satisfied with the decision of the Procurement Manager, may proceed in accordance with Florida law.

- E. Local Preference. Local Preference will **not** be used in the evaluation of bids or proposals relating to procurements deriving from State or Federal grant funding, unless otherwise provided for in any specific grant agreement. When contracting for architectural and engineering services, geographic location may be a selection criterion provided its application leaves a number of qualified firms, given the nature and size of the project, to compete for the contract.
- F. Minority- and Women-Owned Business Enterprises. The City of Apalachicola does not discriminate on any basis within its procurement and contracting process and encourages the participation of minority- and women-owned business enterprises (collectively, "MBEs"). Within the limits of the U.S. Constitution, the City will consider the firm's status as an MBE or a certified MBE, and also the status of any sub-contractors or sub-consultants proposed to be utilized by the firm, within the evaluation process. Interested MBEs and certified MBEs are encouraged to respond.
- G. The City will take constitutionally permissible affirmative steps to assure that minority- and women-owned businesses are used whenever possible.

Whenever feasible, the City will procure items designated in the guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000.

The City will procure solid waste management services in a manner that maximizes energy and resource recovery.

The City will maintain an affirmative preference program for procurement of recovered materials identified in the EPA guidelines. The City may consider the Minimum Content Standard, the Case-by-Case Standard, or a substantially equivalent standard, as set forth in the Resource Conservation and Recovery Act (RCRA) Section 6002(i)(3), as appropriate to any situation. The City may utilize the assistance of EPA Product Resource Guides, for all product categories for all covered procurements, located at: <http://www3.epa.gov/epawaste/conservetools/cpg/resources.htm>

- 3. Contract Cost and Price. For every procurement in excess of \$100,000, including contract modifications or change orders greater than \$100,000, the City shall perform a cost or price analysis in connection with every procurement subject to Federal procurement guidelines,

which shall include an independent estimate of cost prior to issuing bids or proposals. For proposals where price is not considered in the award, profit shall be negotiated as a separate element of the price. In determining whether profit is fair and reasonable, the City shall consider the complexity of work, the risk to be borne by the contractor, the contractor's investment, the amount of subcontracting necessary, the quality of the contractor's record and past performance, and industry profit rates for the surrounding geographical area. "Cost Plus Percentage" methods for determining profit may not be used.

4. Contract Provisions. All contracts or Purchase Orders must contain the applicable provisions required pursuant to Section 200.326 and Appendix II to Part 200 of the Code of Federal Regulations. These include, but are not limited to:
 - A. Contracts in excess of \$100,000 must address legal remedies in instances where contractors violate or breach contract terms and provide for sanctions and penalties as appropriate.
 - B. Contracts in excess of \$10,000 must address termination for cause and for convenience by the City.
 - C. All contracts must include the Equal Employment Opportunity clause as provided in Appendix II; When required, all prime construction contracts in excess of \$2,000 must include a provision for compliance with the Davis-Bacon Act, as supplemented, requiring contractors to pay laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination issued by the U.S. Department of Labor, which determination must be included with all solicitations.
 - D. Where applicable, all contracts in excess of \$100,000 that involve mechanics or laborers must include a provision for compliance with the Contract Work Hours and Safety Standards Act, 40 U.S.C. 3701-3708;
 - E. Where applicable, a clause requiring compliance with the Rights to Inventions made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements, 37 C.F.R. Part 401;
 - F. Contracts more than \$100,000 must require compliance with the Clean Air Act and Clean Water Act and associated regulations.
 - G. Contracts must include requirements concerning mandatory standards relating to energy efficiency as contained in Florida's Energy Conservation Plan.
 - H. Contracts must include requirements that a contract award may not be made to debarred and suspended parties as listed on the Excluded Parties List System (EPLS) in System for Award Management (SAM).
 - I. For contracts more than \$100,000, requirements for compliance with the Byrd Anti-Lobbying Amendment. Contracts must include a provision for compliance with the Copeland "Anti- Kickback" Act (40 U.S.C. 3145) as supplemented by Department of Labor regulations (29 C.F.R. 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") stating that each contractor or subrecipient must be prohibited from including, 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; Contracts for federally funded projects must include clauses required by Federal statutes and executive orders and their implementing regulations, including the provisions listed in Appendix II to 2 C.F.R. Part 200 – Contract Provisions for Non-Federal Contracts under Federal Awards.

J. Contracts exceeding the Federal simplified acquisition threshold (\$250,000) must include the Federal bonding requirements if the contract is for construction or facility improvement (2 C.F.R. § 200.325).

EXHIBIT A (Page 1 of 2)
Sole Source Form

Estimated Costs:	Supplier:
------------------	-----------

TYPE OF PROCUREMENT: (Select one)

Sole Source:

A situation where only one supplier/source is capable of supplying the required commodity or service. The City of Apalachicola engages and requires written justification of sole source purchases.

SOLE SOURCE JUSTIFICATION GUIDELINES

City Staff are responsible for providing and certifying as accurate and complete necessary data to support their recommendation for other than full and open competition. The justification must demonstrate that only one company can perform or supply the goods or services. The following are examples of explanations for a Sole Source Justifications (SSJ):

- a) Compatibility to a City Standard or Existing Environment.
- b) Licensed or Patented Applications.
- c) Authorized Service Provider for Repair and Warranty Services.
- d) The supplies/services to be acquired are unique.

**** IMPORTANT ****

- Statements that a supplier has the best capability or offers the lowest price are not bases for an SSJ. Such determinations can only be made through full and open competitive processes.
- Rationale that the recommended source is the most highly qualified to perform but does not establish why other sources cannot perform is not acceptable.
- Incumbency does not justify an SSJ.
- Administrative delay or lack of adequate advanced planning resulting in urgency does not justify an SSJ.
- All (SSJ) sole source justification documentation must be attached to all purchase orders.
- In the event of a non-competitive procurement consistent with 2 CFR 200.320(c) the City must obtain written approval from the Florida Department of Economic Opportunity to award a contract over

\$25,000.00.

EXHIBIT A (Page 2 of 2)

JUSTIFICATION: (Select one)

<input type="checkbox"/>	<p>Compatibility to a City Standard or Existing Environment. (<u>List the suppliers who were contacted below and the specific reasons why each was not a viable source</u>).</p> <ul style="list-style-type: none">•••
<input type="checkbox"/>	<p>Licensed or Patented Applications. (List the qualifications that each source or items meet. If another supplier offers a similar item, <u>provide the item identification, supplier information and comparable pricing</u>).</p> <ul style="list-style-type: none">•••
<input type="checkbox"/>	<p>Authorized Service Provider for Repair or Warranty Services. (The selected supplier is the only listed and authorized provider of this item or service. <u>List the reasons why no substitute item can be used and if no similar item or service is available</u>).</p> <ul style="list-style-type: none">•
<input type="checkbox"/>	<p>The supplies/services to be acquired are unique. (The selected supplier is specialized for the required need of the City. <u>List the reason(s) why this supplier is unique or specialized</u>).</p> <ul style="list-style-type: none">•

DESCRIPTION & REASONABLENESS OF PRICE: (Provide written explanation, technical reasoning and/or evidence of the claim)

<p>I certify that statements checked, and information provided above, are complete and correct to the best of my knowledge. I understand that the processing of this sole source justification precludes the use of full and open competition.</p>	
<p>DEPARTMENT SIGNATURES</p>	
Department Employee: _____ (Employee requesting goods or services)	Department: _____
_____ Print	
Department Employee: _____	Date: _____
_____ Signature	
Department Director Signature: _____	Date: _____
Department Director Name (Printed): _____	

****The Department Director signature is required****