

# CITY OF MARCO ISLAND

## ADMINISTRATIVE PURCHASING POLICIES & PROCEDURES MANUAL



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**(LAST UPDATED)**

(Original 5/11/2011; updates: 12/11/2015 reflect changes due to the switch from ADG to TylerMunis software, add request for check & direct-pay process, add sole source solicitation process, add disaster procurement; 9/15/2016 replace Sec. 9 Department Credit Card Policy with P-Card Policy; 3/1/2022 update single purchase limit from \$1,000 to \$3,000, per Resolution #22-03, remove reference to no longer effective Sec. 287.057(3), Florida Statutes regarding sole-source procurement, incorporate changes related to implementation of TylerMunis Employee Expense Module)

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## SECTION 1: INTRODUCTION

### A. GENERAL STATEMENT

The City of Marco Island is required to purchase goods and services which are necessary for the operation and maintenance of city government.

This Policies & Procedures Manual provides the guidelines and instructions to ensure that:

1. the purchase of goods and services will follow sound financial management practices, utilizes techniques and processes that ensure that those goods and services are obtained at the best quality and lowest prices and which meet the requirements of the city.
2. the purchase of goods and services will follow all applicable State Statutes, and
3. when competitive bidding is required, fair and open competitive practices will be employed to ensure that all parties that are interested in earning city business will be given the opportunity to do so.

This Policies & Procedures Manual shall be constrained by and supported by the City's Code of Ordinances, Division 2. Purchasing. This Manual is a living document which will change in response to changes in Florida Statutes, the City's Code of Ordinances, the Administrative Policy, administrative direction and the growth and development of the staff's professional skills. This Manual is subject to revision control and approval of revision changes by management.

### B. DEPARTMENT RESPONSIBILITIES

The Purchasing Department is a service agency that serves a sole and central facilitator for the procurement of materials, supplies, equipment, professional, technical, and contractual services. The department also serves a control function to ensure that all the laws, rules and regulations concerning the purchase and disposal of goods and services are obeyed and that all transactions are carried out under the highest ethical standards.

The user department will determine need, define the specifications of the needed products or service and the availability of budget. If the purchase is for a product or service greater than \$25,000 which is not already covered by an existing contract or cooperative purchasing agreement (piggy-back), and is therefore

subject to public competitive bidding, the Purchasing Department will take the lead in procuring that product or service. However, due to the technical and operational knowledge it will remain the user department's responsibility to provide the scope of work, list of needed services, bidder qualifications, etc.

Following the successful completion of the contract or purchase order, the user department is responsible to ensure that the product is received and the price charged are in complete agreement with the contract documents.

## C. ETHICS

City employees are held to the highest standard of conduct in the performance of their duties and shall conduct themselves so as to avoid even the appearance of impropriety in the planning and execution of purchase requirements. All employees shall adhere to the standards of ethical conduct as listed in the city's personnel manual and other applicable policies and laws.

No procurement activity or contract will be executed by the city which was obtained as a result of violations of F.S. Chapter 112 regarding:

1. Conflicts of interest.
2. Kickbacks.
3. Solicitation of procurement by payment of a gratuity or offer of employment.
4. Acceptance of a gratuity or offer of employment resulting from solicitation of procurement or
5. Any other improper or unlawful attempt to influence the outcome of procurement.

A city employee who violates this provision is subject to discipline, including immediate termination.

**Employee conflict of interest.** It is unethical for any city employee to participate directly or indirectly in a procurement contract when the city employee knows that:

1. The city employee or any member of the city employee's immediate family has a financial interest pertaining to the procurement contract; or
2. Any other person, business, or organization with whom the city employee or any member of the city employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement contract.

Any person, including any contractor, prime contractor or subcontractor, who violates this provision is subject to suspension or debarment as described in Section 8 of the purchasing ordinance.

#### **D. SUNSHINE LAW**

All purchasing and acquisitions activities take place in the open and are subject to Florida Statute Chapter 119. However, Florida Statute 119.71 (b) 1.a. as amended by HB 7223; states that *Sealed bids or proposals received by an agency pursuant to invitations to bid or requests for proposals are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of a decision or intended decision pursuant to s. 120.57(3)(a) or within 30 days after bid or proposal opening, whichever is earlier.*"

## SECTION 2: GENERAL GUIDELINES

### A. PURCHASING THRESHOLDS

The city strives to obtain the best quality of goods and services at the best price. The level of effort that is to be exerted to obtain the best quality and best price is directly proportional to the cost of that product. The higher the cost, the more effort should be made.

Procurement is based on that principal. To administering these guidelines, threshold levels have been established that clearly define that level of effort.

A purchase requisition must be created prior to the purchase for all purchases over \$1,000.00 and must be approved by the Department Director, or in his absence, by his designee. Requisitions for smaller amounts may be entered after the purchase is made, but this route is not recommended. Furthermore, departments are highly encouraged to use P-Cards for all purchases of less than \$1,000.00.

**Purchases up to \$2,999.** Proof of competition is not required. However, choosing the most competitive price is always encouraged.

**Purchases between \$3,000 and \$25,000.** Proof of competition is required. Three quotes or proof of competition must be attached to the purchase requisition. If the item or service is being purchased under a City contract or by piggy-backing an active contract or utilizing a State contract, that information must be indicated in the requisition.

**Purchases over \$25,000.** Purchases, where the total from any vendor exceeds \$25,000, must be publicly advertised and competitively selected unless that item is being purchased under a City Contract, piggy-backing an active contract issued by the State or other municipal government or when the item is specifically exempted from competitive bidding by ordinance.

**Purchases over \$50,000** must be approved by city Council as part of the formal bidding process. Documentation of approval, such as a copy of the resolution must be attached.

## B. SIGNATURE AUTHORIZATION LEVELS

**All purchase requisitions must be approved by the department Director.** Each department has alternate approved individuals who may approve in the absence of the Director.

**All purchase requisitions:** must be approved by the Purchasing Manager and Finance Director.

**Purchase requisitions \$10,000 to \$50,000:** in addition to the department Director, the Purchasing Manager and Finance Director, must be approved by the City Manager.

**Purchase requisitions \$50,000 or greater:** The City Manager must have authorization from City Council to approve purchase requisitions or contracts over \$50,000.

**Change Orders/ Purchase requisition for PO Upgrade:** Per the Purchasing Ordinance, the City Manager must approve all change orders or PO upgrades. Same applies to City contracts. This does not apply to “blanket” POs.

## C. BLANKET PURCHASE ORDERS

In the past the City has used “blanket” purchase orders to procure items (or services) used in the daily operation of the departments.

The Purchasing Manager should be contacted if there is any question regarding the appropriateness of using a blanket PO in a specific situation. Blanket PO's are subject to the same authorization limits as defined above. These blanket POs may be upgraded from time to time as required.

The purchase of individual items under a blanket PO should be carefully monitored. The intent of a blanket PO is for the frequent purchase of small items. It should not be used for the acquisition of major (greater than \$1,000.00 each) items although exceptions may occur. A major example of an acceptable exception is the repetitive purchase of chemicals for the utility department.

## D. NON-COMPETITIVE PURCHASES

Noncompetitive purchase is any purchase of supplies, materials, equipment or service from one source without competition. Noncompetitive purchases are permitted by Sec. 2-255 (c) of the Purchasing Ordinance.

## E. UNAUTHORIZED PURCHASES

1. Except as provided in this manual, it shall be unlawful for any city employee to order the purchase of any materials, supplies, equipment professional or contractual services or to make any contract within the purview of this manual with a value greater than \$3,000.00 other than through the Purchasing Manager, Finance Director or City Manager. Any purchase order or contract made contrary to the provisions in this manual shall not be approved, and the city shall not be bound thereby.
2. This section shall not apply to any emergency purchase which is subsequently approved by the City Manager upon justification by the originating department.
3. No contract or purchase shall be subdivided to avoid the requirements of this manual, either because of stated thresholds or purchasing methods.

## F. SOLE SOURCE PURCHASES

In addition to the definition of a sole source part, a sole source part may be one that falls under the standardized part classification and has only one possible source for that part. Some manufacturers have territorial distributors and those distributors cannot sell outside of their assigned area. If this is the case, a copy of the distributor's sole source letter should be attached to the purchase requisition. Given the very large number of purchase orders processed, it is not expected that purchasing personnel will remember what items are sole sourced. Each requisition must stand on its own and shall not simply reference a previous purchase.

## G. STANDARDIZED PRODUCT PURCHASES

Ordinance identifies standardized products as being exempt from the competitive purchasing requirements. However, many standardized products are available from multiple sources. If this is the case, the normal competitive procurement rules apply.

## H. BRAND NAMES

If a required item is not identified as a standardized part by the requesting department and that item, by policy must be publically advertised, and that requirement can be satisfied by more than one manufacturer's product, the request for bid should not specify brand and the specifications should not be written such that only one brand can satisfy all specifications.

Likewise, if the request for bid or proposal is for a construction project and the materials list specifies certain parts, those parts must not be identified by part number or brand name unless they have been documented as standardized items or as being proprietary with no other acceptable product being available. If they have not, brand names and part numbers can only be listed if the following words are included: “or approved equal”.

## SECTION 3: PURCHASING METHODS

If the item or purchase does not fall under the exceptions to competitive purchasing as listed in the city ordinances and as described in Section 2 of this manual, the procurement process is defined below.

The purchasing will determine whether or not a specific purchase is a qualified exception.

### A. IN GENERAL

Purchasing requirements may not be separated solely for the purpose of avoiding formal contract procedures or to dictate any preferred method of acquisition. The aggregate of all purchases to complete a project will dictate the purchasing method to be used.

Per the ordinance, *“When smaller purchases are a part (segment) of a system, process, structure, facility, and/or project, the total cost of the system, etc. will determine the controlling purchasing method and procedure.*

### B. SMALL PURCHASES - UNDER \$25,000

Small purchases are defined as the procurement of goods and services which do not exceed \$25,000. The level of effort expected and the documentation of the effort used to ensure that the price received is fair and reasonable is in direct proportion to the cost of the good or service.

The requesting department is responsible for performing and documenting the required level of competitive shopping and for confirming that there are enough unencumbered funds in the budget for the purchase.

**Purchases under \$3,000** do not require that proof of competitive shopping was performed but it is encouraged.

**Purchases between \$3,000 and \$24,999** do require that the department performs due diligence, obtaining competitive quotes and providing copies of those competitive quotes with the purchase requisition. At minimum, 3 quotes must be attached. The exception to this requirement is when there is an existing contract being used. The requisition must reference the contract number.

If the department is piggy-backing on a current state or municipal contract or cooperative purchasing agreement, that must be stated on the requisition and if that contract is not in TylerMunis, a copy must be provided to the Purchasing Manager.

### **C. LARGE PURCHASES – OVER \$25,000**

A request is submitted to Purchasing Department for the procurement of the good or service, a project manager's worksheet is prepared, and project/item specifications and plans are submitted.

The requesting department must have confirmed that enough unencumbered funds are available and that the City Manager is aware of the department's intent to proceed with the procurement of the item or service **prior** to submitting the information to purchasing.

The method of procurement will be determined by Purchasing Department. The standard procurement methods are as follow:

#### **Invitation to Bid (ITB)**

ITBs are used for projects exceeding \$25,000 when the specifications for the product or services can be clearly defined and there is little or no leeway in the interpretation of the requirement. Care must be taken to not create a specification that only one vendor can meet. The lowest price from a qualified bidder would be the basis for award.

#### **Request for proposals (RFP)**

RFPs are used for those projects that cannot be precisely defined and specifications are such that more than one approach or product type could fulfill the requirement. Factors other than price are considered and negotiations with the best proposer(s) are used to determine the ultimate awardee.

#### **Request for qualifications (RFQ)**

RFQs are primarily used to obtain professional services. The intent is to choose the vendor based on qualifications rather than price alone. The method of the procurement of professional services is governed by state statute 287.055, the Consultants' Competitive Negotiation Act.

#### **Cooperative purchasing & piggy-backing**

Competitive pricing can usually be assured when using cooperative purchasing agreements which were solicited through the ITB/RFP process. Likewise, contracts or purchasing agreements that were obtained through competitive purchasing methods by state, county or municipal purchasing organizations can be used by the city in place of issuing its own ITBs or RFPs. The final decision as to whether or not the city can piggy-back a contract rests with the Purchasing Manager.

### **Contract through Negotiation**

Negotiation is a process of contracting through the use of either competitive or other-than-competitive proposals and discussions. Negotiation is a procedure that may include the receipt of sealed proposals from offerors, permits bargaining, and may afford offerors an opportunity to revise their offers before award of a contract. Award may be made on a basis other than the lowest price. Negotiation is the preferred method of contracting when specifications or statements of work may not be definitive and may allow for variation in providing the products or services.

### **Design-Build**

Design-Build is a procurement method in which a single firm has been given responsibility for the design and construction of a public project. Selection of a firm is a combination of qualification based selection and negotiated pricing based on requirements specifications. Some of the primary objectives of using this procurement method are; (1) fast tracking of project completion (2) quick re-pricing and the ability to get an immediate analysis of options during a critical time when changes in plans are being considered, (3) competitive bids are obtained from each subcontractor and (4) it ensures that a project is going to be within an established budget before any early and/or substantial expenditures are made.

Per F.S. 287-055(j) City must have a “design criteria package” prepared prior to going out for bids/ proposals or qualifications. The firm that creates the “design criteria package” is not eligible to submit for the actual design-build.

## **D. EMERGENCY PURCHASES**

Emergency procurement means a purchase made in response to a need when the delay incidental to compliance with all governing rules, regulations, and/or procedures would be detrimental to the life, health, welfare, safety or convenience of the city and/or its residents.

The necessity for the procurement of goods and services as the result of an emergency situation does occur. While non-competitive purchasing may be justified in these circumstances, there is a level of documentation that is required to be processed to enable finance to processes the invoices and to provide management insight and ultimate approval.

## SECTION 4: REQUISITIONS AND PURCHASE ORDER PROCESSING

### A. SMALL PURCHASES

For small purchases (\$0 to \$24,999), the purchasing function is performed primarily by the requesting department.

The requesting department will determine:

- what is required and quantity
- whether or not an active contract is available under which to purchase the item or service.
- estimated price to determine what procurement method will be required
- if sufficient funds are available

If the item or service is under contract, either a city contract or a piggy-back contract, the department shall prepare a purchase requisition and specify the contract being used in the requisition and forward that requisition to Finance for processing. If a piggy-back is being used, which has not been previously submitted to Purchasing Manager, additional documentation may be required.

**If the purchase is less than \$1000**, a purchase order is not required prior to the purchase but is recommended. Furthermore, departments are encouraged to use P-Cards for all purchases of less than \$1,000

**If the item or service is estimated to be less than \$3,000**, a vendor is identified and a price is obtained. Some due diligence is expected to be performed to verify that the price is competitive but documentation of that comparison is not required to be attached to the requisition.

The department will enter a purchase requisition, specifying the item, the quantity to be purchased, the price and the account number. If the department would like to add a new vendor, Purchasing Manager needs to be contacted first.

The purchase requisition is then reviewed, converted to a purchase order by the Purchasing Department and submitted to the vendor. Departments should refrain from making any type of verbal, either via phone, email or in person, commitments to purchase before an approved purchase order is in hand.

**If the item or service is estimated to be \$3,000 to \$24,999**, the requesting individual will obtain competitive quotes from at least three vendors. Those quotes should be in writing. If the requesting individual is unable to obtain all three written quotes, he must document his attempts to obtain such quotes, detailing who he called or emailed and the date of those inquiries. Purchasing Manager will determine if sufficient effort has been made to obtain the required three quotes.

***Important note regarding obtaining quotes***

For construction or service projects, the request for quotes must contain a detailed scope of work and required performance time. That exact same detail must be provided to each vendor solicited. Bids submitted must be carefully reviewed to ensure that the bid was responsive to the detailed scope of work and time of performance. Should a change be made to the scope of work, all vendors must be advised of that change and allowed to submit a revised quote.

**Exceptions**

Certain noncompetitive purchases are permitted by Sec. 2-255 (c) of the Purchasing Ordinance. Also, quotes are not required if the City has an existing contract – own or piggy-back.

**B. LARGE PURCHASES**

For large purchases (\$25,000 or more), the requesting department's project manager should email, call or visit, the Purchasing Manager to discuss the project or items being requested. The Purchasing Manager will determine what procurement method is to be used and will describe to the project manager what information will be required to begin work on the procurement. A Project Manager's Worksheet must be submitted to Purchasing Manager with all the pertinent information. Due to the technical and operational knowledge it is the requesting department's responsibility to provide the scope of work, list of needed services, bidder qualifications, technical specifications, plans, etc.

As is the case with small purchases, the requesting department will insure that the decision to put the project out for bid has been approved by the department director and that sufficient funds are available for the estimated total cost of the project.

**C. PO (PURCHASE ORDER) ADMINISTRATION**

TylerMunis purchasing module follows the below process:

1. requisition for a purchase order is entered (***requisition entry***) by the department and approved by Finance (and City Manager if over \$50,000)
2. PO is issued and sent to the vendor by Purchasing Manager or designee
3. goods or services are received by the department. This gets acknowledged via ***purchase order receiving*** by the department

4. invoice is entered by Finance and gets approved by the department (**invoice approval**)

The originating department is ultimately responsible for checking the amount charged and goods/services received for accuracy on each invoice.

**No purchase order:** If there is no purchase order, the originating department must attach a memo addressed to the Purchasing Manager explaining why and how a purchase was made without a supporting purchase order.

**Exceptions to the requirement for a purchase order**

1. Emergency purchase- documentation should have been prepared following that purchase and submitted.
2. P-card purchases

**D. CHANGE ORDERS**

The authority to award or approve change orders is subject to the following (Sec. 2-259 (a) of the Purchasing Ordinance):

- (1) For contracts authorized by City Council, the city manager may approve change orders or contract modifications provided that the **cumulative** changes do not exceed 25% of the original contract amount and do not exceed the city manager's signature authorization level (\$50,000).
- (2) For contracts of less than fifty thousand dollars, the city manager may approve change orders or contract modifications provided the cumulative contract and change orders do not exceed 125% of the original contract amount.

**The caveat to the above is the following:**

In the event that a change order which under the aforementioned criteria must be approved by City Council, is of an emergency nature, or if a delay in the approval by City Council caused by the timing of a City Council meeting will result in a work stoppage or cause increases in the cost of the project, the city manager is authorized to approve the change order and is then required to advise City Council shortly thereafter of that change order and the circumstances which necessitated that decision.

Only City Manager is authorized to sign change orders. This means that all change orders must go to the City Manager for approval, regardless of the value of that change order. The Purchasing Manager cannot approve upgrades to the purchase order unless the City Manager has signed it, regardless of the value of the change order.

**A special note of clarification:** This section does not apply to the PO decreases and "blanket" POs.

## SECTION 5: FORMAL SOLICITATION PROCESS

### A. GENERAL INFORMATION

Unless otherwise exempted in Purchasing Ordinance or this manual, procurement of goods or service which acquisition cost is \$25,000 or over must be procured by publically advertised and competitive means.

### B. PROJECT NUMBERS

Bid/project numbers are assigned by Purchasing Manager and are located in the appropriate fiscal year folders in F:\Lina Upham-finance\ITB, RFP, RFQ. In the following format: **16-023 New HVAC system at City Hall**. Inside the appropriate folder completed documents that make up the bid package would be placed, such as plans, technical specifications, bid price tabulation sheets, etc.

### C. SETTING DATES

Except in a time critical situation, the Public (legal) notice should not be prepared until you have received the following:

1. Funding source
2. Plans & Specifications
3. Bid Summary
4. Engineer's cost estimate.

The following dates/ timelines must be established:

- Advertisement dates- the earliest date is based on when the legal notice is ready and is submitted to the newspaper. There is at least 3 day lead time for that.
- The Pre-Bid meeting, if required, is tentatively scheduled with the project manager.
- Questions due date: Depending upon the complexity of the project, time must be allowed for the bidders to review the solicitation documents and formulate any questions they will have. If there is a pre-bid meeting, that date must be several working days after the meeting.
- Addendum estimated date: Adequate time to prepare answers to submitted questions must be given the project manager/engineers. That time would also be dependent upon the level of complexity of the project.

- Bid Open Date: Allow time between receipt of addendum (if required) and the bid opening for the bidder to adjust or finalize his bid and to get the bid delivered to City Hall.

Note: Occasionally, you will be pushed to meet a City Council date or a date set by a funding agency. *Do not be pushed to short cycle your schedule based on a non-critical date quoted by a project manager or Director.* Unless you have complete confidence that everything is ready, do not proceed with the advertisement. The date will be the date.

#### D. PUBLIC NOTICE

(STATE OF FLORIDA LAWS OUTLINE MANY OF LEGAL NOTICE REQUIREMENTS THAT CITY MUST FOLLOW)

Public notice is required for all formal ITBs, RFPs and RFQs.

Public notice can be one or all of the following:

1. Publication in a newspaper of general circulation within the county.
2. Posting on the [www.demandstar.com](http://www.demandstar.com)

Only item 1, Publication in a newspaper of general circulation qualifies as a legal notice for the sake of purchasing. Projects should be advertised at least once.

#### E. BID BONDS

In general, bid bonds or other security may be required to ensure that the bidder or proposer will make a reasonable bid or proposal and if awarded a contract will follow through with that contract. The bond discourages the submission of low-ball bids that the bidder may, upon seeing the other bids or realizing that he made an error in the bid, not honor. The failure of a bidder to follow through with an awarded contract may cause damage to the city in the form of a delayed project start, additional administrative effort, and other expenses to award the project to a second or third bidder.

The Purchasing Manager will have discretionary authority to set the bid bond amount, typically 5% of the contract amount, at a situational reasonable level or to not require bid bonds.

Bid or proposal security shall be by certified or cashier's check, by a bid bond or an irrevocable letter of credit made payable to the city and provided by a surety company authorized to do business as a surety in the state.

The bid or proposal security of the successful bidder or offeror will be retained until such bidder or offeror has executed the contract and furnished the required certificate of insurance and the payment and performance bonds. If the

successful bidder or offeror fails to furnish those items in the time specified in the instructions to bidders, the city may annul the notice of award and the entire sum of the bid or proposal security shall be forfeited.

## **F. ITB/RFP/RFQ PROCESS**

The ITB (request for bid) is used when the project or specifications of the item can be precisely defined such that each bidder will be bidding a substantially identical product, whether that product is a capital item or a construction project.

The RFP (request for proposals) is used when the scope of work, specifications, or contractual terms and conditions cannot be well defined.

The RFQ (request for qualifications) is used when the City is requesting the submission of qualifications from engineering or other professional services firms. Those submissions are used in a committee forum to choose the most qualified firms to whom to offer continuing contracts or contracts for professional services on a single project. The selection of consultants is subject to Florida State Statute 287.055.

Bid documents are, in effect, legal documents and only one person should be responsible for making updates or changes to those boiler plate forms.

Solicitation packages are advertised on [www.demandstar.com](http://www.demandstar.com)

## **G. ADDENDUMS**

Frequently, because of errors or omissions in the bid documents, or because of the request for clarification, addendums to the bidding documents may be necessary. Addendums should be posted on [www.demandstar.com](http://www.demandstar.com)

It is the bidder's responsibility to ensure that addendum was received and acknowledged in the bid/proposal response. Failure to do so may result in the disqualification of the submittal. The decision to disqualify because of the lack of acknowledgement of an addendum rests with the Purchasing Manager who will examine the specific addendum and determine whether or not it was material to the validity of the bid.

## **H. CONE OF SILENCE**

Cone of Silence is designed to protect the professional integrity of the procurement process by shielding it from undue influences prior to the contract award.

Respondents to any formal solicitation or person acting on their behalf may not contact between the release of the solicitation and the end of 72 hour period

following the posting the Notice of Intended Award, excluding weekends and holidays, any employee or officer of the executive or legislative branch concerning any aspects of given solicitation, except in writing to the procurement officer as provided in either the solicitation documents (during the solicitation process) or formal protest procedures (after Notice of Intended Award is issued). Violation of this provision may be grounds for bidder disqualification.

## **SECTION 6: BID/PROPOSAL SUBMITTAL OPENING AND EVALUATION**

### **A. GENERAL INFORMATION**

At the time and date of the receipt of bids, proposals and statements of qualifications, all documents and processes are subject to the sunshine law.

There are some exceptions within the process are discussed in Section E of this Section.

### **B. ITB PROCESS**

Of all the processes, the handling of sealed bids is the most simple.

Bid openings are conducted in a public place and time as was specified in the legal notice or as may have been amended by an addendum.

The bid opening will be conducted by no less than two city staff members.

1. The Purchasing Manager or designee
2. A bid opening recorder, typically City Clerk, or if that person is not available, any other city staff.

The Project Manager will:

1. review the lowest bid to ensure that there are no calculation errors
2. review the components of the bid looking for costs which are not in line with expectations or other bids
3. if not familiar with the low bidder, make appropriate and necessary investigation of that bidder. This vendor check activity may be a cooperative activity with Purchasing Manager
4. make a recommendation for award. For projects under \$50,000, that process may be simply the creation and processing of a purchase requisition. If the project is in excess of \$50,000, it will be presented to City Council for award of contract.

### **C. RFP PROCESS**

Proposals are different than sealed bids in that the product or service will not be identical between proposers and as such a direct comparison of price would be largely meaningless. Furthermore, the use of proposals lends itself to

negotiation between the city and the proposer on price, product or service, or both. Therefore, there is no public opening of proposals.

The receipt of proposals shall be handled in such a manner that neither the identity of the proposers nor the details of the proposal are revealed to competing offerors during the process of negotiation. A log of proposals shall be maintained which will contain the name of each offeror, the original proposal amount, the number of modifications received, if any, and a description sufficient to identify the item offered. The log shall be open for public access only after contract award.

Award may be made:

1. without negotiation
2. with negotiation
3. following discussion

The contract may be awarded to the offeror (contractor) whose proposal offers the best value to the city.

#### D. RFQ PROCESS

Firms to provide professional services are typically chosen by the use of a Request for Qualifications (RFQ) process. The intent is to choose firms based on their qualifications to provide the service rather than price. For engineering, surveying, architectural and landscape architecture services, Florida State Statute 287.055, the Consultant's Competitive Negotiation Act, prohibits an agency from considering cost or billing rates in the selection of a firm.

Statements of Qualifications are solicited publically and received on a set date and time. A team or committee of people qualified to judge the qualifications of firms in that discipline is chosen to review the submitted statements of qualifications. Based on previously defined categories with previously assigned points, the committee scores each submittal, Purchasing Manager rolls up all those scores and firms are ranked by score. If this is a continuing contract, there may be multiple firms chosen to be offered contracts. Award of contract is done by City Council. Only after award is the billing rate requested.

Worksheets have been created to facilitate the scoring and evaluation process. These worksheets are just frameworks for the creation of the actual scoring documents. They must be customized for the specific project with committee members names, scoring categories and point assignment to those scoring categories. There are formulas to add and post the input scores but as numerous parameters are set by the specific RFQ, you must carefully check to ensure that the worksheet is adding, calculating and posting correctly.

Per state Statute, Sec. 287.055(g) “continuing contract” is a contract for professional services entered into in accordance with all the provisions of the act and which can be used for multiple projects where the construction cost of each project does not exceed \$2 million or \$200,000 for a study.

RFQs are very time consuming and costly to execute. If you have a project exceeding the thresholds above and the nature of the engineering services are the same as you may wish to have under a continuing contract, you can combine the two by specifying that project in the RFQ. As large capital projects are planned several years in advance, it is wise to include/list those potential projects in the RFQ you may be issuing for generic engineering services.

If you have firms under continuing contracts and if those continuing contracts covered a specific project which would exceed the threshold, you may use one of these firms. You must, however start your negotiations with the top ranked firm and work downward until an agreement can be made.

## **E. SUNSHINE LAW APPLICATION**

All bids, proposals, submittals and scoring are public record. However, the timing of the release of these documents is subject to certain factors.

The posting/ release of the name of the firms and their bid total should be released immediately following the bid opening. The opening of the bids is conducted in a public forum.

The release of the bid detail can be delayed until (1) the City provides notice of its decision or intended decision, or (2) within 30 days after bid or proposal opening, whichever is earlier. (Section 119.071.2, Florida Statutes). This delay gives staff time to review the bids and determine if there are errors in the bid calculations or if, based on the amount of the bid on any item compared to other bids, the bidder(s) apparently misunderstood the requirements of that bid item. If all bids, proposals or replies are rejected and the City concurrently provides notice of an intent to reissue the solicitation, the rejected bids, proposals or replies remain exempt until the City provides notice of an intended decision concerning the reissued solicitation or withdraws the reissued competitive solicitation. The bids, proposals or replies are not exempt for longer than 12 months after the initial notice of rejection.

## **PUBLIC MEETINGS**

All bid openings and scoring committee meetings are to be held in a public forum.

An exception to the requirement for public meetings is allowed under state statute 286.0113, that deals with oral presentations by the potential vendors.

If presentations are being made by submitting firms as part of the selection process, you may prohibit competing firms from being present during those presentations. You must, however, make complete recordings of exempt meetings and release those recordings as per above.

Scoring meetings would not be exempt.

Lastly, any financial statement that is required from a prospective bidder is exempt from disclosure.

**SECTION 7: REJECTION OF BIDS, PROPOSALS OR STATEMENTS OF QUALIFICATIONS**

**A. IN GENERAL**

As per the Purchasing Ordinance, the City is able to reject or disqualify any bids, proposals or statements of qualifications, or portions of them, as best serves the interest of the city.

The rejection or disqualification of bids can be a contentious issue and the unsupportable rejection of a bid or firm can become a legal issue. In all applications of the below reasons for rejection, purchasing must document the facts.

**B. PER THE PURCHASING ORDINANCE (SECTION 2-260), BIDS MAY BE REJECTED IF:**

1. They are nonresponsive  
This primarily refers to the submittal of all specified forms, an obvious misunderstanding of a requirement or scope of work or caveats to the terms or specification of the bid.
2. They are materially higher than expected  
All projects have a maximum budget. If all the bids are higher than budget, they may all be rejected and the project cancelled, re-engineered or reissued at a later date when sufficient funds are available.
3. Errors in specifications may have caused confusion  
Such errors may result in portions in the bid being much higher or lower than the engineer's opinion of cost, or the error may manifest itself by wildly divergent costs between bidders in a single or multiple category of costs.
4. Sufficient funds are not available  
If the budget for the project has been decreased, all bid might be rejected and the project shelved.
5. The item or service is no longer needed

6. There is a lack of competition  
The bid process is designed to competitively determine what a fair or reasonable cost should be. If only one bid is received, the city can not declare that the price is fair and reasonable.
7. The item or service can be provided in-house  
This may be the result of the prices received and/ or the new availability of in-house skills.
8. The bidder does not qualify under state or federal law  
The bidder may be disqualified if he or she fails to provide the required licensing, certifications or has been listed by the state or federal government as being debarred or prohibited from bidding on state or federal work because of legal issues.
9. The bidder is not in compliance with city ordinances
10. The bidder does not appear to have the expertise, financial capability or other ability to meet the requirements of the contract to be awarded, or is otherwise shown not to be responsible. The City will not accept bids from firms deemed not responsible, which includes being behind schedule in a current project or has had liquidated damages applied in the prior five years.

The reasoning behind the use of these categories must be documented.

### **C. DISPUTE RESOLUTION AND PROTEST PROCEDURE**

Dispute resolution and protest procedures are outlined in Sec. 2-262 of the Purchasing Ordinance.

## SECTION 8: CONTRACTS & AGREEMENTS

### A. IN GENERAL

#### TYPES

In the context of Purchasing and Contracts, contracts or agreements can take several forms. The determination of which type or form to use depends upon factors such as items/services needed, duration, price, terms and specifications.

Contract types:

- For a specific project
- Continuing
  
- City's own contracts
- Other governments' (piggy-backs and co-ops)
  
- For goods (vehicles, chemicals, office supplies, etc.)
- For professional services (engineers, architect, other consultants, etc)
- For contractual services (HVAC maintenance, cleaning, painting, etc.)
- For construction projects

Contract forms are legal documents. Do not make any substantive changes in the language or contents of the basic contents of the contract documents without having City Attorney review. An exception to this would be additional conditions and requirements that may be required by Federal or State agencies as part of grants, federal aid or loan agreements. These additions are in the form of exhibits or appendixes to the standard language and content.

Only the City Manager can sign contracts, attested to by the City Clerk, or in her absence, a Notary Public. Contracts under \$50,000 are the prerogative of the City Manager and, over \$50,000, City Council makes the award and authorizes the City Manager to execute (sign) the contract.

**Exemptions:** (Purchasing Ordinance; Sec 2-258(3))

An exemption to the limit of the authority of the City Manager: Contracts/ purchase orders over \$ 50,000 may be authorized by the City Manager if they are:

1. Contracts for capital projects and equipment that were specifically approved by the city council in the current year budget. Caveats to this

exception are, (a) all purchasing requirements are met, documented and available for public inspection and (b) the final cost per item does not exceed the approved current year budget cost by more than 25 percent of the budgeted amount or more than a total dollar value of \$ 50,000. If the final cost of the item exceeds the approved current year budget cost by more than \$ 50,000, the award shall be made by the City Council.

2. Term contracts for utility department chemicals previously funded in the current year utility department operating budget and required in the day to day operation of the utility department.

## **1. CONSTRUCTION CONTRACTS**

Typically, construction contracts are the most intricate and detailed. The process starts with a project definition, the development of plans and specifications, the issue of a Request for Bids (ITB), bid submittals, evaluation, recommendation and award of contract by the City Manager or, if the cost is greater than \$50,000, the City Council. Following the award of contract, Purchasing Manager will prepare a formal contract which includes boiler plant language and terms & conditions of the contract, the contractor's bid and includes, by reference, the plans and specifications and other project specific information that was in the bid documents.

Within the realm of construction contracts, there are two distinct versions:

### **A. Standard boiler plate**

Most construction projects can be documented by the standard boiler plate contract form, completed with specific information such as vendor name and address, substantial and final completion dates, the attachment of the contractor's bid and the reference to the plans and specifications. The boiler plate form is relatively static and changed infrequently.

### **B. Federal & State compliant**

Any project whose funding, in part or in whole, come from state or federal programs, may require the inclusion of numerous and specific language, forms and conditions.

## **2. SERVICE CONTRACTS**

Services Contracts are simple in nature, consisting of a front end document which has the standard language and terms and conditions.

This front end document is customized for the specific vendor (name and address, etc), the expiration date or term of the contract, the bid submittal attached and reference to the bid documents made.

### 3. CONSULTING CONTRACTS

There are two types of consulting contracts.

A. **Continuing contracts** are the result of an RFQ (Request for Qualifications). The RFQ will be for either a specific skill, such as civil engineering, or for a range of skills under a general project objective such as Waste Water treatment. The contracts are general in nature and simply establish the relationship of the consulting firm with the City. Continuing contracts enable the City to engage pre-qualified consultants for a myriad of projects without going through the qualifications process for each project. Continuing contracts do have limitations of use. Ref: Florida Statute 287-055. Continuing contracts can be used for large projects if the specific project was identified in the RFQ. Most RFQs result in the selection of several qualified firms and the issue of contracts with each of those firms. Under CCNA, when the City wishes to engage a firm to work on a project, it should start with the highest scoring firm and try to negotiate a service and price with that firm. If the City is unable to negotiate a level of service at a fair and reasonable price, they would go to the next highest scoring firm and negotiate with that firm.

B. **Project Specific contacts** are contracts to perform a specific task for a specific project. The selection process would be virtually the same as for a continuing contract. The main difference is that once the firms are ranked, negotiations for that work would begin with the 1<sup>st</sup> ranked firm, If the negotiation is unsuccessful, negotiations would be initiated with the 2<sup>nd</sup> ranked firm and so on until an agreement is made. Then the contract would be consummated with just that firm.

### 4. PIGGY-BACK CONTRACTS

Competitive bidding or negotiations is normally needed to ensure that the price being paid is fair and everyone has the opportunity to earn the city's business.

Competitive bidding requires substantial resources (manpower, funds and time) and City Staff may not have the resources or expertise to execute a comprehensive bidding process for many items it needs.

The city may take advantage of the work and expertise of other municipalities or state agencies that have already gone through the competitive process and have executed contracts based on their process. In many cases, the city can "piggy-back" on those contracts and obtain the same product or service at the same, or comparable, price. Piggy-backing is allowed under state statute (F.S.287-055). Most municipal or agency contracts have specific language that allows other municipalities or agencies to piggy-back on their contracts.

There are generally two methods of finding piggy-back contracts.

A. Internet search for ITBs for the specific item or service, contacting the issuing agency or the winning bidder to get copies of the bid and contract. Usually, the winning firm is glad to extend that contract. If there are issues such as delivery distance for large materials, there may have to be an adjustment to the price to compensate for the difference in delivery costs.

B. If the requesting staff knows what product or service it needs and who the vendors are, an inquiry can be made to those vendors as to whether or not they have current contracts in place. If they do, they will usually be glad to provide that information and by letter agree to extend the same pricing and terms based on that contract.

Piggy-backing existing contracts can be accomplished either by creating an actual contract that references the contract being used or, more commonly, a purchase order would be created referencing the original contract. A copy of that original contract should be provided to Purchasing Manager as back up. P&C can then record the contract and the expiration dates to insure that the referenced contract is still valid.

## 5. COOPERATIVE PURCHASING AGREEMENTS

Cooperative purchasing agreements (co-ops) are competitively bid or negotiated contracts issued by an organization for a group of different agencies or municipalities. By negotiating for a number of other organizations, the vendor is offered a much larger volume of sales which usually results in more favorable pricing.

Under the cooperative purchasing agreement, there usually are no individual contracts. The local agency is simply a recorded, special, customer and is charged the agreed upon prices or set mark up.

### ***Ref: Florida Statute 163.01 Florida Interlocal Cooperation Act of 1969***

Not restricted to Florida originated agreements. This is different than Piggy-backing of Florida originated contracts.

## 6. CONTRACT RENEWALS

Many contracts have renewal options. Some are automatic renewals and some require an overt act to renew. Renewals may or may not result in price adjustments.

Per Ordinance Section 2-259(b)

(1) *If the City Council previously awarded a contract that contained a renewal option, the city manager, or his designee, shall determine if such a renewal is in the best interest of the city and may exercise this option on behalf of the city in accordance with the terms and conditions of the contract, for a period not exceeding 3 years.*

It is the responsibility of the Purchasing Manager to track expiration dates and when the expiration date is approached, to contact the using department and determine its level of satisfaction with the vendor and whether or not they wish to renew. A recommendation would then be forwarded to the City Manager, or his designee, for signature and approval to renew or not renew the contract. If the decision is to renew, a request for renewal letter would be sent to the vendor/contractor. They must agree to the renewal and request a price adjustment if desired. The contractor is not obligated to renew.

If the contract is not being renewed, steps must be started to issue a new ITB if the services or products are still required.

(2) *When a contract is entered into by the city pursuant to City Council approval and provides for one (1) or more automatic renewals unless one (1) party notifies the other of its intent not to renew, only the City Council is authorized to decide to decide not to renew the contract.*

If the contract has an automatic renewal, P&C should notify the using department that the contract automatically renews and if they do not wish to renew, they must prepare a “yellow sheet” for City Council stating that they do not wish to renew and provide justification for not reviewing the contract. If City Council approves the request to not renew, P&C will notify the vendor of that decision. If the services or products are still required, a new ITB should be initiated.

If the contract was awarded by the City Manager and is under \$50,000, the decision to renew or not review is the prerogative of the City Manager, and should be based on the using department recommendation. If the City Manager approves the request to not renew, P&C will notify the vendor of that decision. If the decision is to renew, a request for renewal letter would be sent to the vendor/contractor. They must agree to the renewal and request a price adjustment if desired. The contractor is not obligated to renew.

## B. CONTRACT ADMINISTRATION

### 1. INSURANCE

Insurance Certificates are required to be supplied by all contract vendors.

The City of Marco Island should be listed as an **additional insured by endorsement** on liability insurance.

The certificates of liability insurance are to be received with, or shortly after, the signing of the contract. Periodically, the file should be reviewed to ensure that the insurance document on file is still current. If not, an email to the vendor should

me made requesting updated documents. Maintaining insurance is a requirement of the contract.

## 2. LIQUIDATED DAMAGES

Liquidated Damages also referred to as liquidated and ascertained damages) are damages whose amount the parties designate during the formation of a contract for the injured party to collect as compensation upon a specific breach (e.g., late performance).

When damages are not predetermined/assessed in advance, then the amount recoverable is said to be 'at large' (to be agreed or determined by a court or tribunal in the event of breach).

At common law, a liquidated damages clause will not be enforced if its purpose is to punish the wrongdoer/party in breach rather than to compensate the injured party (in which case it is referred to as a penal or penalty clause). One reason for this is that the enforcement of the term would, in effect, require an equitable order of specific performance. However, courts sitting in equity will seek to achieve a fair result and will not enforce a term that will lead to the unjust enrichment of the enforcing party.

In order for a liquidated damages clause to be upheld, two conditions must be met.

First, the amount of the damages identified must roughly approximate the damages likely to fall upon the party seeking the benefit of the term. Second, the damages must be sufficiently uncertain at the time the contract is made that such a clause will likely save both parties the future difficulty of estimating damages.

Damages that are sufficiently uncertain may be referred to as **unliquidated damages**, and may be so categorized because they are not mathematically calculable or are subject to a contingency which makes the amount of damages uncertain.

The City uses the Florida Department of Transportation Liquidated Damages Matrix for its construction contracts.

## **SECTION 9: PURCHASING CARD (P-CARD)** **POLICIES AND PROCEDURES**

### **A. PURPOSE**

The purpose of this instruction is to provide a procedure to employees pertaining to the use of the City Purchasing Credit Cards (MasterCards issued by the Fifth Third Bank) and monthly statement reconciliation.

### **B. SCOPE**

The P-Card program is a delegation of procurement authority by the Purchasing Division to a Department, with oversight by the department director.

Each department director must provide fiduciary oversight and accountability for the use of the City's P-Card within their area, including fiscal control for department P-Cards and financial accountability for each transaction.

These policies and procedures apply to the all departmental P-Cards. Participation in the City's P-Card program is a privilege, which can be taken away for the abuse(s) set forth in this policy.

Department directors may choose to implement more restrictive policies within their areas than what is outlined in the P-Card Policies and Procedures.

### **C. PURCHASING CARD PURPOSE**

The City of Marco Island uses P-Cards to improve efficiency in processing low-dollar purchases from any vendor that accepts MasterCard. It is intended to reduce the number of small-dollar purchase orders and use of petty cash, in addition to reducing the amount of time spent by the ordering department, Purchasing and Accounting Divisions in processing these low-dollar transactions. Employees using a P-Card are responsible for the proper use of the P-Card in accordance with these procedures. P-Cards may only be used for official City business. Employees improperly using a P-Card are subject to disciplinary action.

### **D. HOW IT WORKS**

Procurement responsibility is delegated to the ordering department enabling the Authorized Cardholder (Cardholder) to place an order directly with the vendor.

All transactions are approved, or declined electronically based on the purchasing card authorization criteria established.

The authorization criteria may be adjusted periodically as needed and may include, but is not limited to, the following:

1. Single purchase limit (standard transaction limit \$1,000)
2. Monthly / credit spending limit (standard monthly credit limit \$5,000/card)
3. Approved merchant category codes (MCC)

The P-Card may also be used to strategically make larger dollar purchases under the direction of the Purchasing Manager, Finance Director or the City Manager.

### ***Cardholder Benefits***

- Convenience of purchasing without purchase orders.
- Quicker delivery of goods or services.
- Larger list of merchants to purchase from.

### ***Agency Benefits***

- Simplifies the purchasing process for low dollar purchases.
- Lowers the overall transaction processing cost per purchase.
- Allows accountability.

### ***Merchant Benefits***

- Expedites payment to the merchant.
- Reduces paperwork.
- Lowers risk for late or nonpayment.

## **E. WHO DOES WHAT**

### **Cardholder**

1. Holds and secures the purchasing card
2. Orders materials and services in accordance with guidelines
3. Collects and saves sales receipts
4. Reviews monthly charges with supervisor
5. Identifies disputed charges
6. Notifies appropriate director and Finance if unauthorized card use is suspected.

### **Department P-Card Reconciler (designated by Department Director)**

1. Reviews monthly statement authorizing charges
2. Matches receipts with monthly card statement in TylerMunis
3. Assigns appropriate GL account numbers to charges.
4. Handles disputed items.
5. Imports or scans all supporting receipts into TylerMunis.

6. Notifies appropriate director and Finance if unauthorized card use is suspected.
7. Participates in resolving billing disputes and interfaces with vendor.

### **Department Director**

1. Requests Purchasing Cards for designated employees.
2. Requests individual spending limits within established guidelines.
3. Designates Department's P-Card Reconciler
4. Collects Cards from Cardholders terminating employment.
5. Notifies Purchasing to terminate Card(s).
6. Approves monthly Cardholders transactions in TylerMunis P-Card monthly statement approval process.
7. Makes recommendations for disciplinary action in the event of misuse in accordance with policy.

### **Finance/Accounting**

1. Receives monthly statement electronically from issuing bank and notifies all Cardholders of statement upload into TylerMunis P-Card system and their approval timeframe deadline(s).
2. Receives approval at all required levels from Cardholders.
3. Notifies departments when approved transactions in TylerMunis from the issuing Bank's electronic file statement are not approved in TylerMunis.
4. Pays all monthly transactions from issuing bank and processes manual payment or journal entry to record payment..
5. Confirms all electronic files, statements, receipts, etc., are in TylerMunis P-Card system..
6. Administers 1099 reporting.
5. Coordinates internal controls.

### **Purchasing (City P-Card Administrator)**

1. Maintains P-Card Policy
2. Ensures purchases are from authorized vendors
3. Adds new vendors to the system or assists vendors with vendor self-service if necessary
4. Verifies adequacy of required documents and information from new vendors.
5. Maintains vendor tax identification if the file contains incorrect information
6. Verifies that the procurement policies and procedures are being followed and that goods and services are competitively purchased if required.
7. Pursues supplier discount opportunities and rebates and ensures that existing discounts are applied.
8. Evaluates Purchasing Card feedback from suppliers.
9. Targets expanded use of Card.

## F. EXPENDITURE REVIEW

Because of their knowledge of the job responsibilities and requirements, Department Directors are required to review each purchasing card expenditure to ensure the goods or services are necessary and for official use. When purchases are questioned, the Department Director shall be responsible for resolving the issue with the cardholder. If the Department Director is not satisfied that the purchase was necessary and for official use, the cardholder must provide either a credit voucher proving the items were returned or a personal check for the full amount of the purchase plus any required tax.

Checks must be sent to Finance with an explanation and account number to credit. This must be done within five business days from the date the Department Director notified the cardholder of an unofficial purchase or purchases.

Misuse of the purchasing card may result in the revocation of the Card. Employees incorrectly using their purchasing card are subject to disciplinary action, up to and including termination and criminal prosecution.

## G. CARD ASSIGNMENT AND CONTROL

1. The City P-Card Administrator will act as the key contact between the City and the Company issuing the card.
  - a. Purchasing cards will be issued to individuals who frequently purchase goods and services or who otherwise should receive a card. All cardholders are required to review this policy.
  - b. The purchasing card will have the employee's legal name, the City's name, City's Tax Exemption Number, Department, and the expiration date printed on the face of the card.
  - c. Requests for new purchasing cards or changes to a purchasing card's spending limits must be made by the Department Director and approved by the City P-Card Administrator.
  - d. If a purchasing card is lost, stolen or misplaced, the cardholder must immediately notify the Card Administrator (Purchasing Department) at 239-389-5011 and Bank at 866-475-0729 of the loss. The cardholder is responsible for reporting all information necessary to reduce the liability to the City for the lost, stolen, or misplaced card.
  
2. Termination or Transfer of Cardholder
  - a. When an individual's employment ends, the Director shall collect the purchasing card and submit the card to the City's P-Card Administrator for destruction.

- b. When an individual is transferred to another department, the Director shall collect the purchasing card and contact the City's P-Card Administrator to determine if the card should be re-issued.
- c. If the Department Director is unable to collect the purchasing card when an employee terminates employment, the director shall immediately notify the P-Card Administrator, who will ensure that the card is cancelled.
- d. Disciplinary action will be taken in the event that both the City's P-Card Administrator and the issuing bank (currently Fifth Third), are not immediately notified of a lost, stolen, or misplaced Card.

### 3. Purchasing Card Limitations

- a. The P-Card is for cardholder use only. Only the employee whose name is embossed on the card may use the purchasing card. No other person is authorized to use the P-Card. The Card holder is responsible and accountable for all transactions that occur on his/her City issued P-Card.
- b. The card is for City purchases only:
  - The purchasing card is to be used for City authorized purchases only.
  - The purchasing card may not be used for any personal use and any such use will require immediate reimbursement and may result in disciplinary action up to and including termination of employment with the City, and criminal prosecution.
- c. Each card will have dollar limitations. The P-Card Administrator shall set and approve the assignment of a Purchasing Card issued and its two limits: (1) a single/transaction purchase limit; and (2) a 30-day limit monthly/credit limit. Requests for spending limit changes must be initiated by the employee to the employee's Department Director. Exceptions to these limits may only be authorized by the Purchasing.
- d. Cards will have other limitations based on use type (merchant category codes), to reduce the risk of error or misuse. Merchant Category Code (MCC) is a 4-digit code assigned to a merchant by MasterCard, which identifies the primary goods or services that are provided by that merchant (for example, restaurant, lodging, retail, etc.)

### 4. Other Conditions

- a. All items purchased over-the-counter must be immediately available and delivered in a single delivery.
- b. All items purchased by telephone must be delivered by the vendor within the quoted timeframe. The order should not be placed without this assurance.
- c. Any use of the purchasing card for travel related expenses must be pre-approved using the proper City Employee Travel and Training approval process.

## 5. Prohibited Use of Purchasing Cards

- a. Purchasing Cards may not be used for the following items:
  - Cash advances.
  - Gasoline or fuel purchases for vehicles may only be made using the City's Fleet card. Marine fuel purchases should be made using the P-Card.
  - Any additional goods or services specifically restricted by the City.
  - Item in excess of assigned standard daily and monthly limits.
  - Non-work related entertainment
  - Food and beverages while outside of the County travel (this will get reimbursed in accordance with City's current travel and training policy and procedure). Business meals and all other situations requiring food purchase will require the original receipt, must list the purpose of the meal and must list the names of all attendees.
- b. A purchase may consist of multiple items, however, the invoice cannot exceed the cardholder's limit or to avoid purchasing quote thresholds. Charges for purchases shall not be split to stay within the single purchase limit or to avoid purchasing quote thresholds. This will be considered abuse of the card program and may result in disciplinary action and card cancellation.
- c. Emergency exceptions to the above rule must be approved in writing (including email) by the Department Director and Purchasing Manager or City Manager's Office by the next business day.

## 6. Sales Tax

City purchases made in Florida and for use in Florida are exempt from Florida sales tax. The employee using the P-Card is responsible for obtaining a Consumer's Certificate of Exemption to use for purchases that involve state sales tax. Purchases made in other states are subject to that state's sales tax rules. The employee must be diligent and make a good faith effort when dealing with vendors regarding Florida taxes. If the vendor cannot deduct the Florida sales tax because of pre-set controls within their computer systems or will not honor the exemption, the employee may continue with the purchase but must note the vendor's refusal on the receipt. Continued refusal by the vendor to deduct Florida sales tax on appropriate City purchases will be grounds for the Purchasing Division's removal of the vendor as an authorized merchant.

## H. MAKING PURCHASES AND PAYING INVOICES

The following procedure provides instructions on how to make purchases and pay invoices related to the P-Card:

1. Documentation of over-the-counter purchases

- a. When an over-the-counter purchase is made, the Cardholder must obtain the receipt.
- b. The receipt will be retained by the Cardholder or by the Department P-Card reconciler and scanned into the TylerMunis P-Card statement transaction.

## 2. Online purchases

Online purchases will be made from secure vendors as authorized by the PCard Administrator.

## 3. Missing Documentation

If for some reason the Cardholder misplaced documentation of the transaction, the Cardholder must contact the vendor to get a duplicate of missing document. Missing documentation may result in the cancellation of the employee's Purchasing Card.

4. Monthly statement reconciliation (City P-Card Administrator might change the frequency of the statement).

## I. P-CARD DISPUTES

1. The Cardholder is responsible for any disputes on his/her card.
  - a. If items purchased with the Purchasing Card are defective, the Cardholder must return the item(s) to the vendor for replacement or credit. If the service paid for with a Purchasing Card is faulty, the vendor must be notified and asked to correct the situation or provide a credit. If the vendor refuses to replace or correct the faulty item or service, the purchase will be considered in dispute. If the quantity of items received is less than the invoice and charge billing, the transaction must be disputed.
  - b. A disputed item must be explained with a note on the Cardholder's P-Card transaction entry into TylerMunis. Notification to Accounts Payable by copying P-Card transaction email dispute with the Vendor should be given.
  - c. It is essential that the time frames and documentation requirements established for disputed items by the Purchasing Card Issuer (currently Fifth Third Bank) be followed to protect the Cardholder's rights in a dispute. The requirement of the current issuer is upon a belief that a transaction was unauthorized, the cardholder must notify the issuing bank immediately but not more than sixty (60) days after the transaction in question appears on a cardholder's account statement.

2. A dispute occurs when a Cardholder questions a transaction that has been charged to his/her account. The following steps must be taken to ensure prompt settlement.

- a. The Cardholder contacts the vendor about the transaction and supplies the necessary information.
- b. The Cardholder completes the Purchasing Card Dispute Form and faxes it to the Purchasing Card Issuer at fax number (513) 358-7327, explaining the reason(s) for the dispute, with a copy of the statement. The Purchasing Card Issuer then places the transaction into a disputed status.
- c. If the problem is resolved between the vendor and the Cardholder, the Cardholder will write the agreed upon solution on the bottom of the dispute Form and re-fax it to the Purchasing Card Issuer immediately.
- d. After the item has been entered as a dispute, the Purchasing Card Issuer will determine who is responsible by researching the transaction including requesting a copy of the sales draft, when necessary.
- e. When a transaction is in a dispute status, the disputed amount is still included in calculating the available money for authorizations (monthly/credit limit). At the time the item is placed in dispute, it is removed from all finance charge, late charge, over limit fee, past due amount and calculations. Any cardholder statements generated while the transaction is in dispute will display a message indicating the dollar amount in dispute.
- f. If the Cardholder is actually responsible for the transaction, the dispute is settled in favor of the Purchasing Card Issuer and no further actions are required. If the Cardholder is not responsible for the transaction, the dispute is settled for the Cardholder and the charge-back process will be initiated against the vendor.
- g. If there continues to be problems with a particular vendor, the Cardholder shall notify the Purchasing Manager of the problems.

## J. P-CARD PROGRESSIVE DISCIPLINE GUIDELINES

Offence	1 <sup>st</sup> Offence	2 <sup>nd</sup> Offence	3 <sup>rd</sup> Offence
Missing Receipts	Verbal warning	Written warning	Suspension of card privileges for 3 months and liable for the undocumented purchase(s)
Splitting of single purchase to avoid purchasing quote thresholds or single transaction limits	Written warning	Suspension of card privileges for 3 months	Suspension of card privileges for 6 months
Unauthorized or inappropriate purchase	Written warning and liable for the purchase(s)	Suspension of card privileges for 6 months and liable for the purchase(s)	Revocation of card privileges
Allowing use of card by other	Suspension of card privileges for 3 months	Suspension of card privileges for 6 months	Revocation of card privileges
Use of card for personal gain	Written warning and liable for the purchase(s)	Suspension of card privileges for 6 months and liable for the purchase(s)	Revocation of card privileges, liable for the purchase(s) and referral to Human Resources for inclusion in the personnel file.
Other non-compliant or inappropriate card use	At the discretion of the Purchasing Manager, City Manager or Department Director.		

## **SECTION 10: PROJECT CLOSEOUT & ARCHIVING**

### **A. ARCHIVING PROJECT FILES**

In general, the signing of the contract and/or purchase order completes Purchasing office's involvement in the project process unless some issue with payments, the vendor's performance or the need for a change order occurs.

Electronic files are preferred and every effort to scan all paper documents and save them in the project file is greatly encouraged. Electronic files are easily accessed as they will not be moved to offsite storage which makes them difficult to locate and retrieve. Additionally, electronic files can be emailed.

Email communications regarding projects is also part of the project files. The email system maintains the archive data. You simply must remember that should an inquiry be made regarding the project files, that the archived emails are part of that project's records as are any hard copy documents that may be in the desk file.

### **B. INSURANCE FILES**

Per the bid and contract documents, contractors are required to maintain insurance which lists the City of Marco Island as an "also insured". Certificates of Liability Insurance are required to be provided at the time of contract award and throughout the performance of the work. The original insurance certificate is usually filed with the contract documents in the city hall fire safe. Subsequent insurance renewals (CLI) are usually filed in a separate location in the Purchasing office under the vendor name.

It is very important that you keep all the insurance information received on file. Do not discard the CLI even if the date has expired. Occasionally there will a law suite that is filed months or years after the completion of a project. While the CLI may show an expiration date, it is proof that the contractor was insured at the time of construction and the insurance company is still responsible for an activity that occurred during that construction.

## C. NOTICES TO OWNER

**Notices to Owner** are legal documents that are initiated by vendors/ subcontractors to the prime contractor and which are submitted to the owner as well. Under Florida Law, owners may still be liable for the payment to the vendor or subcontractor for materials and services even though the owner may have paid their contractor.

Even though the city property is not subject to liens, common practice is that the project manager will insist on the contractor providing copies of the lien releases before payment is made to help insure that the contractor is paying his subs and vendors.

Large projects are typically bonded which protects the city and may enable the vendors and contractors to collect unpaid bills should the prime contractor become insolvent.

A large number of Notices to Owner on a given project may indicate a problem and the project manager should be sensitive to this issue.

Notice to Owner are filed in the vendor/ contractor file along with the insurance certificates.

## SECTION 11: REQUEST FOR CHECK (RFC) AND DIRECT PAY

### A. PURPOSE

This section outlines RFC and direct-pay policies in general terms and is not intended to cover every possible situation. Departments should exercise their own good judgement and common sense. If your situation does not fit into any of the scenarios below, please contact Finance Department for the most agreeable solution.

### B. REQUEST FOR CHECK

There are certain expenses that should be made via City's RFC process, regardless of the amount. Notwithstanding the below, TylerMunis Employee Expense module should be used as a rule for any employee travel, training, educational or other reimbursement requests.

- Employee reimbursements for educational expenses.
- Reimbursements to employees for minor unplanned emergency purchases. Please be reminded that per Purchasing Ordinance Sec. 2-255 (g)(8)c. "Purchasing by an employee with subsequent reimbursement by city is discouraged and should be used only as a last resort". Also, any payment of sales tax will not be reimbursed.
- Prepaid lodging (checks made payable to the hotel directly to be delivered at time of stay). Checks for hotel stays can also be entered through the direct pay if the requesting Department and Finance Department agree that the infrequency of stay at a particular hotel is not worth entering it into a vendor database. Also, Departments can choose to use their credit cards for this type of purchase. Please be reminded that hotels require the credit card to be presented at the time of check-in.
- Employee registrations for conferences, seminars, and other off-site training that require pre-payment. Purchase Orders ought to be requisitioned if multi-employee training/class is planned and held on the City property.
- Employee travel advances and expenses (meals, mileage, tolls, parking, etc)
- Professional memberships, dues, and magazine subscriptions.
- Insurance premium payments
- Car, trailer, vessel and other DMV registrations
- Various State and local agency payments for permits, licenses, and other dues.

Almost all purchases of goods and services should be done with Purchase Order, Contract, or p-card. However, in addition to all of the above examples, some invoices for purchased goods or services can be paid through RFC. Generally those are "one off", very infrequent (made once or twice a year), small purchases (less than \$500 each and less than \$500

annually per vendor). One-time \$80 repair call for a dishwasher or refrigerator is a good example of RFC, but bi-weekly purchases of \$80 worth of sod from one vendor would be more efficiently paid if “blanket” purchase order is requested. Finally, the most efficient way to handle small “one-off” purchases is p-cards.

### C. DIRECT PAY

Direct pay should be used as a measure of the last resort. However, in some cases it is necessary:

- Lower amount one-time vendor payments. One-time vendor is a vendor that is not in a vendor database and requesting Department and Finance Department agree that the infrequency of use of the vendor is not worth entering it into a vendor database.
- Payments for hotels in the instances outlined in Sec. B
- Various refunds owed for City run class cancellations, deposits owed back, utility bill and City-issued permit refunds.
- Emergency payments needed.

As previously mentioned, use of p-card is an efficient way to handle small infrequent purchase from one-time vendors.

Direct-pay form is attached to this policy section.

# CITY OF MARCO ISLAND

## PURCHASE/REIMBURSEMENT/DIRECT-PAY REQUISITION FORM

Requested by: \_\_\_\_\_ Date: \_\_\_\_\_  
*Employee Name*

Department: \_\_\_\_\_

Description of Order: \_\_\_\_\_

\_\_\_\_\_

Vendor Name: \_\_\_\_\_ Vendor Address: \_\_\_\_\_

Vendor Phone: \_\_\_\_\_

<i>Quant.</i>	<i>Unit price</i>	<i>Description</i>	<i>G/L Acct #</i>	<i>Total cost</i>
	\$			\$
	\$			\$
	\$			\$
	\$			\$
	\$			\$
			Shipping/Delivery Charges:	\$
			<b>Grand Total:</b>	<b>\$</b>

Originator: \_\_\_\_\_ Date: \_\_\_\_\_

Department Director: \_\_\_\_\_ Date: \_\_\_\_\_

Purchasing Manager: \_\_\_\_\_ Date: \_\_\_\_\_

Finance Director: \_\_\_\_\_ Date: \_\_\_\_\_

City Manager (if over \$10,000): \_\_\_\_\_ Date: \_\_\_\_\_

**PLEASE DO NOT FORGET TO ATTACH THE SUPPORTING DOCUMENTATION**

## **SECTION 12: DISASTER PROCUREMENT**

All City of Marco Island disaster related procurement shall comply with the Federal procurement standards, Title 2 of the Code of Federal Regulations (C.F.R.) sections (§§) 200.317 through 200.326, as well as FEMA policies and guidance associated with FEMA's Public Assistance grants.