

ORDINANCE NO. 18-014

AN ORDINANCE AMENDING THE PROVISIONS OF FORT PIERCE CODE OF ORDINANCES **CHAPTER 2, ARTICLE IV, SECTION 2-63**, TO REVISE THE NUMBERING OF SAID SECTION, SEPARATE THE PURCHASING PROCEDURES OF SAID SECTION INTO A NEW SECTION NUMBERED 2-63.1, AND **INCREASE THE PURCHASING THRESHOLD** REQUIRING COMMISSION APPROVAL, AMENDING CHAPTER 2, ARTICLE IV, SECTIONS 2-63(c)(10) AND 2-65(c) TO INCREASE THE **CITY MANAGER'S AMENDMENT THRESHOLD**; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Fort Pierce, Florida established certain monetary thresholds which require City Commission approval relating to purchases or amendments to contracts for supplies, services, and construction; and

WHEREAS, the City of Fort Pierce, Florida desires to increase said thresholds so that the City Manager has the power to enter contracts valued at fifty thousand dollars (\$50,000) or less and make amendments to contracts for extra service, work or labor to be performed or for the deletion thereof in an amount equal to or less than fifty thousand dollars (\$50,000).

NOW THEREFORE, BE IT ORDAINED by the City Commission of the City of Fort Pierce, Florida as follows:

SECTION 1. That chapter 2 – Administration, Article IV, Purchasing, Section 2-63, of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

Sec. 2-63. - Source selection and contract formation.

(a) *Methods of source selection.*

(1) *Competitive sealed bidding.*

- a. *Conditions for use.* All contracts of the city shall be awarded by competitive sealed bidding except as otherwise provided in sections 2-63(a)(2) (competitive sealed proposals), 2-63(a)(3) (contracting for designated professional services), 2-63(a)(4) (small purchases), 2-63(a)(5) (sole source procurement), 2-63(a)(6) (emergency procurements), and 2-65(d)(1) (public announcement and selection process) of this article.
- b. *Invitation for bids.* An invitation for bids shall be issued and shall include specifications, and all contractual terms and conditions applicable to the procurement.
- c. *Public notice.* Adequate public notice of the invitation for bids shall be given a reasonable time. Such notice will include publication in a newspaper of general circulation in the city, once a week for two (2) consecutive weeks, the first issue thereof to be not less than ten (10) days prior to the reception of such bids. The public notice shall state the place, date, and time of bid opening.
- d. *Bid opening.* Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as the purchasing director deems appropriate, together with the name of each bidder shall be recorded; the record and each bid shall be open to public inspection in accordance with section 2-61(c) (public access to procurement information).

- e. *Bid acceptance and bid evaluation.* Bids shall be unconditionally accepted without alteration or correction, except as authorized in this article. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bids.
 - f. *Correction or withdrawal of bids; cancellation of awards.* Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written or telegraphic notice received in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the city or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:
 - 1. The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
 - 2. The bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the purchasing director.
 - g. *Award.* The contract shall be awarded with reasonable promptness by appropriate written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids. In the event the low responsive and responsible bid for a construction project exceeds available funds as certified by the finance director, and such bid does not exceed such funds by more than five (5) per cent, the purchasing director is authorized, when time or economic considerations preclude resolicitation of work or a reduced scope, to negotiate an adjustment of the bid price with the low responsive and responsible bidder, in order to bring the bid within the amount of available funds. Any such negotiated adjustment shall be based only upon eliminating independent deductive items specified in the invitation for bids.
 - h. *Multi-step sealed bidding.* When it is considered impractical to prepare initially a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.
- (2) *Competitive sealed proposals.*
- a. *Conditions for use.* When the purchasing director determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the city, a contract may be entered into by use of the competitive sealed proposals method.
 - b. *Request of proposals.* Proposals shall be solicited through a request for proposals.
 - c. *Public notice.* Adequate public notice of the request for proposals shall be given in the same manner as provided in section 2-63(a)(1)c. (competitive sealed bidding, public notice).

- d. *Receipt of proposals.* No proposals shall be handled so as to permit disclosure of the identity of any offeror or the contents of any proposal to competing offerors during the process of negotiation. A register of proposals shall be prepared containing the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the item offered. The register of proposals shall be open for public [viewing] only after contract award.
 - e. *Evaluation factors.* The request for proposals shall state the relative importance of price and other evaluation factors.
 - f. *Discussion with responsible offerors and revisions to proposals.* As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of the identity of competing offerors or of any information derived from proposals submitted by competing offerors.
 - g. *Award.* Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the city, taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.
- (3) *Contracting for designated professional services.*
- a. *Authority.* For the purpose of procuring the services of accountants, clergy, physicians, lawyer, dentists as defined by the laws of the State of Florida, any using agency requiring such services may procure them on its own behalf, in accordance with the selection procedures specified in this subsection (3). A using agency procuring such services shall consult with the purchasing director. No contract for the services of legal counsel may be awarded without the approval of such officer as may be required by applicable law.
 - b. *Selection procedure.*
 - 1. *Conditions for use.* Except as provided under section 2-63(a)(5) (sole source procurement) or section 2-63(a)(6) (emergency procurements), the professional services designated in subsection a. of this subsection (3) shall be procured in accordance with this subsection b.
 - 2. *Statement of qualifications.* Persons engaged in providing the designated types of professional services may submit statements of qualifications and expressions of interest in providing such professional services. A using agency using such professional services may specify a uniform format for statements of qualifications. Persons may amend these statements at any time by filing a new statement.
 - 3. *Public announcement and form of request for proposals.* Adequate notice of the need for such services shall be given by the using agency requiring the services through a request for proposals. The request for proposals shall describe the services required, list the types of information and data required of each offeror, and state the relative importance of particular qualifications.
 - 4. *Discussions.* The head of a using agency procuring the required professional services or a designee of such officer may conduct discussions with any offeror who has submitted a proposal to determine such offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

5. *Award.* Award shall be made to the offeror determined in writing by the head of the using agency procuring the required professional services or a designee of such officer to be best qualified based on the evaluation factors set forth in the request for proposals, and negotiation of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best qualified offeror, then negotiations will be formally terminated with the selected offeror. If proposals were submitted by one or more other offerors determined to be qualified, negotiations may be conducted with such other offeror or offerors, in the order of their respective qualification ranking, and the contract may be awarded to the offeror then ranked best qualified if the amount of compensation is determined to be fair and reasonable.

(4) *Small purchases.*

- a. *General.* Any contract not exceeding five hundred dollars (\$500.00) may be made in accordance with the small purchase procedures authorized in this ~~section~~article. Contract requirements shall not be artificially divided so as to constitute a small purchase under this section.

~~PURCHASING PROCEDURES~~

~~*Purchases of less than five hundred dollars (\$500.00):*~~

~~Each department shall be responsible for purchases not exceeding five hundred dollars (\$500.00).~~

~~Each department head shall designate the person or persons who will be responsible for the purchasing activity in the department and the department head will notify the purchasing director of the person or persons so designated. Departmental purchases shall be conducted as follows:~~

- ~~(a) The department head must verify the availability of funds in the proper appropriation prior to placing an order.~~
- ~~(b) Two (2) or more purchase orders for the same commodity may not be issued if the total of the purchase orders exceeds five hundred dollars (\$500.00).~~
- ~~(c) Persons authorized by the department head to issue purchase orders will be responsible for correctly filling in the purchase order and providing supporting documentation from the vendor.~~
- ~~(d) The copies of the purchase order issued shall be routed as follows:
 - ~~(1) Original to vendor.~~
 - ~~(2) First copy to purchasing department.~~
 - ~~(3) Second copy to be held by the ordering department for their records.~~
 - ~~(4) Third copy is to be held by the ordering department until the material ordered is received. Upon receipt of the material this copy is to be signed by the person receiving the material and forwarded to the finance department to match with the fourth copy as verification of delivery.~~
 - ~~(5) Fourth copy to finance department.~~~~

~~The purchasing director will review and monitor the purchasing activities, offer advice on selection of proper vendors, and will meet with departments at least quarterly to review the procedures being followed.~~

~~*Purchases from five hundred dollars (\$500.00) to two thousand five hundred dollars (\$2,500.00):*~~

~~Purchases expected to exceed five hundred dollars (\$500.00) but less than two thousand five hundred dollars (\$2,500.00) are to be handled by the purchasing department. Departments are to submit a requisition for purchase in a format prescribed by the purchasing director. The requisition for purchase request will include three (3)~~

~~comparative quotes for purchases over five hundred dollars (\$500.00) through two thousand five hundred dollars (\$2,500.00) if they can be obtained by the department. Purchasing will review and verify information and/or obtain quotes, then select the bid/quote that is the most responsive and responsible. Purchase order is processed. All purchase orders exceeding five hundred dollars (\$500.00) but less than two thousand five hundred dollars (\$2,500.00) must be signed by both the purchasing director and the finance director.~~

~~*Purchases from two thousand five hundred dollars (\$2,500.00) to ten thousand dollars (\$10,000.00):*~~

~~Purchases expected to exceed two thousand five hundred dollars (\$2,500.00) but less than ten thousand dollars (\$10,000.00) are to be handled by the purchasing department. Departments are to submit a requisition for purchase in a format prescribed by the purchasing director along with specifications. The purchasing department will prepare the bid documents for an informal bid. After bids are received they are forwarded to the user department for evaluation and recommendation. After recommendation purchase order is processed. All purchase orders exceeding two thousand five hundred dollars (\$2,500.00) but less than ten thousand dollars (\$10,000.00) must be signed by both the purchasing director and finance director.~~

~~*Purchases exceeding ten thousand dollars (\$10,000.00):*~~

~~Purchases which exceed ten thousand dollars (\$10,000.00) are handled in the same manner as purchases from two thousand five hundred dollars (\$2,500.00) to ten thousand dollars (\$10,000.00) except that all bids are sealed and formal, and will require approval from the city commission.~~

~~*Surplus sales:*~~

~~The purchasing director is responsible for the declaration and disposal of all surplus material and equipment.~~

~~Material and equipment having an estimated value of less than one thousand dollars (\$1,000.00) may be declared as surplus by the purchasing director and the department head. Material and equipment having an estimated value in excess of one thousand dollars (\$1,000.00) must be declared surplus by the city commission.~~

~~*Procedures for disposition of materials and equipment to surplus are as follows with no exceptions:*~~

- ~~(a) Complete the asset disposition form.~~
- ~~(b) Contact the purchasing department to make arrangements for delivery of material or equipment (561-460-2200, ext. 122).~~
- ~~(c) If it is some type of equipment that has a license plate, please remove the license plate and submit to the purchasing department along with asset disposition form.~~
- ~~(d) If it is equipment that has a city I.D. sticker, please remove and submit to the purchasing department along with asset disposition form.~~

~~*Violations of purchasing procedures (employees):*~~

- ~~(a) No officer, department, employee or agency shall, during any fiscal year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money for any purposes in excess of the amounts appropriated for that general classification of expenditure pursuant to this article. Any contract, verbal or written, made in violation of this article shall be null and void. Any officer or employee of the city who shall be guilty of a misdemeanor and, upon conviction thereof, shall cease to hold his office or employment and he and his sureties shall be liable to the city by reason of corrupt or improper approval of any claim or account against the city.~~
- ~~(b) Nothing in this section shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for~~

~~services for a period exceeding the budget in which such contract is made, when such contract is permitted by law.~~

- (5) *Sole source procurement.* A contract may be awarded without competition when the purchasing director determines in writing, after conducting a good faith review of available sources, that there is only one source for the required supply, service, or construction item. The purchasing director shall conduct negotiations, as appropriate, as to price, delivery, and terms. A record of sole source procurements shall be maintained as a public record and shall list each contractor's name, the amount and type of each contract, a listing of the item(s) procured under each contract, and the identification number of each contract file.
- (6) *Emergency procurements.* Notwithstanding any other provisions of this article, the purchasing director may make or authorize others to make emergency procurements of supplies, services, or construction items when there exists a threat to public health, welfare, or safety; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the contract, a listing of the item(s) procured under the contract, and the identification number of the contract file.
- (7) *Cancellation of invitations for bids or requests for proposals.* An invitation for bids, a request for proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is for good cause and in the best interests of the city. The reasons therefor shall be made part of the contract file. Each solicitation issued by the city shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interest of the city. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurements of similar items. Reasons for rejection shall be provided upon request by unsuccessful bidders or offerors.

(b) *Qualifications and duties.*

(1) *Responsibility of bidders and offerors.*

- a. *Determination of nonresponsibility.* If a bidder or offeror who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility, setting forth the basis of the finding, shall be prepared by the purchasing director. The unreasonable failure of a bidder or offeror to supply promptly information in connection with an inquiry with respect to responsibility may be grounds for a determination of nonresponsibility with respect to such bidder or offeror. A copy of the determination shall be sent promptly to the nonresponsible bidder or offeror. The final determination shall be made part of the contract file and be made a public record.
- b. *Right of nondisclosure.* Information furnished by a bidder or offeror pursuant to this section shall not be disclosed by the city outside of the office of the purchasing director, or using agency, without prior written consent by the bidder or offeror.

(2) *Cost or pricing data.*

- a. *Required submissions relating to the award of contracts.* A prospective contractor shall submit cost or pricing data when the contract is expected to exceed one hundred thousand dollars (\$100,000.00) and is to be awarded by competitive sealed proposals (section 2-63(a)(2); competitive sealed proposals), or by sole source procurement authority (section 2-63(a)(5); sole source procurement).

- b. *Exceptions.* The submission of cost or pricing data relating to the award of a contract is not required when:
 1. The contract price is based on adequate price competition;
 2. The contract price is based on established catalogue prices or market prices;
 3. The contract price is set by law or regulation; or
 4. It is determined in writing by the purchasing director that the requirements of section 2-63(b)(2)a. (cost or pricing data; required submissions relating to the award of contracts) may be waived, and the determination states the reasons for such waiver.
 - c. *Required submissions relating to change orders or contract modifications.* A contractor shall submit cost or pricing data prior to the pricing of any change order or contract modification, including adjustments to contracts awarded by competitive sealed bidding, whether or not cost or pricing data was required in connection with the initial pricing of the contract, when the change or modification involves aggregate increases or aggregate decreases in costs plus applicable profits that are expected to exceed one hundred thousand dollars (\$100,000.00).
 - d. *Exception.* The submission of cost or pricing data relating to the pricing of a change order or contract modifications not required when:
 1. Unrelated and separately priced adjustments for which cost or pricing data would not be required are consolidated for administrative convenience; or
 2. It is determined in writing by the purchasing director that the requirement of section 2-63(b)(2)c. (cost or pricing data; required submission relating to change orders or contract modification) may be waived and the determination states the reason for such waiver.
 - e. *Certification required.* A contractor, actual or prospective, required to submit cost or pricing data in accordance with this section, shall certify that, to the best of its knowledge and belief, the cost or pricing data submitted was accurate, complete, and current as of a mutually specified date prior to the award of the contract or the pricing of the change order or contract modification.
 - f. *Price adjustment provision required.* Any contract award, change order, or contract modification under which the submission and certification of cost or pricing data are required shall contain a provision stating that the price to the city, including profit or fee, shall be adjusted to exclude any significant sums by which the city finds that such price was increased because the contractor-furnished cost or pricing data was inaccurate, incomplete, or not current as of the date agreed upon between the city and the contractor.
- (3) *Cost or price analysis.* A cost analysis or a price analysis, as appropriate, shall be conducted prior to award of the contract other than one awarded under section 2-63(a)(1) (competitive sealed bidding). A written record of such cost analysis or price analysis shall be made a part of the contract file. In making a price analysis, consideration must be given to any differing terms and conditions.
- (4) *Bid and performance bonds on supply or service contract.* Bid and performance bonds or other security may be requested for supply contracts or service contracts as the purchasing director or head of a using agency deems advisable to protect the city's interests. Any such bonding requirements shall be set forth in the solicitation. Bid or performance bonds shall not be used as a substitute for a determination of a bidder or offeror's responsibility.
- (c) *Types of contracts and contract administration.*
- (1) *Types of contracts.*

- a. *General authority.* Subject to the limitations of this section, any type of contract which is appropriate to the procurement and which will promote the best interests of the city may be used, provided that the use of a cost-plus-a-percentage-of-cost contract is prohibited. A cost reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to the city than any other type or that it is impracticable to obtain the supply, service, or construction item required except under such a contract.
- b. *Multi-term contracts.*
 1. *Specified period.* Unless otherwise provided by law, a contract for supplies or services may be entered into for any period of time deemed to be in the best interest of the city, provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefore.
 2. *Determination prior to use.* Prior to the utilization of a multi-term contract, it shall be determined in writing:
 - i. That estimated requirements cover the period of the contract and are reasonably firm and continuing; and
 - ii. That such a contract will serve the best interests of the city by encouraging effective competition or otherwise promoting economies in city procurement.
 3. *Cancellation due to unavailability of funds in succeeding fiscal periods.* When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled and the contractor shall be reimbursed for the reasonable value of any non-recurring cost incurred but not amortized in the price of the supplies or services delivered under the contract. The cost of cancellation may be paid from any appropriations available for such purposes.
- c. *Multiple source contracting.*
 1. *General.* A multiple source award is an award of an indefinite quantity contract for one or more similar supplies or services to more than one bidder or offeror. The obligation to order the city's actual requirements is limited by the provision of Uniform Commercial Code section 62-306(1).
 2. *Limitations on use.* A multiple source award may be made when award to two (2) or more bidders or offerors for similar products is necessary for adequate delivery, service, or product compatibility. Any multiple source award shall be made in accordance with the provision of section 2-63(a)(1) (competitive sealed bidding), section 2-63(a)(2) (competitive sealed proposals), section 2-63(a)(4) (small purchases), and section 2-63(a)(6) (emergency procurements), as applicable. Multiple source awards shall not be made when a single award will meet the city's needs without sacrifice of economy or service. Awards shall not be made for the purpose of dividing the business, making available product or supplier section to allow for user preference unrelated to utility or economy, or avoiding the resolution of tie bids. Any such awards shall be limited to the least number of suppliers necessary to meet the valid requirements.
 3. *Contract and solicitation provisions.* All eligible users of the contract shall be named in the solicitation, and it shall be mandatory that the actual requirements of such users that can be met under the contract be obtained in accordance with the contract, provided that:
 - i. The city shall reserve the right to take bids separately if a particular quantity requirement arises which exceeds its normal requirement or an amount specified in the contract; and

- ii. The city shall reserve the right to take bids separately if the purchasing director approves a finding that the supply or service available under the contract will not meet a nonrecurring special need of the city.
4. *Intent to use.* If a multiple source award is anticipated prior to issuing a solicitation, the city shall reserve the right to make such an award and the criteria for award shall be stated in the solicitation.
5. *Determination required.* The purchasing director shall make a written determination setting forth the reasons for a multiple source award, which shall be made a part of the procurement file.

(2) *Contract clauses and their administration.*

- a. *Contract clauses.* All city contracts for supplies, services, and construction shall include provisions necessary to define the responsibilities and rights of the parties to the contract. The purchasing director, after consultation with the city attorney, may issue clauses appropriate for supply, service, or construction contracts, addressing among others the following subjects:
 1. The unilateral right of the city to order in writing changes in the work within the scope of the contract;
 2. The unilateral right of the city to order in writing temporary stopping of the work or delaying performance that does not alter the scope of the contract;
 3. Variations occurring between estimated quantities of work in contract and actual quantities;
 4. Defective pricing;
 5. Liquidated damages;
 6. Specified excuses for delay or nonperformance;
 7. Termination of the contract for default;
 8. Termination of the contract in whole or in part for the convenience of the city;
 9. Suspension of work on a construction project ordered by the city; and
 10. Site conditions differing from those indicated in the contract, or ordinarily encountered, except that a differing site conditions clause need not be included in a contract:
 - i. When the contract is negotiated;
 - ii. When the contractor provides the site or design; or
 - iii. When the parties have otherwise agreed with respect to the risk of differing site condition.
- b. *Price adjustments.*
 1. Adjustments in price resulting from the use of contract clauses required by subsection a. of this subsection (c)(2) shall be computed in one or more of the following ways:
 - i. By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
 - ii. By unit prices specified in the contract or subsequently agreed upon;
 - iii. By the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;
 - iv. In such other manner as the contracting parties may mutually agree; or
 - v. In the absence of agreement by the parties, by a unilateral determination by the city of the costs attributable to the events or situations under such clauses with adjustment of profit or fee as computed

- by the city, as accounted for in accordance with [reference to cost principles] and subject to the provision of section 2-69 (appeals and remedies).
2. A contractor shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provisions of section 2-63(b)(2) (cost or pricing data).
 - c. *Standard clauses and their modification.* The purchasing director, after consultation with the city attorney, may establish standard contract clauses for use in city contracts. If the purchasing director establishes any standard clauses addressing the subjects set forth in subsection a. of this subsection (c)(2), such clauses may be varied provided that any variations are supported by a written determination that states the circumstances justifying such variations, and provided that any variations are supported by a written determination that states the circumstance justifying such variation, and provided that notice of any such material variation be stated in the invitation for bids or request for proposals.
- (3) *Contract administration.* A contract administration system designed to insure that a contractor is performing in accordance with the solicitation under which the contract was awarded, and the terms and conditions of the contract, shall be maintained.
 - (4) *Cost reimbursement provisions.* [*Reserved*].
 - (5) *Approval of accounting system.* Except with respect to firm fixed-price contracts, no contract type shall be used unless it has been determined in writing by the purchasing director that:
 - a. The proposed contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated; and
 - b. The proposed contractor's accounting system is adequate to allocate costs in accordance with generally accepted cost accounting principles.
 - (6) *Right to inspect plant.* The city may, at reasonable times, inspect the part of the plant, place of business, or worksite of a contractor or subcontractor at any tier which is pertinent to the performance of any contract awarded or to be awarded by the city.
 - (7) *Right to audit records.*
 - a. *Audit of cost or pricing data.* The city may at reasonable times and places, audit the books and records of any contractor who has submitted cost or pricing data pursuant to section 2-63(b)(2) (cost or pricing data) to the extent that such books, documents, papers, and records are pertinent to such cost or pricing data. Any person who receives a contract, change order, or contract modification for which cost or pricing data is required, shall maintain such books, documents, papers, and records that are pertinent to such cost or pricing data for three (3) years from the date of final payment under the contract.
 - b. *Contract audit.* The city shall be entitled to audit the books and records of a contractor or a subcontractor at any tier under any negotiated contract or subcontract other than a firm fixed-price contract to the extent that such books, documents, papers, and records are pertinent to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor for a period of three (3) years from the date of final payment under the subcontract.
 - (8) *Reporting of anticompetitive practices.* When for any reason collusion or other anticompetitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the state attorney general and the appropriate legal officer for the jurisdiction conducting the procurement.
 - (9) *City procurement records.*

- a. *Contract file.* All determinations and other written records pertaining to the solicitation, award, or performance of a contract shall be maintained for the city in a contract file by the purchasing director.
 - b. *Retention of procurement records.* All procurement shall be retained and disposed of by the city in accordance with records retention guidelines and schedules approved by the city commission.
- (10) *Fiscal responsibility.* In respect to any contract issued or entered into under the provisions of this section, the city manager shall have the power and authority to increase or decrease the same up to and including the sum of ~~tenfifty~~ forty thousand dollars (\$~~150~~40,000) for extra service, work or labor to be performed or for the deletion thereof. Any charges in excess of said sum of ~~tenfifty~~ forty thousand dollars (\$~~150~~40,000) may be made only when authorized by the commission. The commission may also otherwise alter or extend the terms of any such contract upon written recommendation of the city manager.

2-63.1 – Purchasing procedures.

(a) Purchases of less than five hundred dollars (\$500.00).

- (1) Each department shall be responsible for purchases not exceeding five hundred dollars (\$500.00).
- (2) Each department head shall designate the person or persons who will be responsible for the purchasing activity in the department and the department head will notify the purchasing director of the person or persons so designated. Departmental purchases shall be conducted as follows:
 - a. The department head must verify the availability of funds in the proper appropriation prior to placing an order.
 - b. Two (2) or more purchase orders for the same commodity may not be issued if the total of the purchase orders exceeds five hundred dollars (\$500.00).
 - c. Persons authorized by the department head to issue purchase orders will be responsible for correctly filling in the purchase order and providing supporting documentation from the vendor.
 - d. The copies of the purchase order issued shall be routed as follows:
 1. Original to vendor.
 2. First copy to purchasing department.
 3. Second copy to be held by the ordering department for their records.
 4. Third copy is to be held by the ordering department until the material ordered is received. Upon receipt of the material this copy is to be signed by the person receiving the material and forwarded to the finance department to match with the fourth copy as verification of delivery.
 5. Fourth copy to finance department.

- (1) The purchasing director will review and monitor the purchasing activities, offer advice on selection of proper vendors, and will meet with departments at least quarterly to review the procedures being followed.

(b) Purchases from five hundred dollars (\$500.00) to two thousand five hundred dollars (\$2,500.00).

- (1) Purchases expected to exceed five hundred dollars (\$500.00) but less than two thousand five hundred dollars (\$2,500.00) are to be handled by the purchasing department. Departments are to submit a requisition for purchase in a format prescribed by the purchasing director. The requisition for purchase request will include three (3) comparative quotes for purchases over five hundred dollars (\$500.00) through two thousand five hundred dollars (\$2,500.00) if they can be

obtained by the department. Purchasing will review and verify information and/or obtain quotes, then select the bid/quote that is the most responsive and responsible. Purchase order is processed. All purchase orders exceeding five hundred dollars (\$500.00) but less than two thousand five hundred dollars (\$2,500.00) must be signed by both the purchasing director and the finance director.

(c) Purchases from two thousand five hundred dollars (\$2,500.00) to fifty thousand dollars (\$50,000.00).

(1) Purchases expected to exceed two thousand five hundred dollars (\$2,500.00) but less than fifty thousand dollars (\$50,000.00) are to be handled by the purchasing department. Departments are to submit a requisition for purchase in a format prescribed by the purchasing director along with specifications. The purchasing department will prepare the bid documents for an informal bid. After bids are received they are forwarded to the user department for evaluation and recommendation. After recommendation purchase order is processed. All purchase orders exceeding two thousand five hundred dollars (\$2,500.00) but less than fifty thousand dollars (\$50,000.00) must be signed by both the purchasing director and finance director.

(d) Purchases exceeding fifty thousand dollars (\$50,000.00).

(1) Purchases which exceed fifty thousand dollars (\$50,000.00) are handled in the same manner as purchases from two thousand five hundred dollars (\$2,500.00) to fifty thousand dollars (\$50,000.00) except that all bids are sealed and formal, and will require approval from the city commission.

(e) Surplus sales.

(1) The purchasing director is responsible for the declaration and disposal of all surplus material and equipment.

(2) Material and equipment having an estimated value of less than one thousand dollars (\$1,000.00) may be declared as surplus by the purchasing director and the department head. Material and equipment having an estimated value in excess of one thousand dollars (\$1,000.00) must be declared surplus by the city commission.

(f) Procedures for disposition of materials and equipment to surplus are as follows with no exceptions.

(1) Complete the asset disposition form.

(2) Contact the purchasing department to make arrangements for delivery of material or equipment (561-460-2200, ext. 122).

(3) If it is some type of equipment that has a license plate, please remove the license plate and submit to the purchasing department along with asset disposition form.

(4) If it is equipment that has a city I.D. sticker, please remove and submit to the purchasing department along with asset disposition form.

(g) Violations of purchasing procedures (employees).

(1) No officer, department, employee or agency shall, during any fiscal year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money for any purposes in excess of the amounts appropriated for that general classification of expenditure pursuant to this article. Any contract, verbal or written, made in violation of this article shall be null and void. Any officer or employee of the city who shall be guilty of a misdemeanor and, upon conviction thereof, shall cease to hold his office or employment and he and his sureties shall be liable to the city by reason of corrupt or improper approval of any claim or account against the city.

(2) Nothing in this section shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for services for a

period exceeding the budget in which such contract is made, when such contract is permitted by law.

SECTION 3. That chapter 2 – Administration, article IV, Purchasing, section 2-65(c) of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended to read as follows:

(c) Fiscal responsibility. In respect to any contract issued or entered into under the provisions of this section, the city manager shall have the power and authority to increase or decrease the same up to and including the sum of ~~tenfifty~~ thousand dollars (\$~~150~~,000) for extra service, work or labor to be performed or for the deletion thereof. Any charges in excess of said sum of ~~tenfifty~~ thousand dollars (\$~~150~~,000) may be made only when authorized by the commission. The commission may also otherwise alter or extend the terms of any such contract upon written recommendation of the city manager. Any charges in excess of \$25,000, shall be communicated to the City Commission.

SECTION 4. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 5. All ordinances, rules or regulations or parts of ordinances, rules or regulations in conflict herewith are and the same shall be repealed and shall be of no further force or effect whatsoever.

SECTION 6. This Ordinance is and the same shall become effective immediately upon final passage.

APPROVED AS TO FORM & CORRECTNESS:

James M. Messer, Esq.
City Attorney

STATE OF FLORIDA
COUNTY OF ST. LUCIE

WE, THE UNDERSIGNED, Mayor Commissioner and the City Clerk of the City of Fort Pierce, Florida, do hereby certify that the foregoing and above Ordinance No 18-014 was duly advertised by title only in the St. Lucie News Tribune on May 11, 2018; copy of said Ordinance was made available at the office of the City Clerk to the public upon request; said Ordinance was duly introduced, read by title only, and passed on first reading by the City Commission of the City of Fort Pierce, Florida, on May 21, 2018; and was duly introduced, read by title only, and passed on second and final reading June 4, 2018 by the City Commission of the City of Fort Pierce, Florida.

IN WITNESS HERewith, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida, this 4th day of June, 2018.

Linda Hudson
Mayor Commissioner

Linda W. Cox
City Clerk

(CITY SEAL)