



Procurement Policy

Procurement Services
2200 Second Street
Fort Myers, FL
33901

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GENERAL PROVISIONS

Introduction

1. The City will follow sound and prudent business practices, promote full and equitable economic participation of all segments of the business community, and follow the strictest ethical standards when procuring commodities and contractual services.
2. Procurement Services is the centralized authority responsible for the procurement of and contracting for supplies, goods, equipment, contractual services, professional and consultant services, capital improvements and construction and/or any combination of goods and services at the best value, with fairness and integrity on behalf of the City of Fort Myers, City Council, City Manager, staff and citizens.
3. Procurement Services' mission is to foster and support a Culture of Excellence throughout the City by providing superior goods and services through effective, innovative and strategic procurement and contract management. Procurement Staff is committed to exemplary customer service, professionalism, impartiality, transparency and achieving best value for the City within the parameters of the law.
4. Procurement Services will:
 - Provide fair and equitable treatment of all persons interested in the City's procurement practices;
 - Maximize the procurement value of public funds;
 - Assure adherence to all federal laws, state statutes, City Ordinances, regulations, policies and procedures through various methods of procurement;
 - Partner with departments/divisions to increase the efficiency of City operations by obtaining supplies, goods, equipment, contractual services, professional and consultant services, capital improvements and construction and/or any combination of goods and services required, in a timely manner, meeting the department needs while acting in the best interest of the City and residents;
 - Utilize local and minority businesses when appropriate, as set forth in Chapter 38 of the City's Administrative Code of Ordinances.
5. [Procurement Services' Website](#) has important information for both suppliers and internal client departments.
6. All Definitions used in this policy are defined in the Definitions section, beginning on page twenty-one (21).

A. Procurement Policy

1. This Procurement Policy, in conjunction with federal laws, state statutes and City Ordinances govern the procurement of supplies, goods, equipment, contractual services, professional and consultant services, capital improvements, construction and/or any combination of goods and services. It is recommended that City staff read the [Procurement Ordinance](#), in addition to this policy, to obtain a complete understanding of procurement practices and procedures.
2. The Procurement Ordinance establishes the authority of the Procurement Manager as the primary contact for Procurement Services.

B. Procurement Authority

1. The City of Fort Myers City Council shall approve and execute formal contracts in excess of \$100,000 having a binding effect upon the City.
2. The City of Fort Myers City Council delegates to the City Manager the authority to approve contracts or agreements and amendments, extensions, and renewals of such contracts or agreements, including change orders, work orders, and other ancillary documents, providing the total amount of City expenditure for any such contract or amendment does not exceed \$100,000.
3. The City Manager may delegate procurement authority to the Procurement Manager or others for all items procured with approved budget funds in accordance with the Thresholds outlined in Section C, immediately below.
 - a. This delegated authority **does not apply to signing supplier contracts or agreements**. The Mayor and the City Manager are the only persons authorized to sign contracts/agreements or other binding documents on behalf of the City. Other personnel that sign contracts may be held personally responsible.
4. Failure to abide by proper procurement policies and procedures may result in reduction or loss of delegated authority and other disciplinary actions.

C. Thresholds

The City of Fort Myers utilizes a four-tiered threshold approval process. As the costs to the City increase, so does the required approval authority. The tiers are:

- Level 1
 - Goods, equipment and non-professional services between \$0.00 and \$10,000
 - Professional Services between \$0.00 and \$50,000
- Level 2
 - Goods, equipment and non-professional services between \$10,000 and \$50,000
 - Professional Services between \$50,000 and \$100,000
- Level 3
 - Goods, equipment and non-professional services between \$50,000 and \$100,000
- Level 4
 - All goods and services over \$100,000

Thresholds

Level	Goods & Equipment		Professional Services (Non-Consultants Competitive Negotiation Act (CCNA))	
One	Between <u>\$0.00 - \$10,000</u>	<p>Use purchase card or requisition based upon authorization levels previously approved for individual City employee.</p> <p>Requires a minimum of one (1) electronic/written quote obtained by the initiating department representative from a responsible supplier. Electronic documentation shall be maintained by the department/division and attached to the requisition or purchase card.</p>	Between <u>\$0.00 - \$50,000</u>	Requires a minimum of one (1) quote obtained by the initiating department representative from a responsible supplier. Electronic documentation shall be maintained by the department/division and attached to the requisition (if required).
Two	Between <u>\$10,000.01 - \$50,000</u>	Requires a minimum of two (2) electronic quotes obtained from a responsible supplier by the initiating department representative and submitted with the requisition to support supplier selection and reasonableness of price. The Procurement Staff shall have the authority to seek additional quotes if deemed in the best interest of the City.	Between <u>\$50,000.01 - \$100,000</u>	Requires a minimum of two (2) electronic quotes obtained from responsible suppliers by the initiating department representative and submitted with the requisition to support supplier selection and reasonableness of price. The Procurement Staff shall have the authority to seek additional quotes if deemed it is in the best interest of the City.
Three	Between <u>\$50,000.01 - \$100,000</u> Requires a minimum of three (3) electronic quotes obtained by the Procurement Staff via an informal quote process. Information will be shared with the initiating department to be included with submitted with the requisition to support supplier selection and best value.		Not Applicable	
Four	<u>Over \$100,000.01</u> Requires a formal competitive solicitation; the initiating department and the procurement representative will create the documents upon completion of the Request to Initiate and Budget approval. A requisition will be entered by the initiating department upon approval of the City Council.			

*Purchases **cannot** be divided as to circumvent the threshold dollar limit to avoid competitive procurement.*

D. Ethics

1. City Officials or City Staff Members must avoid actual misconduct or any behavior that would lead to the appearance of misconduct (regardless of its validity) during the procurement process. Strict adherence to proper procurement practices must be followed at all times to protect the reputation of the City.
2. City Officials or City Staff Members shall not solicit, accept, or demand any form of personal compensation from any supplier. This includes money, goods, services, offers of employment, reciprocal agreements, or discounts for personal gain.
3. City Officials or City Staff Member shall use caution when dealing with suppliers to ensure that proper policies, procedures and ethics are adhered to.
4. All suppliers must be afforded equal opportunities to compete.
5. The City will strive to maintain strong and enduring relationships with suppliers of proven ability and a desire to meet the City's needs. To accomplish this, procurement activities will be conducted so that all suppliers will value the City's business and make every effort to furnish its requirements on the basis of the most economical quantity, suitable quality, timely delivery, adequate service and lowest possible price.
6. If a supplier assists in writing the specifications, or is paid as a consultant to do so, they shall **NOT** be allowed to submit a bid. Any firm participating in writing or otherwise having an influence on the specifications or the RFP document will not be considered for award. If a department receives assistance or advice from suppliers in preparing their specifications, they must submit the supplier's name(s) to Procurement Services.
7. In accordance with Chapter [§112.313](#) Florida Statutes, City Officials or City Staff Members shall not contract with the City through any corporation or business entity in which they or their immediate family members hold a material interest. All City Officials or City Staff Members shall notify the Procurement Manager of any material interest in a firm that may do business with the City.
8. **Bid shopping is NOT permitted**; i.e., no one shall obtain pricing from a supplier and request other suppliers to meet or beat the disclosed price. This restriction shall not apply to reverse auctioneering. No member or family member of an elected City Official or City Staff Member shall receive any benefit or profit from any contract or purchases made by the City.
9. New sources of supply shall be given due consideration.
10. **Any violation of the Procurement Policy and Ethics shall be grounds for disciplinary action against the violator including loss of procurement authority up to and including termination. Such violation may also result in the City's refusal to pay for any improperly procured goods or services, making the violator personally responsible for payment.**

E. Unauthorized Purchases

1. Unauthorized procurements are prohibited, and is defined as an item(s) that are:
 - a. Purchased prior to receiving a Purchase Order, or
 - b. Purchased without sufficient funds as determined by Finance, or

- c. Purchased in the following manner:
 - I. Obtaining goods or services from a supplier, when another supplier holds a contract for those items;
 - II. Providing procurement inaccurate information such as fabricated quotes;
 - III. An “add-on” to a previously approved Supplemental Task Authorization Request Form (STA) or Purchasing Order (PO) without first obtaining a change order from Procurement Services;
 - IV. Split into multiple orders with the intention of circumventing the formal competitive solicitation requirements.
2. It shall be unlawful for any Elected City Official or City Staff Member to order the purchase of any materials or supplies or enter into any contract for materials, supplies, or services other than through Procurement Services, or within the exceptions delineated in this Policy. Any such purchase or contract made contrary to this policy may result in disciplinary action, up to and including employment termination, taken against the person committing the unlawful act.
3. In accordance with Chapter [§838.22](#) Florida Statutes (provided verbatim):

It is unlawful for a public servant, with corrupt intent, to obtain a benefit for any person or to cause harm to another, to:

 - a. Falsify, or cause another person to falsify, any official record or official document;
 - b. Conceal, cover up, destroy, mutilate, or alter any official record or official document or cause another person to perform such an act

F. Procurement Ethical Standards

Procurement staff adheres to the following ethical standards*:

- a. Regard public service as a trust and support the professional principles of public procurement;
- b. Believe in the dignity of their office, the importance of the procurement profession to the City and gives first consideration and loyalty to the City;
- c. Guided in their actions by integrity and honor to merit the respect and inspire the confidence of the City and the public which they serve;
- d. Accepts full responsibility and accountability for their actions related to the purchase and supply functions;
- e. Believes that character is the greatest asset in their profession and therefore will not accept gifts or other things of value from suppliers, which may influence the purchaser. We shall comply with all current laws and statutes pertaining to acceptance of gifts and gratuities;
- f. Keep City fully informed of procurement issues and progress towards resolving such issues through appropriate channels by emphasizing the facts without personal aggrandizement;
- g. Does not allow political considerations or other conflicting outside influences to enter their relationships with suppliers or other employees. Personnel administration is based upon a merit basis without regard to political, religious, gender, or racial considerations;

- h. Shall not engage in unscrupulous practices and misrepresentations; recognizing that mutually profitable business relations are based upon honest and fair dealings;
- i. Will be courteous, considerate, prompt and businesslike with those whom they deal, including their employer, employees, suppliers, the media and the public;
- j. Subscribe to and support the Mission, Visions, Core Values and Strategic Priorities of the City;
- k. Shall endeavor to increase their knowledge of the procurement profession through education, organizational memberships and participation with professional associations;
- l. Strive to continually increase competition in supplier selection and shall endeavor to prevent any collusive activities among suppliers.

*Adopted and modified source – Florida Association of Public Procurement Officials (FAPPO) [Code of Ethics](#).

Procurement Services also adheres to the [Code of Ethics](#) of the NIGP The Institute for Public Procurement.

To the extent that violations of the ethical standards of conduct set forth in this Section constitute violations of the State Criminal Code, they shall be punishable as provided therein. Such penalties shall be in addition to the civil sanctions set forth in this Part. Criminal, civil, and administrative sanctions against employees or non-employees, which are in existence on the effective date, shall not be impaired.

If, for any reason, collusion or other ANTI-COMPETITIVE practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the State Attorney General and the Chief Administrative Attorney.

G. Competition

Federal law, State Statutes, City ordinances, good business practices, and the responsibility for the expenditure of public and grant funds dictates that the City follow a policy of competitive source selection whenever reasonable. To do so, the City seeks suppliers that will provide quality materials and services at a fair and reasonable price, delivered on time.

SOURCE SELECTION

Methods of Procurement

The Procurement Manager shall determine the appropriate method of procurement for each project or request from a City department following federal law, state statutes, City Ordinances and procurement policy.

Competitive solicitation methods of procurement used by the City include:

- A. Competitive Sealed Bidding Process
The Invitation to Bids (ITB) is the solicitation document;
- B. Competitive Sealed Proposals Process
The Request for Proposals (RFP) is the solicitation document;
- C. Competitive Sealed Qualification based Process
The Request for Qualifications (RFQ) is the solicitation document;

A. Competitive Sealed Bidding – Invitation to Bid (ITB)

The procurement of or contract award for supplies, material, equipment, or services, over the specified threshold amount is made on the basis of competitive bids, when possible. These bids are solicited by Procurement Services. City policy requires that certain standards and conditions be met while formulating, soliciting and conducting purchases using the bid procedures for the City of Fort Myers.

1. INVITATION TO BIDS: An Invitation to Bids shall be issued and shall include specifications and all contractual terms and conditions applicable to the acquisition.
2. PUBLIC NOTICE: Adequate public notice of the Invitation to Bid (ITB) shall be given within a reasonable time prior to bid opening as required by State Statute. The public notice shall state the date and time of proposal receipt.
3. BID BONDS, PERFORMANCE, BONDS, ETC.: The Procurement Manager may, at his/her discretion, require that a bid bond accompany bids when submitted. If required, the amount and type of bond acceptable to the City will be stated in the bid documents.
4. QUALIFICATION OF BIDS: To be considered, bids must be posted via the City's Electronic Procurement Software on or before the date and time specified in the legal advertisement and bidding documents.
5. RESPONSIVE AND RESPONSIBLE BIDDER: The award shall be made to the lowest responsive responsible bidder. The City reserves the right to reject any and all bids with or without cause and/or to accept the bid that, although may not be the lowest bid, is, in its judgement, in the best interest of the City of Fort Myers.
6. CORRECTION OR WITHDRAWAL OF BIDS / CANCELLATION OF AWARDS: Correction or withdrawal of inadvertently erroneous bids before bid opening, or cancellation of awards or contracts based on such bid mistakes may be permitted where appropriate.

Note: All decisions shall be supported by a written determination made by the Procurement Manager or Designee acting in the best interest of the City. The City reserves the right to reject any and all submissions with or without cause and/or to accept the bid that although may not be the lowest bid, is in its judgement, in the best interest of the City of Fort Myers.

B. Competitive Sealed Proposals- Request for Proposals (RFP)

When the Procurement Manager determines that the use of competitive sealed bidding is neither practicable nor advantageous to the City of Fort Myers due to the technical or specialized nature of the goods and or services sought, or best value procurement will result in selection of the best qualified supplier/contractor at a reasonable price, the City may utilize the competitive sealed proposals process.

Request for Proposals (RFP) is the solicitation document that is used when there are evaluation factors in addition to price that are required to make an award. These factors may include, a proposer's method or approach, proposer's experience, their facilities or capabilities, the quality of their product compared to others in the market, implementation procedures, experience of the project manager, experience of the project team, past performance, location, volume of work, willingness to meet time and budget, etc.

1. **PUBLIC NOTICE:** Adequate public notice of the Request for Proposals shall be given within a reasonable time prior to bid opening as required by State Statute. The public notice shall state the date and time of proposal receipt.
2. **RECEIPT OF PROPOSALS:** Proposals shall be posted to the City's Electronic Procurement Software on or before the date/time specified in the document and shall remain sealed until the specified opening time.
3. **EVALUATION FACTORS:** The Request for Proposals shall state the relative importance of price and other evaluation factors.
4. **AWARD:** Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the City of Fort Myers taking into consideration price and the evaluation factors set forth in the Request for Proposals.

C. Request for Qualifications (RFQ)

- 1) Architectural and Engineering Professional Services Solicitation under the Consultants Competitive Negotiation Act (CCNA);
- 2) Continuing Contracts CCNA;
- 3) Non-CCNA Professional Services.

When the Procurement Manager determines that the use of competitive sealed bidding or sealed proposals is neither practicable nor advantageous to the City of Fort Myers, a contract may be negotiated by use of the Request for Qualifications

1. **PUBLIC NOTICE:** Adequate public notice of the Request for Qualifications shall be given within a reasonable time prior to bid opening as required by State Statutes. The public notice shall state the date and time of proposal receipt.
2. **RECEIPT OF PROPOSALS:** Qualifications shall be posted to the City's Electronic Procurement Software on or before the date/time specified in the document and shall remain sealed until the specified opening time.
3. **EVALUATION FACTORS:** The Evaluation Committee will review the qualifications in each submittal and determine what offerors(s) best meet the needs of the City.

4. AWARD: Award shall be made to the responsible responsive offeror(s) whose qualifications are determined in writing to be the most advantageous to the City.

D. Additional Requirements for Federal Grant Funds

When utilizing Federal Grant Funds, the City shall follow all policies listed, specific instructions written in the grant, and the requirements as stated in the Uniform Guidance (*CFR § 200.318 – 200.326 Uniform Guidance*). If there is a discrepancy between internal policies and the Uniform Guidance, the more restrictive requirements will be followed.

Five methods of Procurement for Federal Grants (CFR §200.320)

- I. Micro Purchases – less than \$10,000;
- II. Small Purchases (Simple Acquisition Threshold) – up to \$250,000;
- III. Sealed Bids (formal process) – greater than \$250,000;
- IV. Competitive Proposals (formal process) – greater than \$250,000;
- V. Sole Source (limited use).

E. Cooperative Procurement

1. Cooperative Procurement Programs

Procurement Services is affiliated with, and active members of, various professional procurement organizations. These associations allow the City access to numerous cooperative contracts that have been competitively awarded and may be utilized for the procurement of various goods and services. Departments are encouraged to utilize and purchase from cooperative agreements when the City does not have a current contract in place; this procurement method generally expedites procurements and provides competitive pricing for items and services needed.

Other governmental contracts that the City may utilize include, but are not limited to, term contracts of the State of Florida, Federal General Services Administration, and other governmental cooperatives, entities, counties and municipalities within and outside of the State of Florida.

2. Piggybacking contracts of other Public Entities (Non-Cooperative Contracts)

Piggybacking is defined by the *NIGP Dictionary of Procurement Terms* as “a form of intergovernmental cooperative Procurement in which a large purchaser requests competitive sealed or proposals, enters into a contract, and arranges, as part of the contract, for other public Procurement units to purchase from the selected supplier under the same terms and conditions as itself. Also called hitchhiking method.”

The City may utilize a contract that was competitively sourced and entered into between another governmental or public entity and a provider of supplies or services (piggy-back) sought by the City, if the Procurement Manager determines that it is practicable and advantageous for the City to employ this method of procurement. If such other governmental contract is utilized, the public notice requirements and/or the need to utilize the selection processes is obviated; however, a separate contract or purchase order must be executed by the City and the particular supplier. This separate purchase order/contract will then incorporate by reference the governmental contract and terms and conditions under which the cooperative contract was awarded. All services and/or commodities to be purchased and terms and conditions, **including expiration dates** will apply. Piggybacks cannot exist beyond the final contract date of the originating agency. Prices must be the same or less than the original contract.

Sole source or emergency contracts cannot be used to establish piggybacks.

Contracts awarded in accordance with Chapter [§287.055](#) Florida Statutes (the Consultants' Competitive Negotiation Act) may not be piggybacked.

Other governmental entities are similarly authorized to utilize the City contracts where the other governmental entity determines such utilization is practicable and advantageous and the particular supplier agrees to enter into such separate contract with the other governmental entity which incorporates the terms and conditions of the City contract.

Exceptions to Competitive Solicitation

A. Exceptions via State Statute

Contractual services and commodities are not subject to the competitive solicitation requirements per Florida State Statute 287.057 3(c)

B. Sole / Single Source Procurement

Sole-Source: *A situation created due to the inability to obtain competition. A procurement method where only one supplier possesses the unique ability or capability to meet the particular requirements of the solicitation. The Procurement authority may require a justification from the requesting department within the agency explaining why this is the only source for the requirement.*

Single-Sourcing: *A Procurement decision whereby purchases are directed to one source because of standardization, warranty, or other factors, even though other competitive sources may be available.*

1. Commodities or contractual services available only from a single source may be excepted from the competitive solicitation requirements; the agency shall electronically post a description of the commodities or contractual services sought for at least seven (7) business days [287.57 \(3\) \(C\)](#).
2. A contract may be negotiated without competition when the Procurement Manager 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 etc.
3. The Procurement Manager or Procurement Specialist shall conduct negotiations, as appropriate, regarding price, delivery, and terms upon approval by Procurement Services of the single source declaration.
4. Procurement Services shall maintain as a public record a record of sole source procurement and shall list each contractor's name, the amount and type of each contract, a listing of the items procured under each contract, and the identification number of each contract file.
5. The City Manager has final approval of Single or Sole-Source procurements of more than Level Three and the City Council for those more than Level Four (see page 6).

C. Disaster Procurement

Disaster Procurement is implemented upon the declaration of a disaster by the City Manager, Mayor or City Council. Disaster contracts are in place for the major items and services that may be required, and disaster purchase cards will be activated and distributed to pre-authorized staff members. All purchases must be clearly documented in as much detail as possible working closely with procurement staff.

D. Emergency Procurement

Emergency Procurement: *A purchase made due to an unexpected and urgent request where health and safety or the conservation of public resources are at risk. Usually formal competitive bidding procedures are waived.*

The Procurement Manager may make or authorize others to make emergency procurement of supplies, services or construction items when there exists a threat to public health, welfare, or safety; provided that such emergency procurement shall be made with such competition as is practicable under the circumstances.

Emergency Purchases are exclusively reserved for justified emergencies, and purchases may be made without taking competitive bids. However, competitive bids are recommended whenever possible and the purchase will be made at the best possible price.

E. Small Purchases

Procurement Services is dedicated to procuring supplies, materials, and services in a responsive and efficient manner. In achieving this goal, any procurement not exceeding Level One may be made in accordance with small purchase procedures. Requirements shall not be artificially divided to constitute a small purchase under this section.

The Procurement Manager shall adopt operational procedures for procurements costing starting at Level One. Such operational procedures shall require the preparation and maintenance of written records adequate to properly account for the funds expended and facilitate an audit of the small purchase made.

Procurement Card Usage

The City of Fort Myers Procurement Card (P-Card) Program is administered by the Procurement Services Division. The P-Card is a credit card designed to enable City Council and Staff to make purchases in an efficient, timely, and cost-effective manner.

The P-Card Program Policy provides requirements to follow when purchasing goods and services using the P-Card.

The P-Card belongs to the City of Fort Myers and may only be used by full-time City employees for job-related City business. The P-Card can only be used by the full-time employee whose name is on the Card. The P-Card must be surrendered by the cardholder upon request by the City.

The City of Fort Myers Procurement Card Program Policy shall apply to all City Officials, Staff Members, Departments and Divisions that are eligible to participate in the P-Card Program.

P-Card holders may make purchases not exceeding \$3,000, or any such lesser amount as determined by the Department Director and Procurement Manager, per single transaction including all associated costs without delays.

- Single transaction limit: \$3,000 per single transaction (including shipping, installation, warranty, handling etc.).
- Monthly transaction limit: \$10,000 per month.

The Procurement Manager may authorize a temporary increase in spending limits to individual employees to meet specific circumstances or emergencies as necessary.

Misuse of the P-Card may result in revocation of the P-Card, disciplinary action, termination, and possible filing of criminal charges. Each Department and Division participating in the P-Card Program is responsible for establishing their own internal control environment based on the policy guidelines.

City of Fort Myers has a zero-tolerance policy for personal purchases using the P-Card. Personal use of the P-Card under any circumstances, regardless of intent, will result in the revocation of P-Card privileges.

A. ALLOWABLE USE OF THE PROCUREMENT CARD

1. Goods and Services;
2. Food and beverages for City staff may only be purchased on P-Cards for extended meetings or for training sessions that extend for longer than one-half day;
3. P-Cards may be used for airline tickets, rental cars and hotel charges, but not for any upgrades or for pre-check charges.

B. PROHIBITED USE OF THE PROCUREMENT CARD

1. Gasoline, fuel, or oil unless related to City-approved travel and specifically approved for payment by P-Card on an approved Travel Authorization or City-related business;

2. Food and/or non-alcoholic drinks except as approved by Department Director; reasonable gratuities and tips are permitted but should not exceed 20% of the total bill. For Department Directors and above, approval must be obtained from the City Manager. The Cardholder must use the Business Meal Approval Form (see attached) as written proof of authorization from their Director for purchasing food or beverages. All receipts, including the Business Meal Approval Form, should be uploading into Works to support the business need. For Department Directors and above, approval must be obtained from the City Manager;
3. Alcoholic beverages;
4. Cash advances;
5. Splitting of purchases:
 - I. Splitting of purchases to circumvent the \$3,000 single transaction limit is prohibited
 - II. Known purchases over \$3,000 must be made using the requisition process
6. Purchase of Gift Cards except for authorized City programs, with authorization by Department Director. For Department Directors and above, approval must be obtained from the City Manager;
7. Paying of fines (e.g. Sunpass violations, traffic tickets, parking violations, etc.)
8. Vehicle repairs (except for Fleet);
9. Leaving P-Card number on file with any supplier;
10. Automatic or recurring charges may not be utilized with any supplier.

CONTRACTS AND CONTRACT ADMINISTRATION

A. Types of Contracts

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 of Fort Myers, 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 of Fort Myers, than any other type or that it is impracticable to obtain the supply, service, or construction item required except under such a contract.

1. **Multi-Term Contracts**

Multi-term contracts may be utilized provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation, it is within the time limit allowed by State Statute and funds are available for the first fiscal period. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds thereof.

2. **Multiple Source Contracts**

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. Although the City determines the need and plans to utilize all contracted sources, there is no guarantee for amounts required.

3. **Professional Services Contracts**

The City of Fort Myers negotiates contracts for professional architectural, engineering, landscape architectural or surveying and mapping services etc. based upon demonstrated competence and qualifications at fair and reasonable prices.

4. **Construction Contracting**

The Procurement Manager or designee shall have discretion to select the appropriate method of construction contracting management for a particular project. In determining which method to use, the Procurement Manager or designee shall consider the City of Fort Myers' requirements, its resources, and the potential contractor's capabilities.

a) **Bid Surety**

- I. Bid surety shall be required for all competitive sealed bidding for construction contracts unless otherwise specified in the Bid documents. Bid surety shall be a bond provided by a surety company authorized to do business in the State of Florida, or the equivalent in cash, or otherwise supplied in a form satisfactory to the City.
- II. Bid surety shall be in an amount equal to at least 5% of the amount of the bid.
- III. When the Invitation to Bids requires surety, noncompliance requires that the bid be rejected unless it is determined that the bid fails to comply only in a non-substantial manner with the surety requirements.
- IV. If a bidder is permitted to withdraw its bid before award, no action shall be had against the bidder or the bid surety.

b) Performance and Payment Bonds

When a construction contract is awarded, the following bonds or surety shall be delivered to the City and become binding on the parties upon the execution of the contract. These Bonds must be executed by a surety company authorized to do business in the State of Florida:

- I. Performance Bond in an amount equal to 100% of the price specified in the contract; and
- II. Payment Bond, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work for in the contract, in an amount equal to 100% of the price specified in the contract.
- III. Upon approval of the City Council, the Procurement Manager may be authorized to reduce the amount of performance and payment bonds to 50% of the contract price for each bond when a written determination is made that it is in the best interest of the City of Fort Myers to do so.
- IV. Nothing in this section shall be construed to limit the authority of the City of Fort Myers to require a performance bond or other surety in addition to those bonds, or in circumstances other than specified in Subsection (1) of this Section.

Note: Reference CNC (see definitions)

B. Contract Clauses

All City contracts shall include provisions necessary to define the responsibilities and rights of the parties to the contract.

The Procurement Manager, after consultation with the City Administrative Attorney's Office, may establish standard contract clauses for use in City contracts. If the Procurement Manager establishes any standard, such clauses may be varied provided that any variations are supported by a written determination that states the circumstances justifying such variations and if notice of any such material variation be stated in the Invitation to Bids or Request for Proposals.

C. Contract Administration

City staff will ensure that contractor(s)/supplier(s) are performing in accordance with solicitation under which the contract was awarded, and the terms and conditions of the contract, shall be maintained and included in the contract folder. Internal City Departments will submit all information regarding supplier performance to the Procurement Services Division.

D. Procurement Records

Procurement Services will be the central location for all procurement records; records will be stored in an electronic format whenever possible.

All determinations and other electronic or written records pertaining to the solicitation, award, or performance of a contract shall be maintained for the City of Fort Myers in a contract file by the Procurement Manager.

All procurement records shall be retained and disposed of by Procurement Services in accordance with records retention guidelines and schedules approved by the State of Florida.

Financial Requirements

A. Fiscal Responsibility

Every contract modification, change order, purchase order, payment or contract price adjustment at Level Four shall be subject to prior approval by the City Council.

In emergencies, the City Manager has authorization to initiate emergency procurement procedures.

During disasters the local governmental entities have authorization to initiate disaster procurement procedures.

B. Funds Available Certification

Fund availability may be confirmed for any and all acquisitions through the Office of Management and Budget.

Supply Management

A. City Assets (Fixed Assets)

Fixed Assets consist of resources owned by the City which have a monetary value usually in excess of \$5,000.00 per unit, are of a long-term character intended to be held or used for more than one year, and are grouped by land, buildings and structures, improvements other than buildings, utility systems, machinery and equipment. Assets which are immovable and have a value only to the City are accounted for separately, e.g., roads, drainages, lighting, culverts, sidewalks, bike paths, bridges, canals, etc.

B. Disposal of Surplus Property

Surplus Property: Any property or equipment that no longer is useful to the City that was purchased by, donated to, obtained by confiscation or any other equipment or material that is considered City property. Surplus property does not include real property.

The City shall have discretion to classify as surplus any of its personal property, which personal property is not otherwise lawfully disposed of, that is obsolete or the continued use of which is uneconomical or inefficient, and which serves no useful function.

The Procurement Manager shall be responsible for disposition of all surplus or obsolete personal property and for determining the best methods of disposition. The Procurement Manager shall have the authority to dispose of items valued at less than Level Three without the approval of City Council by utilizing the approved disposal methods.

The following are recommended methods for disposition of surplus property:

- Sealed Bid
- Open (Public) Auction
- Wholesale (Dealer) Auction
- Transfer to other City Departments
- Trade in on new items
- Negotiated sell of scrap
- Junking (only when item is deemed to have no value to the city)
- Sell or Donation to other Governmental units
- Sell or Donation to nonprofit agencies
- Open Public Sales – Posted Prices

Supplier Management

A. Supplier Contact

Professional interaction between suppliers, prospective suppliers and representatives of the City is essential for a professional and effective procurement program.

1. New sources of supply are welcomed by the City and all new suppliers should be directed to Procurement Services website to register as a new supplier.
2. Although department contact with suppliers is not restricted, presence of a procurement representative is recommended at all meetings discussing products/services or performance information.
3. Suppliers may not use the City's name in any product literature or advertisement without the express written permission of the City Manager.

B. Minority Business Enterprise (MBE)

The City has created a minority business enterprise program to assist and protect the interests of minority businesses, to promote and encourage full and open competition in the City, and to enhance opportunities for individuals to successfully compete in a free market as independent business owners. The program shall apply to all contracts and shall include taking steps to increase minority business enterprise participation. The Minority Business Enterprise Program is set forth in the City's Ordinances, Chapter 38, Article V, Sections 38-122 through 38-128.

C. Local Businesses

The City has created a local supplier preference program to qualified city and county businesses who respond to Invitations for Bid, Requests for Proposals and Request for Qualifications for the procurement of general services, goods or professional services, except where federal or state law mandates to the contrary. The Local Supplier Preference Program is set forth in the City's Ordinances, Chapter 38, Article III, Division 2, Sections 38-71 through 38-76.

D. Debarment or Suspension

1. Authority to Debar or Suspend

After consultation with the Administrative Attorney's Office, the Procurement Manager is authorized to send the person or affiliate a notice of intent to debar or suspend. Within (21) twenty-one days of receipt of the notice of intent to debar or suspend, the person or affiliate may file a petition for a formal hearing pursuant to Florida State Statute [120.569](#) and [120.57](#). After consultation with the Administrative Attorney's Office, the Procurement Manager is authorized to suspend a person from consideration for award of contracts if there is probable cause to believe that the person has engaged in any activity that might lead to debarment. The suspension shall be for a period not to exceed three months. Upon proof of conviction, the Procurement Manager, after consulting with the Administrative Attorney's Office, is authorized to debar a person for cause from consideration for award of contracts. The debarment shall be for a period of not more than three years. The causes for debarment and/or suspension include:

- a) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
- b) Conviction under State embezzlement, theft, forgery, and Federal statutes of bribery, falsification or destruction of records, receiving stolen property, or any other offense

indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a City of Fort Myers contractor;

- c) Conviction under State or Federal antitrust statutes arising out of the submission of bids or proposals;
- d) Violation of contract provisions as set forth below, of a character which is regarded by the Procurement Manager to be so serious as to justify debarment action;
 - i) deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - ii) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment.
- e) Any other cause the Procurement Manager determines to be so serious and compelling as to affect responsibility as a City of Fort Myers' contractor, including debarment by another governmental entity for any cause listed in this Procedure; and for violation of the ethical standards set forth this Procurement Policy.

E. Appeals and Remedies

The Procurement Manager shall consult with the Administrative Attorney's Office regarding a protest of a solicitation or award of a City of Fort Myers contract. After such consultation, the City Manager and/or the Procurement Manager may settle a claim relating to the bid protest.

F. Bid Protest

Any contractor/supplier/firm that has submitted a formal bid/quote/proposal to the City and who is adversely affected by an intended decision with respect to the award of the formal bid/quote/proposal, shall file with the City's Procurement Manager a written notice of intent to file a protest no later than four o'clock (4:00) P.M. on the third working day following the day of receipt of notice of the intended decision or the date of posting of bid tabulation. The initial notice of intent to file a protest shall state the basis of the protest and clearly indicate its purpose is to serve as the initial notice of intent to file a bid protest. Failure to so clearly indicate its intent shall constitute a waiver of the right to seek any remedy provided under the bid protest procedures.

For the purpose of computation, the initial notice of intent to file a protest shall be received by the Procurement Manager no later than four o'clock (4:00) P.M. on the third working day following the day of receipt of notice of the intended decision or the date of posting of bid tabulation.

Any contractor/supplier/firm that has submitted a bid to the City who is affected adversely by the intended decision with respect to bid award, shall file a formal, written protest within five (5) business days after the date of filing of the initial notice of intent to file a protest. Upon filing of the formal written protest, the contractor/supplier/firm shall post a surety, payable to the City, in an amount equal to five percent (5%) of the total bid/quote/proposal or ten thousand dollars (\$10,000.00), whichever is less. The surety shall be in the form of a cashier's check on a national or state bank, money order, or a protest bond executed by the contractor/supplier/firm and a qualified Surety authorized to do business in the State of Florida and acceptable to the City and shall be designated and held for the payment of any costs that may be levied against the protesting contractor/supplier/firm by the City, as the result of a frivolous protest. Failure to submit simultaneously with the Formal Written Protest shall invalidate the protest, at which time the City may continue its procurement process as if the original "Notice of Intent to File a Protest" had not been filed.

Upon receipt of Notice of Protest the Procurement Manager shall cease the bid solicitation process or award of contract until the protest is resolved pursuant to fundamental principles of due process, except and unless the Dispute Committee makes a written determination that the award of a contract without delay is necessary to protect substantial interests in the City of Fort Myers.

The Dispute Committee, shall, through the Procurement Manager meet with the protesting party within ten (10) business days (excluding Saturdays, Sundays and Legal Holidays) of receipt of the formal written protest. The purpose of the meeting of the Dispute Committee, the bid protestor and other affected parties is to provide an opportunity: (1) to review the basis of the bid protest; (2) to evaluate the facts and merits of the bid protest; (3) if possible, to reach a resolution of the bid protest that is acceptable to the affected parties; and (4) if possible, to satisfy the bid protestor to the extent that the bid protest might be withdrawn.

If and in the event, the dispute cannot be resolved by mutual agreement and there are disputed issues of material facts, the Dispute Committee shall refer the bid solicitation and protest to the Administrative Attorney's Office with a recommendation for resolution of the protest.

If the Chief Administrative Attorney's decision upholds the recommendation by the Dispute Committee regarding the award and further finds that the Protest was either frivolous and/or lacked merit, the Chief Administrative Attorney may, at his/her discretion, may assess costs, charges or damages associated with any delay of the award, or any costs incurred with regard to the Protest. These costs, charges or damages may be deducted from the surety (bond, cashier's check on national or state bank, money order) provided by the contractor/supplier/firm. Any costs, charges or damages assessed by the City in excess of the surety shall be paid by the protesting contractor/supplier/firm within twenty (20) business days of the final determination concerning the award.

“FAILURE TO FILE THE PROTEST PROCEDURES REQUIREMENTS WITHIN THE TIME FRAME DESCRIBED HEREIN AS ESTABLISHED BY THE CITY OF FORT MYERS, FLORIDA, SHALL CONSTITUTE A WAIVER OF YOUR PROTEST AND ANY RESULTING CLAIMS”

G. Contract Claims

All claims by a contractor against the City relating to a contract, except bid protests, shall be submitted in writing to the Administrative Attorney's Office, with a copy to the Procurement Division, for a decision. The contractor may request a conference with the Chief Administrative Attorney to discuss the claim. Claims include, without limitation, controversies arising under a contract, and those based upon breach of contract, mistakes, misrepresentation, or other cause for contract modification or revision.

The decision of the Administrative Attorney's Office shall be issued in writing within five (5) business days, and shall be emailed to the contractor with a copy to the City Clerk and a copy to the Procurement Division. The decision shall state the reasons for the decision reached and shall inform the contractor of its appeal rights.

This decision shall be final and conclusive unless, within five (5) business days from the date of receipt of the decision, the contractor delivers a written appeal to the City Manager if less than or the City Council if in excess of \$100,000 (one hundred thousand dollars) or commences an action in a court of competent jurisdiction.

Travel

The City Council of the City of Fort Myers recognizes that travel and related business expenses are an integral and necessary component of the operation of local government. The City Council also recognizes the constructive value of professional conferences, seminars, meetings and training in providing ongoing education and vital information relevant to effective policy setting and administration of City government. In recognition of these needs and benefits, the City Council provides funding for such activities through the annual budget adoption process. Budgets for travel and related business expenses are intended to reimburse all necessary and reasonable expenses incurred in connection with such activities, subject to compliance with rules and regulations adopted by the City Council governing reimbursement of expenses related to such activities.

This policy is intended to establish such rules and regulations for the purpose of:

- Providing equitable, consistent and fair standards for reimbursement;
- Maintaining effective control over these expenses;
- Providing uniform administrative procedures for handling of travel requests;
- Establishing proper accounting procedures for travel expenditures; and
- Assuring compliance with IRS regulations governing accountable employer expense plans.

This travel policy is adopted pursuant to local law, specifically City of Fort Myers Ordinance No. 2951 providing for travel administration, which ordinance has been enacted pursuant to powers granted to municipalities by the Municipal Home Rule Power Act (F.S. Chapter 166). Accordingly, the provisions of this policy shall prevail over any conflicting provisions in F.S. Chapter 112.061 to the extent of such conflict.

All requests for travel (domestic and international) must be approved in advance of the proposed travel and prior to any expense being incurred. Prepayment of any registration fees may be paid by the Traveler's purchasing card, but this does not guarantee that the travel request will be approved.

International travel is prohibited unless the travel request is approved as a regular agenda item by a majority vote of the City Council. City Council travelling with support staff travel must be pre-approved by a majority vote of the City Council.

Approvals are required as follows:

Traveler	Approved by:
City Council Members	Mayor Pro Tem
Mayor Pro Tem	Mayor
Mayor	Mayor Pro Tem
City Manager	Mayor or Mayor Pro Tem
Department Heads	City Manager or designee
All other City employees	Department Director or designee
All other Travelers	Department Director or designee

All travel will be reviewed by the Finance Director or designee

Department Directors may delegate approval of travel to a named designee, but the Director is ultimately responsible for the appropriateness and accuracy of all travel within the respective department. Failure to obtain the required approvals described above **prior** to traveling will render all expenses incurred ineligible for reimbursement. Exceptions to this provision shall be made only for situations requiring emergency travel.

General Policy

Travelers must recognize they are using public funds and are expected to exercise care in incurring travel expenses. It is the responsibility of the Traveler to comply with this Travel Policy and to be knowledgeable of the nature and extent of reimbursable expenses.

All Travel is subject to audit by the Director of Finance or designee and may, for any violation of Travel Policies and Procedures, be rejected despite prior approval. If rejected, no prepayments or reimbursements will be made until corrections are completed and approved by the Department Director. It is the general policy of the City to reimburse reasonable travel expenses incurred during authorized travel, subject to any limitation provided for in this policy.

Responsibilities

Traveler: It is the responsibility of the Traveler to keep all travel and related costs to a minimum, retaining all receipts and other documentation and presenting the City's Florida State Sales Tax Exemption Certificate to vendors.

Mayor, Mayor Pro Tem, City Manager, Department Directors or Designees: All approvers are responsible for reviewing travel costs for reasonableness and justification for the trip's purpose and compliance with policy and procedures. A final accounting of all trip expenses will be to the Finance Department. The approver must confirm the purpose of the trip was to conduct City business, the minimum number of City Staff attended, there are sufficient funds in the travel budget, all expenses are reasonable, necessary and consistent, and any required receipts or other documentation are attached. The approval should also ensure that any amounts due the City are reimbursed.

Financial Services Director or Designee: The Director of Finance or Designee is responsible for assuring that expenditures are properly accounted for, that the expenditures conform to prudent use of City funds and comply with this policy.

Eligible Expenditures

The Travel Policy is designed to cover reasonable employee expenses while traveling on City business outside of the Lee County Region (including Charlotte, Collier, Glades, Hendry and Lee Counties) and to promote the prudent use of public funds. It is the responsibility of the traveler to keep all travel and related costs to a minimum by using the most economic forms of transportation and lodging available. Authorized travel encompasses travel for the sole direct benefit of the City by the authorized employee and excludes the travel of support staff, to include legislative administrative assistants, senior administrative assistants or other such office staff unless the travel request is approved as a regular agenda item by a majority vote of the City Council.

Eligible travel expenditures include only those costs that are incurred in connection with and during the period of travel. The period of travel shall begin no more than one day before the start of the event necessitating the travel and shall end no more than one day after the completion of such event. If an employee can leave home by 6:00 a.m. and arrive at the destination prior to the start of the event, overnight expenses will not be allowed. If an employee cannot return home by 9:00 p.m., overnight expenses may be allowed. Expense reimbursements for travel periods beyond these limits will be considered only in rare situations where air travel costs or transportation availability make it more economical for the traveler to leave earlier or stay longer.

Under no circumstances shall the City pay any travel expense when the traveler travels on behalf of another business entity, agency or professional association.

The City will not pay any travel expenses deemed personal in nature as a result of combining City travel with vacation. All travel must demonstrate a clear separation between business expenses and personal expenditures.

International travel is prohibited unless the travel request is approved as a regular agenda item by a majority vote of the City Council. International travel is travel to any point outside the continental United States.

The following are generally eligible expenditures and every effort should be made to pay with a Procurement Card: tuition/registration fees, transportation, rental cars, taxis, air transportation and lodging. Meals are paid per diem and are NOT allowed on the Purchase Card when travelling. Personal expenses including entertainment activities, alcoholic beverages, and other non-City related expenses are NOT eligible expenditures.

Course tuition, registration fees for a seminar or conference and other fees that relate to attending an event for the stated purpose are considered registration fees. Optional tours, banquets or other activities offered through a conference but as an additional cost to registration are solely at the discretion of the Traveler and will be considered a personal expense ineligible for reimbursement or payment by the City.

Prepayment of the registration fees may be paid by the Traveler's purchasing card, but this does not guarantee the travel request will be approved; the Finance Department must be notified of the prepayment.

Transportation

The Traveler must take the most direct and route; if the Traveler takes an indirect route or stops along the way for personal reasons, he/she will NOT be reimbursed for related expenses, and travel time related will not be considered time worked.

Ground Transportation:

The City's preferred method for vehicle travel is a rental car. Compact vehicles may be rented from either Enterprise or National using the [State Contract for vehicle rental for Fort Myers](#) or from Hertz via the [Governmental Car Rental Agreement](#). All renters must add both Damage Waiver and Liability Insurance Supplement when renting a vehicle.

Personal vehicles will only be allowed to be used for transportation after signing a waiver of insurance coverage responsibility upon approval of their Director and Risk Management. The standard mileage rate allowed by the Internal Revenue Service will be paid and traveler will be responsible for all other costs. For payment purposes, mileage will be calculated from the employee's place of work or home depending upon the time travel begins. Driver's must possess a valid State of Florida driver's license, carry the State of Florida's minimum insurance coverage, which comprises \$10,000 bodily injury for one person, \$20,000 bodily injury to two or more people, and \$10,000 property damage liability; policies must be issued through a Florida agent with an insurance company licensed to sell in Florida. Realize that any fuel, damage to the car, service, or repair occurring on or needed as a result of the trip will be the Traveler's responsibility as these costs are included in the City's per mile cost reimbursement.

Travelers are not allowed mileage or other transportation expenses when gratuitously transported by another person.

Tolls and fines are will not be paid for travel in City vehicles within Lee County. Pursuant to an Interlocal agreement with Lee County, City vehicles crossing Lee County bridges are not charged tolls if they pass through attended toll lanes.

City vehicles may be taken outside the State of Florida only upon approval of the Risk Management Department. Approval may be in the form of an e-mail from the Risk Management Department attached to the Travel Request Form. A City vehicle may only be used by a Traveler who possesses a valid Florida Driver's License. The City's Risk Management Department reserves the right to limit the use of City vehicles as deemed necessary for safety and risk purposes.

For those City officials and employees that receive a vehicle / expense allowance, no mileage will be paid for travel within a 30-mile radius of the employee's place of work or home.

Taxis or Ubers may be used for travel to and from airports or other necessary local trips for the purpose of conducting City business while at the travel destination. Receipts must be obtained for service and purchase cards are not to be kept on file with Uber.

Tips for ground transportation, hotel bellhops and attendants are eligible expenditures at a maximum rate of 15% or \$1.00 per piece of luggage.

Air Transportation:

Coach airfare shall be used when it is the most economical mode of transportation; the City will not pay for any upgrades either on the flight or at the airport including TSA Pre-check or upgrade to seats.

Airline travel insurance purchased by the Traveler and payments for excess baggage (check-through and/or carry-on luggage not required for the business-related event) are considered personal expenses ineligible for reimbursement or payment by the City.

Travel on chartered planes or private aircraft is only permitted for essential travel where time constraints make all other modes of transportation not feasible. Prior written approval of the City's Risk Management Department and Director of Finance is required for travel on any private or chartered aircraft. If a Traveler pilots any type of aircraft due to availability or scheduling at smaller airports, reimbursement is limited to the lower of comparable commercial air travel or actual costs incurred by the Traveler.

Other methods of transportation, including but not limited to bus travel, rail and subways may be used if the Traveler can demonstrate an economic advantage to such methods of transportation.

Lodging:

Lodging should be selected on the basis of the most reasonably priced accommodations that are available and consistent with the purpose and goals of the trip and budgetary limitations. Rooms may be reserved and subsequently paid with a procurement card; presenting the City's exemption certificate and ensuring that sales tax is not charged when travelling in Florida.

If attending a conference, seminar or convention with recommended hotels, the convention rate will be paid for a recommended hotel. The Traveler should make every effort to register early to obtain the most economical lodging rates offered. If no hotel is recommended, or travel is not associated with a conference, convention or seminar, the Traveler should seek economical but practical lodging and always request a governmental rate.

The City will not pay or reimburse Travelers for lodging expenses incurred by family members or guests accompanying the Traveler and/or occupying the same room. **Personal charges, including meals, to a room on a City procurement card are prohibited and are grounds for the card to be revoked.**

In the event of emergency travel, the Traveler may use personal funds to pay lodging costs and request reimbursement by providing the proper receipt(s). Lodging costs paid directly by the Traveler will not be eligible for exemption from Florida sales tax and will not be subject to reimbursement.

Meals:

Meals will be paid to the Traveler at a flat per diem rate of \$47.00 per day, inclusive of tips. Only per diem rates will be paid for meals; actual expenses above per diem rates are considered a personal expense of the Traveler. If travel is for less than one full day (24 hours), the per diem amount allotted for each meal will be as follows:

Breakfast – if travel begins before 6:00 a.m. and extends beyond 8:00 a.m.	\$11.00
Lunch – if travel begins before noon and extends beyond 2:00 p.m.	\$13.00
Dinner – if travel begins before 5:00 p.m. and extends beyond 7:00 p.m.	\$23.00

The per diem meal rate established herein may be adjusted periodically.

If meals are provided without charge at a meeting or while in transit (e.g. meals served on a plane), appropriate deductions must be made from the per diem meal allowance. Snacks and continental breakfasts are not considered meals for this purpose. If the Traveler does not partake of a scheduled meal during the travel period, the Traveler is not entitled to payment for that meal.

Other incidental costs incurred during travel, including but not limited to internet service, if available and essential to the Traveler’s position, parking (including mandatory valet service fees), tolls and other business related charges will be paid by the City if the costs are reasonable and necessary, of direct benefit to the City or to the goals and purpose of the trip, pre-approved prior to travel, and supported by proper receipts.

Items of a personal nature are not reimbursable, including (but not limited to) movies, entertainment, premium television services, alcoholic beverages, dry cleaning, spas, gyms, travel insurance, supplemental insurance on car rentals, purchase of clothing, toiletries, newspapers, magazines etc., loss of tickets, fines or traffic violations, excess baggage (check-through luggage exceeding one item), spouse and/or guest accommodations, and any meals, beverages or other forms of entertainment paid for other persons. In addition, any expenses not properly substantiated by receipts or other documentation, or expenses incurred but not approved, will be ineligible for reimbursement and considered a personal expense of the Traveler. **Personal charges to a City procurement card are prohibited and are grounds for the card to be revoked.**

The personal element of any time spent, or expenses incurred, arising from combining business and personal travel must be clearly segregated and excluded in accounting for reimbursable expenses for City travel.

Travelers are encouraged to use Procurement Cards whenever appropriate; however, travel must be approved by the Department Director prior to using the Procurement Card for airfare, lodging, conference fees and other valid expenses. Travelers may also use personal credit cards or other funds and request reimbursement. Travel advances may be utilized only when absolutely necessary and when the appropriate forms have been submitted more than 10 days before the travel begins.

Limited Travel (day trips) shall be requested for a local event that is for one day or that spans more than one day but the traveler is able to return home daily. Limited Travel costs are eligible for payment in accordance with the specific costs set forth below.

1. Registration fees may be paid by purchasing card;
2. Use of a City Vehicle or rental vehicle is preferred;
3. Meals related to travel within Lee County will not be reimbursed unless the cost of the meal is included in the registration fee or is required as part of the attendance.

Enforcement and Disciplinary Actions:

Travel Policies shall be strictly enforced by individuals approving travel and by the Finance Department. Repeated failure to adhere to these policies may result in suspension of travel privileges for the Traveler and/or the Traveler's department. Non-compliance may also result in further disciplinary or personnel action, commensurate with the magnitude and seriousness of the policy violation(s).

In the event that any Traveler incurs unauthorized or unapproved expenses that cause out-of-pocket losses to the City, the City may use whatever legal collection methods it deems necessary to obtain reimbursement from the Traveler, including but not limited to withholding of such amounts from wages and/or other payments due to the Traveler.

If the Traveler cancels the attendance at a conference or seminar for which payments were advanced by the City and for which refunds are due the City, the Traveler must request applicable refunds and submit them to the City's Treasury Division in City Hall. In the event that refunds cannot be obtained, every effort should be made by the Traveler and the Department Director to send a substitute to the event to minimize the City's financial loss.

DEFINITIONS

Agreement: An understanding between two or more parties in which they state a common understanding and intention regarding past or future intentions or facts, sometimes with a view to altering performance, rights, and obligations. When the additional elements of a contract are satisfied, e.g., mutual obligation (consideration), capacity, definiteness, and legal purpose, contracts may be formed. The terms agreements and contracts are sometimes used synonymously.

Authorized Travel: Travel by an Authorized Traveler for the direct benefit of the City in connection with one or more of the following activities: attend schools, seminars, conferences, hearings, conventions or other meetings; interview persons or conduct investigations; inspect facilities, institutions or equipment; transport equipment to and from distant points for purchase, sale, repair, maintenance, or in furtherance of intergovernmental cooperation agreements; perform or participate in such other activities requiring expenditures for travel and/or subsistence as are clearly necessary to carry out assigned duties or conduct official business for the direct benefit of the City.

Authorized Traveler(s): Authorized travelers include City Council members, including the Mayor; City employees, board members and positions staffed by outside contractors; and other pre-authorized travelers. Outside consultants and suppliers hired by the City under separately negotiated contractual arrangements shall follow the same rules as internal staff, unless otherwise stated in the contract.

Best Value: 1. A procurement method that emphasizes value over price. The best value might not be the lowest cost. Generally achieved through the Request for Proposals (RFP) method. 2. An assessment of the return that can be achieved based on the total life cycle cost of the item; may include an analysis of the functionality of the item; can use cost-benefit analysis to define the best combinations of quality, services, time, and cost considerations over the useful life of the acquired item.

Business location: A permanent office or other site where a local business conducts, engages in or carries on all or a portion of its business; has personnel, equipment and materials within the boundaries of Lee County sufficient to constitute a present ability to perform the service and/or provide the goods. Business stationery and business cards must make a specific reference to a Lee County address. A post office box or a location at a postal service center shall not constitute a business location.

CCNA – Consultants Competitive Negotiation Act: Florida Statute [287.055](#) governs a public entity's acquisition of professional architectural, engineering, landscape architecture, and surveying and mapping services.

Cardholder: A trained and authorized full-time employee of the City of Fort Myers designated by the Department/Division Director or City Manager to who a P-Card is issued

City: The City of Fort Myers, its Elected Officials, City Manager, representatives, volunteers and staff.

City Business: Business conducted by employees on behalf of the City to advance a legitimate public purpose and promote and protect the health, safety and welfare for the benefit the citizens and taxpayers

Code of Ethics: A guide to acceptable and ethical behavior as defined by an organization or public body. A standard of behavior adopted by an organization. Written policies or guidelines which apply to the ethical behavior of members of an organization, business, or public entity. (NASPO, 2001)

Commodity: A marketable item produced to fulfill a need or want, and references both goods and services.

Contract Administration: A term used to describe the functions that are performed after the parties have signed the contract (Sherman, 1996). Typical contract administration activities are goal oriented, aimed at ensuring enforcement of the contract terms and conditions while giving attention to the achievement of the stated output and outcome of the contract.

Construction: The process of utilizing labor to build, alter, repair, improve, or demolish any structure, building or public improvement; generally, does not apply to routine maintenance, repair, or operation (MRO) of existing real property.

Contract: 1. An obligation, such as an accepted offer, between competent parties upon a legal consideration, to do or abstain from doing some act. The essential elements of a contract are an offer and an acceptance of that offer; the capacity of the parties to contract; consideration to support the contract; a mutual identity of consent; legality of purpose; and definiteness. 2. A legally binding promise, enforceable by law. 3. An agreement between parties with binding legal and moral force, usually exchanging goods or services for money or other considerations. The terms “agreements” and “contracts” are used synonymously.

Contractor: Any individual or business having a contract with a governmental body to furnish goods, services, or construction for an agreed-upon price.

Cooperative Procurement: The action taken when two or more entities or agencies combine their requirements to obtain advantages of volume purchasing, including administrative savings and other benefits.

Department/Division: Any department, office, division, executive department division, council, board or commissions within the City of Fort Myers’ jurisdiction

Disaster: A sudden and terrible event in nature (such as a hurricane, tornado, or flood) that usually results in serious damage and deaths.

Domestic Travel: Travel within the United States, including the US Territories where use of a passport is not required.

Electronic Check Requisition: A pre-authorized electronic requisition for payment of travel related expenditure. The electronic check requisition must have supporting documentation attached.

Emergency Procurement: A purchase made due to an unexpected and urgent request where health, welfare and safety or the conservation of public resources is at risk. Usually formal competitive bidding procedures are waived.

Emergency Travel: Travel necessitated by an unexpected or unanticipated event requiring the Traveler leave within one business day of being informed of such event.

Employee: An individual drawing a salary or wages from the City, whether elected or not, any non-compensated individual performing personal services for the City or any department, agency, commission, council, board or any other entity established by the executive or legislative branch of the City and any individual serving as an elected official of the City of Fort Myers.

Fixed Asset: Physical assets such as property, plant, and equipment with a cost of \$5,000 and a life of more than one year.

Immediate Family: Spouse, children, parents, brothers and sisters, or any other person living in the same household as the employee.

International Travel. Travel outside the United States where use of a passport is required.

Invitation to Bids (ITB): A procurement method used to solicit competitive sealed bid responses, sometimes called a formal bid, when price is the basis for award.

Lee County Business: Any person, firm, partnership, company or corporation which is duly licensed and authorized to engage in the particular business for which a proposal is submitted, and whose principal place of business, in the sole opinion of the City, is located within the boundaries of Lee County.

Limited Travel. Authorized travel within a geographical area that reasonably permits the Traveler to drive to and return from the destination on the same day (day trips).

Local Business: Any person, firm, partnership, company or corporation who possesses a current City occupational license and is authorized to engage in the particular business for which a proposal is submitted, and whose principal place of business, in the sole opinion of the City, is located within the City.

Local Travel: Travel within the region (Charlotte, Collier, Glades, Hendry and Lee Counties).

Minority Business Enterprise (MBE): A business certified by the Florida State Office of Supplier Diversity and a registered City supplier, where the primary place of business is within the limits of the City of Fort Myers or within Lee County, as demonstrated by an active county occupational license and/or city occupational license, as required.

Overnight Travel: Authorized Travel that requires an overnight stay due to geographical distance or activity requirement (such as a multi-day conference).

Piggybacking: A form of intergovernmental cooperative Procurement in which a larger public entity requests competitive sealed proposals, enters into a contract, and arranges, as part of the contract, for other public Procurement units to purchase from the selected supplier under the same terms and conditions as itself.

Procurement: Purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction; includes all functions that pertain to the acquisition, including description of requirements, selection, and solicitation of sources, preparation and award of contract, and all phases of contract administration. The combined functions of purchasing, inventory control, traffic and transportation, receiving, inspection, storekeeping, salvage, and disposal operations.

Procurement Card (P-Card): A credit card issued to full time employees to conduct City business.

Procurement Manager: The person holding the position as head of the Procurement Office in the entity or jurisdiction.

Procurement Services: Procurement Services is the division responsible for the centralized procurement and contract management for all goods, services, equipment, construction, renovations and professional services for the City of Fort Myers.

Professional Services:

- a) Services rendered by members of a recognized profession or possessing a special skill. Such services are generally acquired to obtain information, advice, training, or direct assistance.
- b) Services that require performance by a registered architect or engineer. Professional services of an architectural or engineering nature that are associated with research, planning, development, and design for construction, alteration, or repair.

Protest: A written objection by an interested party to a solicitation or award of a contract with the intention of receiving a remedial result.

Public Agency: A public entity subject to or created by a governmental jurisdiction.

Region: For travel purposes the local region includes Charlotte, Collier, Glades, Hendry and Lee Counties.

Request for Proposals (RFP): The document used to solicit proposals from potential providers (proposers) for goods and services. Price is usually not a primary evaluation factor. Provides for the negotiation of all terms, including price, prior to contract award. May include a provision for the negotiation of best and final offers. May be a single-step or multi-step process. Introduced in the Armed Services Procurement Act of 1962 as well as by the Competition in Contracting Act of 1984.

Request for Qualifications (RFQ): A document used to solicit statements of the qualifications from potential responders for professional services. Provides for the negotiation of all terms, including price, prior to contract award.

Responsible Bidder/Proposer/Offeror: A business entity or individual who has the financial and technical capacity to perform the requirements of the solicitation and subsequent contract.

Responsive Bid/Proposal/Offer: A bid or proposal that fully conforms in all material respects to the Request for Bids (RFB)/Request for Proposals (RFP) and all of its requirements, including all form and substance.

Services: The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance.

Single Sourcing: A procurement decision whereby purchases are directed to one source because of standardization, warranty, or other factors, even though other competitive sources may be available.

Small Business: An independently owned firm, corporation, or establishment, having a small number of employees, low volume of sales, small amount of assets, and limited impact on the market.

Sole Source: A situation created due to the inability to obtain competition. A procurement method where only one supplier possesses the unique ability or capability to meet the particular requirements of the solicitation. The Procurement authority may require a justification from the requesting department within the agency explaining why this is the only source for the requirement.

Specification: A precise description of the physical characteristics, quality, or desired outcomes of a commodity to be procured, which a supplier must be able to produce or deliver to be considered for award of a contract. Specifications can include design requirements, performance expectations or technical specifications.

Supplies: All property, including but not limited to equipment, materials, printing, insurance, and leases of real property, but excluding real property, land or a permanent interest in land.

Surety: A pledge or guarantee by an insurance company, bank, individual, or corporation on behalf of the bidder/proposer that protects against default or failure of the contracted bidder/proposer to satisfy the contractual obligations.

Tax Exemption: The City of Fort Myers is tax exempt; all purchases made within the State of Florida shall be exempt from Florida State and local taxes in accordance with Florida State Law.

Travel: Travel outside of the region (Charlotte, Collier, Glades, Hendry and Lee Counties).