RESOLUTION NO. 2019-04

A RESOLUTION OF THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA; AMENDING THE UTILITIES COMMISSION’S PURCHASING POLICIES AND PROCEDURES MANUAL; REVISING PURCHASING THRESHOLDS BY REVISING SECTION IV. EMERGENCY PURCHASES – A. DEFINITION, SECTION V. METHODS OF PURCHASING – A. ACQUISITION METHODS AND 3. FORMAL COMPETITIVE BIDDING PROCEDURES, SECTION VI. INVITATION TO BID (ITB) – A. PROCEDURE FOR SECURING BIDS, and SECTION IX. APPROVAL PROCESS – A. APPROVAL PROCESS; PROVIDING FOR RESCINDING CONFLICTING RESOLUTIONS OR PORTIONS THEREOF; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. FINDINGS AND INTENT. The Utilities Commission, City of New Smyrna Beach, Florida (the "Commission") makes the following findings and declares the following legislative intent:


(2) The Utilities Commission then adopted the Manual by Resolution 5-87 on June 10, 1987, as its Purchasing Policies and Procedures (hereafter the "Purchasing Rules.") Most current comprehensive review and formal approval of the Manual occurred during the Regular U.C. Meeting held on August 17, 2009, agenda item 2-d. And, U.C. Resolution No. 2018-02, approved on April 23, 2018, agenda item 5-d., repealed Resolution No. 5-87 and amended the Manual by creating a new subsection VII.E.

(3) To restate, the purpose of the Purchasing Policies and Procedures Manual is to enumerate and provide for the implementation of the policies of the Utilities Commission and to effect the centralization of the purchase of goods and services, other than the employment of personnel. These policies shall not be changed without further review and approval of the Utilities Commission.

(4) The procedures of the Purchasing Policies and Procedures Manual being of lesser importance, may be changed or modified as required by the Purchasing Authority.

(5) Upon passage, the Utilities Commission will have considered and determined to modify the Manual and its Purchasing Rules as set forth in this Resolution.
SECTION 2. AMENDMENTS TO SECTIONS IV, V, VI, AND IX, PURCHASING POLICIES AND PROCEDURES MANUAL. Portions of Section IV entitled "Emergency Purchases", Section V entitled "Methods of Purchasing", Section VI entitled "Invitation to Bid (ITB)", and Section IX entitled "Approval Process", are hereby amended as stated and as attached to this resolution for the purpose of revising (increasing) existing purchasing thresholds, to include an internal form ("PRE") in the manual, and a process for 10% over/under project variances:

SEE EXHIBIT ‘A’ – ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF

SECTION 4. SEVERABILITY. If any provision or portion of this Resolution is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Resolution shall remain in full force and effect.

SECTION 5. REPEAL OF INCONSISTENT RESOLUTIONS. All resolutions and portions of resolutions in conflict herewith are hereby repealed.

SECTION 6. EFFECTIVE DATE. This Resolution shall take effect immediately upon its passage by the Commission.

THIS RESOLUTION was introduced at a regular meeting of the Utilities Commission, City of New Smyrna Beach, Florida, held this 23rd day of September, 2019, by Commissioner Griffith who moved for its adoption, which motion was seconded by Commissioner Conrad, and upon roll call vote of the Commission was DULY ADOPTED as follows:

CHAIRMAN
VICE CHAIRMAN
SECY.-TREAS.
ASST. SECY.-TREAS.
COMMISSIONER

APPROVED:
William E. Biedenbach, Chairman

ATTEST:
Lillian Conrad, Secretary-Treasurer

APPROVED AS TO FORM & LEGALITY:
Thomas A. Cloud, General Counsel
Utilities Commission Purchasing Policies and Procedures
A. DEFINITION

Emergency purchases may be made ONLY for commodities or services necessary because of certain emergency conditions or natural disasters that may affect the health, safety and welfare of the citizens of New Smyrna Beach, Utilities Commission customers including customers who reside outside the incorporated New Smyrna Beach area or in instances where the Utilities Commission’s operation would be seriously impaired if immediate action were not taken.

_Lack of planning or funding issues do not constitute emergency purchases._

An Emergency purchase exceeding $75,000 will not be authorized by the Materials Management Division without obtaining prior, written approval from the Director of Finance and the General Manager/CEO. Emergency purchases exceeding $75,000 must be ratified by the Utilities Commission Commissioners at the next regularly scheduled Commission meeting.
METHODS OF PURCHASING

SECTION V

Whenever possible, alternative vendors shall be determined for all items being considered for procurement and for all preliminary price quotations. In some isolated instances, a sole-source procurement shall be utilized. In all other cases, the following procedures shall be used to procure goods and services:

A. ACQUISITION METHODS

The Materials Management Division will review each requisition for the specific need(s) and determine the type of procurement method that will provide for full and open competition. Procurement requirements will be prioritized by date received and operational need(s). Contracts awarded shall not exceed four years (contract period) without obtaining the City of New Smyrna Beach Commission approval for a longer contract period. (Per City of New Smyrna Beach, Chapter 15-217).

ALL MULTI-YEAR MAINTENANCE, SOFTWARE AND ENTERPRISE-WIDE AGREEMENTS REQUIRE THE DIRECTOR, CFO AND CEO APPROVAL.

Quick Reference Guide

Project Spend

<table>
<thead>
<tr>
<th>Dollar Limit</th>
<th>Method</th>
<th>PRE Requirement</th>
<th>Approval Levels</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 - $1000</td>
<td>Single Quote</td>
<td>None</td>
<td>Director</td>
</tr>
<tr>
<td></td>
<td>P-Card</td>
<td></td>
<td></td>
</tr>
<tr>
<td>$1,001.00 - $5,000</td>
<td>Three Written Quotes</td>
<td>None</td>
<td>Director</td>
</tr>
<tr>
<td>$5,001 - $10,000</td>
<td>Minimum of Three Written Quotes</td>
<td>Director</td>
<td>Director</td>
</tr>
<tr>
<td></td>
<td></td>
<td>CFO</td>
<td></td>
</tr>
<tr>
<td>$10,001 - $75,000</td>
<td>Formal Solicitation issued</td>
<td>Director</td>
<td>Director</td>
</tr>
<tr>
<td></td>
<td></td>
<td>CFO</td>
<td>CFO</td>
</tr>
<tr>
<td></td>
<td></td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>$75,001 - and above</td>
<td>Formal Sealed Bid, Request for Proposal or Invitation to Negotiate</td>
<td>Director</td>
<td>Director</td>
</tr>
<tr>
<td></td>
<td></td>
<td>CFO</td>
<td>CFO</td>
</tr>
<tr>
<td></td>
<td></td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Utilities Commission</td>
<td></td>
</tr>
</tbody>
</table>
Proposed UC capital expenditures should be included in the annual Budget process. If a proposed capital expenditure was not budgeted, the proposed expenditure must go through the approval process with funding offsets identified and detailed on the Project Request Expenditure (PRE) form.

Once the capital expenditure projects have been budgeted or offsets identified, the projects will proceed through the funding approval process referenced above which includes the PRE Form, approval process, purchasing system authorization (i.e. eRequest), etc.

If a project’s actual expenditures exceed the budget by over/under 10%, the project and the variance drivers must be presented to management. If the project’s variance to its original budget is $75,000 or less, the CEO must review and sign-off. If the project’s variance is over $75,000, the CEO and the Commission must review and sign-off.

### Quick Reference Guide
**Operating and Maintenance Spend**

<table>
<thead>
<tr>
<th>Dollar Limit</th>
<th>Method</th>
<th>PRE Requirement</th>
<th>Approval Levels</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 - $1000</td>
<td>Single Quote P-Card</td>
<td>None</td>
<td>Director</td>
</tr>
<tr>
<td>$1,001.00 - $5,000</td>
<td>Three Written Quotes</td>
<td>None</td>
<td>Director</td>
</tr>
<tr>
<td>$5,001 - $10,000</td>
<td>Minimum of Three Written Quotes</td>
<td>Director CFO</td>
<td>Director CFO</td>
</tr>
<tr>
<td>$10,001-$75,000</td>
<td>Formal Solicitation issued</td>
<td>Director CFO CEO</td>
<td>Director CFO CEO</td>
</tr>
<tr>
<td>$75,001 – and above</td>
<td>Formal Sealed Bid, Request for Proposal or Invitation to Negotiate</td>
<td>Director CFO CEO</td>
<td>Director CFO CEO Utilities Commissioners</td>
</tr>
</tbody>
</table>
a. Request for Quote (RFQ)

The following procedures are required for purchases with an estimated value:

<table>
<thead>
<tr>
<th>Dollar Range</th>
<th>Required number of Quotes</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,000 to $5,000</td>
<td>Three (3) verbal quotes (minimum)</td>
</tr>
<tr>
<td>$5,001 to $10,000</td>
<td>Three (3) written quotes (minimum)</td>
</tr>
<tr>
<td>$10,001 to $75,000</td>
<td>Formal Solicitation Issued</td>
</tr>
<tr>
<td>$75,001 Above</td>
<td>Formal Sealed Bid, Request for Proposal or Invitation to Negotiate</td>
</tr>
</tbody>
</table>

All requests for quotes for purchases of supplies, equipment, services and construction shall be made in accordance with the guidelines in the Purchasing Policy and Procedures Manual. Facsimile, electronic mail (email), mail or hand delivered quotes shall be accepted. All quotations received shall be maintained as public records and shall be open to public inspection after the award has been finalized. An exception to public disclosure would be for any submittals marked as “trade secrets” or “confidential”, *(Per ABA Model Procurement Code Regulation 3-104.01.5, Regulation 3-202.12.3)*.

b. Invitation to Bid (ITB)

An Invitation to Bid is used when the purchaser knows exactly what is required. This is the preferred method of procurement for governmental entities for purchases in excess of $75,000. Bids are solicited and evaluated strictly against the General Terms, Special Conditions and Specifications of the Invitation to Bid. When items needed are unknown, the two-step bidding would be a good tool to use in these instances. Section VI of this manual explains the procedures of the Invitation to Bid process.

c. Request for Proposal (RFP)

This method is to be used for purchases in excess of $75,000. An RFP is to be used when the purchaser has a general idea of what is required, but cannot develop the special conditions and specifications which could be used in an Invitation to Bid. Each proposal is evaluated by an evaluation team against pre-determined criteria for each RFP response.

d. Invitation to Negotiate (ITN)

The Invitation to Negotiate (ITN) method is for complex procurements and often occurs for acquisitions of rapidly changing technology, outsourcing or complex services in excess of $75,000. This method is also used when it is determined that the scope of work for the
contract cannot be accurately and completely defined or when the use of an Invitation to Bid or a Request For Proposal will not result in the best value to the Utilities Commission.

INVITATION TO BID (ITB)

SECTION VI

Upon receipt of a Purchase Requisition, the Materials Management Division will seek a source of supply, and enter into transactions for the purchase of the commodity or service in accordance with the provisions of this Purchasing Policies and Procedures Manual.

A. PROCEDURE FOR SECURING BIDS

The Materials Management Division must request formal sealed bids for purchases exceeding $75,000 and for enterprise-wide contracts and services. If a "purchase" is defined as a contract (including leases) that may be extended over multiple periods or years, then the maximum dollar amount to be paid in any fiscal year shall be the amount considered to establish the requirement for requesting formal sealed bids. The Materials Management Division shall solicit bids from prospective vendors obtained through forums and media such as: Onvia/Demandstar, the Utilities Commission web site, news publications and catalogues.

The Materials Management Division shall attempt to secure at least three (3) bids. Advertisement of formal sealed bids shall be in accordance with the Utilities Commission Purchasing Policies and Procedures Manual. Notice of Bid invitation shall be posted at the Utilities Commission office at 200 Canal Street, New Smyrna Beach, FL 32168.

All bids received and accepted shall be available for public inspection by appointment in the main office of the Materials Management Division during regular business hours thirty (30) calendar days after opening, or upon recommendation for award, whichever occurs first. Vendors filing protest of award must do so within the 72-hour period after posting of the recommended award.

The COMMISSION reserves the right to award the contract to the Bidder(s) that the COMMISSION deems to offer the best overall bid. The COMMISSION is therefore not bound to accept a bid on the basis of lowest price. In addition, the COMMISSION at its sole discretion, reserves the right to cancel this Bid, to reject any and all bids, to waive any and all informalities and/or irregularities, to re-advertise with either the identical or revised specifications, or not award a contract at all if it is deemed to be in the best interest of the COMMISSION to do so. The COMMISSION also reserves the right to make multiple or split awards if it is deemed to be in the COMMISSION'S best interest. The COMMISSION shall not be responsible for any cost or expense incurred by the Bidder in preparing or submitting a bid or any cost prior to the execution of a contract agreement.
A. APPROVAL PROCESS

Every contract or agreement for purchase of supplies, materials, equipment, contractual services or construction contracts including enterprise-wide in excess of $75,000 shall require the approval, via agenda item, of the Utilities Commission Commissioners.

If an Emergency approval over $75,000 is required prior to the next Commission meeting, the CEO/General Manager shall approve the emergency request and the impacted Division shall have an agenda item prepared for the next Commission meeting for the Emergency approval.