

**Board of County Commissioners
Agenda Request**

Date of Meeting: June 21, 2022

Date Submitted: June 21, 2022

To: Honorable Chairman and Members of the Board

From: Edward J. Dixon, County Administrator
Georgette Daniels, Assistant County Administrator t

Subject: Approval of Revisions to the County's Procurement Policy

Statement of Issue:

This agenda item seeks Board approval of revisions to the County's Procurement Policy.

Background:

The County's Procurement Policy has not been updated since 2017, when the Board approved updates to purchasing category thresholds. The 2016 Purchasing Policy, as updated in 2017, has obsolete definitions and sections; does not include all current procurement methods allowed by law; does not meet federal grant funding laws, specifically 2 CFR 200 and CDBG grant funding; and, the purchasing thresholds are reflective of those more appropriate to 2017 costs of commodities, equipment, real property, and services.

Furthermore, the current Purchasing Policy provides little delegation of authority to the County Administrator, Assistant County Administrator and other management/supervisory staff in approving purchasing transactions that are of a routine, necessary nature for county operations, and funding for such purchasing transaction approved in the County budget. Currently, most purchasing transactions exceeding \$25,000, are required to be approved by the Board, and all contracts, tasks order issued from a continuing services contract, service/maintenance agreements and other routine contracts/agreements required for continuity of county operations, regardless of amount, must be approved by the Board.

Staff reviewed purchasing policies of other Counties and recommendations from grant funding agencies to identify, at a minimum, best practices; current procurement definitions, trends, and methods; 2 CFR 200 requirements and other federal provisions and contract clauses required when contracting with federal grant funds; and, purchasing and contract thresholds and delegations of authorities.

The Board held a workshop on June 14, 2022, to discuss proposed revisions to the Purchasing

Policy, and directed staff to revise purchasing authority and thresholds as shown in the table below.

Purchasing Category (or Tier)	Threshold	Delegation of Authority
Small Purchase (or Tier 1)	\$1.00 to \$3,500.00	Division Manager/Superintendent/ Buyer (Purchasing Department), and above.
Verbal Quotes (or Tier 2)	\$3,501.00 to \$10,000.00	Department Director
Written Quotes (or Tier 3)	\$10,000.00 to \$25,000.00	Purchasing Director/Assistant County Administrator
Competitive Sealed Bids (RFQ, RFP, ITB) (or Tier 4)	In excess of \$25,000.00	Awards <ul style="list-style-type: none"> • Up to \$50,000.00 County Administrator • Over \$50,000.00, Board approval

Analysis:

Staff have incorporated the revised thresholds and authority as shown in the table above into the attached revised Purchasing Policy. It should be noted that staff must comply with the Purchasing Policy for all purchases based on the purchasing category/tier, unless specially exempted.

Based on staff research and analysis discussed above under “Background” it was determined that the 2016 Purchasing Policy, as amended in 2017, should be updated and refined to address today’s purchasing and contract environment, ensure compliance with 2 CFR 200, and to achieve the most efficient and effective purchasing methods to the extent allowed by law. Staff are therefore recommending the following substantive changes to the 2016 Purchasing Policy, as amended in 2017.

2.0 Application of Policy

Updated the following sections for clarity, conformance, and continuity with other sections of the 2016 Purchasing Policy, as amended in 2017, and for those proposed recommended updates as follows:

2.3. Exemptions from the Purchasing Policy. No substantive changes, edited to clarify and streamline narrative.

2.3.1 All heavy equipment repairs shall be exempted from the competitive sealed bid requirements. New language added for “Any repair in excess of \$50,000.00, the County Administrator shall agenda the item for ratification by the Board at a regularly scheduled Board meeting.” *[Note: based on Board direction this was revised from \$150,000.00 down to \$50,000.]*

2.3.8 All purchases of used equipment. Narrative was updated to reflect proposed purchasing and contract thresholds and delegations of the authority, see recommended changes to Section 5.0.

2.3.9 Library/Training Media and Materials. Narrative was edited for clarity, and updated to reflect proposed purchasing and contract thresholds and delegations of the authority, see recommended changes to Section 5.0

Deleted the Following Obsolete Sections:

2.3.12 JTPA (On the Job Training) contracts.

2.3.13 All supplies, materials, equipment, or services procured pursuant to an existing Contract of Gadsden County or another unit of government. (See new section “Cooperative Procurement.”)

New Sections Added (numbering to be added following Board approval as applicable):

- Cooperative Procurements as defined in Section 5.0. All supplies, materials, equipment, or services procured pursuant to an existing Contract of Gadsden County or another unit of government, if the vendor-party to the existing contract extends the terms and conditions of the existing contract to the County and the existing contract was awarded pursuant to procedures substantially similar to those required under this Procurement Policy.
- Appraisers, and expert witnesses for condemnation matters, and similar services; sale, acquisition, or lease of real property; real estate brokers; title insurance, abstracts, opinions, or title; surveys in connection with acquisition, sale, or lease of real property; room and board for social service license and funeral related services. Contracts for these services shall be negotiated by the County Attorney.
- Service/Maintenance Agreements. Continuing service and/or maintenance contracts that are initially awarded by the Board as part of a product acquisition/installation or lease purchase to a vendor who is the manufacturer, developer or is the authorized service agent thereof and for which funds are annually appropriated in the County’s budget are exempt from further competitive requirements or Board approval. Examples are software/hardware maintenance, copier maintenance, security systems, etc.
- Software Upgrades, software modification services by the copyright holder (e.g., Microsoft) and related software enhancement to installed software purchased through competitive means are exempt. The purchase of “new” software packages or systems shall follow the purchasing thresholds and procedures of this Purchasing Policy to ensure competitive selection.
- Corporate and media sponsorship agreements.

- Training and educational courses, meeting rooms, and hotels; continuing education events or programs; and lectures by individuals.
- Travel arrangements and expenses.

3.0 Definitions

Updated the following definitions for clarity and/or conformance with federal and/or state:

- Option to Renew
- Single Source
- Sole Source

Deleted the following obsolete definitions.

- 3.27 Field Purchase Order
- 3.28 Field Quotes

Added the following Definitions:

- Cone of Silence
- Competitive Consultants Negotiation Act (CCNA)
- County
- Debarment (of a vendor)
- Department Director
- Formal Solicitation
- Irregularities
- Material Mistake
- Non-Material Mistake
- Payment Bond
- Performance Bond
- Personal Property
- Posting
- Proposal
- Request for Qualifications (RFQ)
- Selection Committee
- Suspension (or suspended vendor)
- Vendor

4.0 Authority of Purchasing Director

- Clarified in section 4.1 that the Assistant County Administrator serves as the “County Procurement Director” and unless otherwise delegated, serves as the “Purchasing Officer of Gadsden County.”

5.0 Purchasing Categories.

Heading retitled to “5.0 Purchasing Authority, Thresholds, and Categories’ to more

clearly reflect the content and intent herein.

As mentioned earlier, staff reviewed purchasing delegation of authorities and thresholds of other counties, 2 CFR 200, and it was determined that those in the 2016 Purchasing Policy, as amended in 2017, were not reflective of today's laws, economy, or those of similar sized counties. Therefore, Paragraphs A-H, of Section 5.0, purchasing categories and thresholds were deleted and replaced with the following:

- **Purchasing Authority and thresholds** identifies who must approve the purchase of goods and services up to a dollar threshold amount and when a purchase must be brought before the Board for approval and award. The following purchasing thresholds and authorities are established regardless of the purchasing process:

○ Division Manager/Superintendent/ Buyer (Purchasing Department)	Not to Exceed \$3,500.00
○ Department Director	Not to Exceed \$10,000.00
○ Purchasing Director/ Assistant County Administrator	Not to Exceed \$25,000.00
○ County Administrator	Not to Exceed \$50,000.00
○ Board	Over \$50,000.00

Each individual representing a level of purchasing authority must have on file with the Purchasing Department and Clerk's Finance Office, a completed signature authorization.

- **Contract Authority** identifies who must approve contracts, task orders, and agreements (i.e., "Contracts") up to a dollar threshold amount for goods, services, and equipment, and when a contract, task order or agreement must be brought before the Board for approval and award. The following purchasing thresholds and authorities are established regardless of the purchasing process.

Purchasing Director/ Assistant County Administrator	Not to Exceed \$25,000.00
County Administrator	Not to Exceed \$50,000.00
Board	Over \$50,000.00

- **Purchasing Categories/Tiers; Requirements.** The following establishes requirements for purchases by amounts. Each purchase, contract and/or

request for payment associated with the purchase and/or contract, must be signed by the appropriate approving authority as set forth above.

Up to \$3,500.00	Small Purchases/Tier 1 – not quotes are required but best practices should be used to ensure a competitive price.
Over \$3,501.00 up to \$10,000	Verbal Quotes/Tier 2 – three telephone quotes are required. The quotes should be documented in writing using the format or form provided by the Purchasing Office.
Over \$10,001 up to \$25,000.00	Written Quotes/Tier 3 -three formal written quotes from separate vendors. Each vendor shall be provided the same written request for a quote with the scope of work and specifications, and project background.
\$25,001.00 and over	Competitive Solicitation is Required

Exemptions are discussed in Section 2.0 Application of Policy

Attachment 1 provides a table comparing the 2016 Purchasing Policy, as amended in 2017, purchasing categories, thresholds and authority to those pursuant to Board direction at the June 14, 2022 workshop.

The following sections were updated for clarity, conformance with proposed thresholds and delegations, and compliance with law, if applicable.

5.5 Purchasing Quotes. Was retitled “Verbal Quotes.”

5.9 Other Competitive Sealed Proposals, was retitled “Request for Proposals.” Language was added clarify the purpose an RFP and provisions for use of an RFP and the evaluation of proposals and award of contracts.

5.10 Sole Source Purchases. Was retitled Single Source and Sole Source Purchases and expanded to address the nuances between the two methods of procurement and provisions for each method.

5.11 Federal Policy Notice. Was expanded to include CDBG and other federal funds, and the addition of Attachment A: Federal Provisions and Clauses Related to Grant Funds That May Be Used in Part or in Whole to Fund Services, Goods, Equipment and/or Real Property, to the Purchasing Policy.

The following new sections were added to allow for more purchasing flexibility and compliance with 2 CFR 200 and Chapter 287, Florida Statutes (i.e., Florida Procurement Law).

- Request for Qualifications (RFQ) for Professional Architectural, Engineering, Landscape Architectural, and Land Surveying services. This new section also includes a subsection for the provisions of Florida's Competitive Consultants Negotiation Act, sections 287.017 and 287.055, Florida Statutes.

Deleted the following obsolete sections:

- 5.4 Field Quotes
- 5.7.8 Multi-Stepped Sealed Bidding

Staff are seeking Board approval of the recommended substantive changes to the 2016 Procurement Policy, as amended in 2017. Should the Board approve staff recommendation, staff will make all approved changes and properly format the 2022 Purchasing Policy for the Chairman's signature.

Options:

1. Approve the revisions to the County Purchasing Policy.
2. Do not approve revisions to the County Purchasing Policy
3. Board Direction

County Administrator's Recommendation:

Option 1.

Attachment:

1. Table of 2016 Purchasing Policy purchasing categories and thresholds **with proposed revisions pursuant to Board direction.**
2. 2016 Purchasing Policy, as amended in 2017.

Attachment 1: Table of 2016 Purchasing Policy purchasing categories/tiers, thresholds and authority compared to recommendations

2016 PURCHASING POLICY		RECOMMENDED CHANGES	
Category	Threshold and Delegation	Category	Threshold and Delegation
Field PO	Up to \$500.00	DELETE	DELETE
Small Purchase	Up to \$1,000.00 <ul style="list-style-type: none"> Purchasing Director, or designee 	Small Purchase	<u>Up to \$3,500.00 (Tier 1)</u> <ul style="list-style-type: none"> Division Manager/Superintendent/Buyer (Purchasing Department), and above.
Blanket Purchase Order			
Non-contractual	\$501.00 to \$5,000.00 <ul style="list-style-type: none"> Up to \$1,000 Purchasing Director or Department Head Up to \$5,000 Purchasing Director Over \$5,000 Board approval 	Same	<ul style="list-style-type: none"> Up to \$10,000.00 Department Head or Purchasing Director Up to \$24,000.00 Purchasing Director/Assistant County Administrator Up to \$50,000.00 County Administrator Over \$50,000.00 Board approval, unless otherwise exempted by Policy.
Contractual	Not to exceed \$5,000.00 <ul style="list-style-type: none"> Up to \$1,000 Purchasing Director or Department Head Up to \$5,000 Purchasing Director Over \$5,000 Board approval 	Same	<ul style="list-style-type: none"> Up to \$10,000.00 Department Head or Purchasing Director Up to \$25,000.00 Purchasing Director/Assistant County Administrator Up to \$50,000.00 County Administrator Over \$50,000.00 Board approval, unless otherwise exempted by Policy.
Field Quote	\$1,000.00 to \$5,000.00 <ul style="list-style-type: none"> Up to \$1,000 Purchasing Director or Department Head Up to \$5,000 Purchasing Director 	DELETE	DELETE
Purchasing Quote	\$5,000.00 to \$10,000.00 <ul style="list-style-type: none"> Purchasing Director 	Verbal Quotes	\$3,501.00 to \$10,000.00 (Tier 2) <ul style="list-style-type: none"> Director
Informal Bid	\$10,000.00 to \$25,000.00 <ul style="list-style-type: none"> County Administrator 	Written Quotes	\$10,000.00 to \$25,000.00 (Tier 3) <ul style="list-style-type: none"> Purchasing Director/Assistant County Administrator
Competitive Solicitation	Over \$25,000.00 <ul style="list-style-type: none"> Board approval 	Competitive Sealed Bids (RFQ, RFP, ITB)	In excess of \$50,001.00 (Tier 4) <ul style="list-style-type: none"> Up to \$50,000.00 County Administrator Over \$50,000.00, Board approval

Gadsden County Board of County Commissioners



Procurement Policy

**GADSDEN COUNTY BOARD OF COUNTY COMMISSIONERS
PURCHASING POLICY**

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Section 1.0 PURPOSE

This policy is adopted to promote the following purposes:

- I. To simplify, clarify, and modernize the procurement practices used by the Gadsden County Board of County Commissioners.
- II. To promote the continued development of professional and equitable procurement policies and practices.
- III. To promote public confidence in the purchasing procedures followed by Gadsden County.
- IV. To ensure the fair and equitable treatment of all persons who deal with the procurement systems of Gadsden County.
- V. To encourage the growth of small and minority businesses through the promotion of an atmosphere conducive to the development and maintenance of small and minority business participation in the County's procurement system.
- VI. To maximize economy in Gadsden County procurement activities and to maximize to the fullest extent practicable the purchasing value of public funds of Gadsden County.
- VII. To provide safeguards for the maintenance of a procurement system of quality and integrity in Gadsden County.

Section 2.0 APPLICATION OF POLICY

- 2.1 Contracts: This policy shall apply to contracts/agreements solicited or entered into after the effective date of this policy or subsequent amendments or revisions, unless the parties agree to its application to a contract solicited or entered into prior to the effective date.
- 2.2 Activities: This policy shall apply to the purchase/procurement of all materials, supplies, services, construction and equipment except as herein specifically exempted.
- 2.3 Exemptions from the Purchasing Policy: The following types of purchasing exemptions do not preclude the County from utilizing competitive procurement practices where possible. Signature authority shall still apply as specified in this Purchasing Policy. The following types of purchasing activities shall be exempt from the purchasing policy unless otherwise prohibited by law or unallowable pursuant to the terms of a federal or state grant agreement, or except as otherwise noted:
- 2.3.1 ~~All heavy equipment repairs shall be exempted from the competitive sealed bid requirements. The Purchasing Director shall review the quotations obtained by the applicable Department and the recommendation for award. The Public Works director or designee shall solicit and evaluate quotations and make a recommendation for award. The Purchasing director shall review the quotations and the recommendation for award and award the bid. The Public Works Director is authorized to purchase parts and repairs for heavy equipment from the vendor the equipment was originally purchased from. This would include but not be limited to excavators, graders, front end loaders, backhoes, bull dozers and rollers. Parts and repairs for heavy equipment are also authorized when equipment is taken apart to diagnose a problem. Public Works department will provide a memo with a purchase order to explain diagnostic process. Should a repair purchase exceed \$50,000.00, the County Administrator shall agenda the item for ratification by the Board at a regularly scheduled Board meeting.~~
- 2.3.2 ~~Water, sewer, electrical, cable television, telephone, fiber or other utility services. All purchases of services from a utility whose rates are determined and controlled by the Public Service Commission or other governmental authority, including but not limited to electricity, water, sewer, telephone, and cable television services.~~
- 2.3.3 ~~All supplies, materials, equipment, or services purchased at a price established in ^[sk1] a state contract of the State of Florida Department of Management Services, Division of Purchasing. However, should a purchase exceed 10% of the~~

~~amount budgeted it shall be placed on the consent agenda for Board approval.~~

2.3.4 All supplies, and materials, equipment, construction, or services purchased from non-profits another unit of government, or other public entities.

2.3.5 Emergency purchases as provided in Section 5.11 hereof.

2.3.6 Sole source purchases as provided in Section 5.10 hereof.

2.3.7 All purchases of used equipment having a value of two thousand dollars (\$2,000) or less; however, each such purchase shall be supported by two quotes of similar equipment.

2.3.8 All purchases of used equipment having a value greater than \$2,000 and less than \$10,000 \$50,000.00 or less. All purchases of used equipment having a value greater than \$50,000.00 should be supported by an equipment appraisal or market value assessment, or; however, each such purchase shall be supported by three quotes of similar equipment. Purchases of used equipment in excess of \$50,000.00 shall require Board approval.

2.3.9 Library/Training Media and Materials. When not available by competitive pricing and ~~The requirements for requesting bids from two (2) or more sources are waived for the purchase of library books, education and/or personnel texts, textbooks, printed instructional materials, reference books, periodicals, databases, indexes, library medial materials, e.g. audio and video cassettes, film strips, films, sound recordings, computer software, etc., and printed library eards~~ where such materials are purchased directly from the producer or publisher, the owner of the copyright or patent, or an educational institution which is a sole source.

2.3.10 Grants (Direct Payment) and social Services (e.g. burials and indigent patient services).

2.3.11 Advertisements

~~2.3.12 JTPA On-The-Job-Training-Contracts.~~

~~2.3.13 All supplies, materials, equipment, or services procured pursuant to an existing ^[sk2] Contract of Gadsden County or another unit of government, if the vendor party to the existing contract extends the terms and conditions of the existing contract to the County and the existing contract was awarded pursuant to procedures substantially similar to those required under this Procurement Policy.~~

2.3.12 Cooperative Procurements as defined in Section 5.12. All supplies, materials, equipment, or services procured pursuant to an existing Contract of Gadsden County or another unit of government, if the vendor-party to the existing contract extends the terms and conditions of the existing contract to the County and the existing contract was awarded pursuant to procedures substantially similar to those required under this Procurement Policy.

2.3.13 Appraisers, and expert witnesses for condemnation matters, and similar services; sale, acquisition or lease of real property; real estate brokers; title insurance, abstracts or opinions or title; surveys in connection with acquisition, sale or lease of real property; room and board for social service license and funeral related services. Contracts for these services shall be negotiated by the County Attorney.

2.3.14 Service/Maintenance Agreements. Continuing service and/or maintenance contracts that are initially awarded by the Board as part of a product acquisition/installation or lease purchase to a vendor who is the manufacturer, developer or is the authorized service agent thereof and for which funds are annually appropriated in the County's budget are exempt from further competitive requirements or Board approval. Examples are software/hardware maintenance, copier maintenance, security systems, etc.

2.3.15 Software Upgrades, software modification services by the copyright holder (e.g. Microsoft) and related software enhancement to installed software purchased through competitive means are exempt. The purchase of "new" software packages or systems shall follow the purchasing thresholds and procedures of this Purchasing Policy to ensure competitive selection.

2.3.16 Corporate and media sponsorship agreements.

2.3.17 Training and educational courses, meeting rooms, and hotels; continuing education events or programs; and lectures by individuals.

2.3.18 Travel arrangements and expenses.

Section 3.0 DEFINITIONS

The following terms defined in this section shall have the meanings set forth below whenever they appear in this policy:

- I. “Addendum” is a document used to expand or more fully explain the terms of a bid instrument (Invitation to Bid or Request for Proposals). An addendum is not to be confused with a contract “amendment”.
- II. “Agreement” means all types of Gadsden County agreements, regardless of what they may be called, for the purchase or disposal of supplies, services, materials, equipment or construction.
- III. “Blanket Purchase Order” means a purchase order issued to a vendor for an amount not to exceed the face value of the purchase order. A blanket purchase order is for the procurement of commodities or services not single item of which shall exceed the threshold for small purchases unless the appropriate method of procurement was used to generate the Blanket Purchase Order.
- IV. “Board” means the Board of County Commissioners of Gadsden County, Florida.
- V. “Brand Name or Equivalent Specification” means a specification limited to one or more items by manufacturers’ names or catalogue numbers to describe the standard of quality, performance, and other salient characteristics needed to meet the county requirements, and which provides for the submission of equivalent products.
- VI. “Business” means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
- VII. “Change Order” means a written order amending the scope of, or correcting errors, omissions, or discrepancies in a contract or purchase order.
- VIII. “Commodity” means a product that the County may contract for or purchase for the use and benefit of the County. A specific item, it is different from the rendering of time and effort by a provider.
- IX. “Competitive Sealed Bidding” (Invitation for Bid) means a written solicitation for sealed competitive bids used for the procurement of a commodity, group of commodities, or services valued more than the threshold for this category. The Invitation for Bids must be publicly advertised and has the title, date, and hour of the public bid opening designated and specifically defines the commodity, group of commodities, or services for

which bids are sought. It includes instructions prescribing all conditions for bidding and shall be distributed to all prospective bidders simultaneously. The invitation for bids is used when the County is capable of specifically defining the scope of work for which a contractual service is required or when the county is capable of establishing precise specifications defining the actual commodity or group of commodities required.

~~IX.X.~~ “Cone of Silence” means the prohibition of any communication between a vendor and an Board officer, contract staff or employee, or agent regarding a pending competitive procurement, except for communication at a duly noticed pre-proposal conference, oral presentation, or with the Board’s designated representative noted in the competitive procurement documents. Upon the advertisement of the competitive procurement, the cone of silence shall apply. The cone of silence shall terminate upon the issuance of an award, the rejection of all responses, or the termination of competitive procurement, whichever occurs first. Violation of the cone of silence by a vendor shall disqualify the vendor from participation in the competitive procurement

~~X.XI.~~ “Confirming Order” means a purchase order restating the same terms originally placed orally or in writing other than a purchase order.

~~XI.XII.~~ “Construction” means the process of building, attaining, repairing, improving, or demolishing any public structure or building, or other public improvement of any kind to any public real property. It does not include routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

~~XII.XIII.~~ “Contract” means all types of Gadsden County agreements, regardless of what they may be called, for the purchase or disposal of supplies, services, materials, equipment or construction.

~~XIII.XIV.~~ “Contract amendment or modification” means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

~~XIV.XV.~~ “Contractor” means any person having a contract with Gadsden County.

~~XV.XVI.~~ “Contractual Services” means the rendering by a contractor of its time and effort rather than the furnishing of specific commodities. The term applies only to those services rendered by individuals and firms who are independent contractors, and such services may include, but are not limited to, evaluations; consultations; maintenance; accounting; security; management systems; management consulting educational

training programs; research and development studies or reports on the findings of consultant engaged there under; and professional, technical, and social services.

~~XXVII.~~ “Contractual Services Contract” is a contract for a contractor’s time and effort rather than the furnishing of specific commodities. Satisfactory completion of the service and/or a specified period of time or date complete such contract.

~~XXVI-XXVIII.~~ “Consultant’s Competitive Negotiations Act (CCNA)” professional services. Services performed by architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or professional employment practice pursuant to section 287.055, Florida Statutes.

~~XXVII-XXIX.~~ “Cooperative Purchasing” is procurement conducted by, or on behalf of, more than one public procurement unit.

~~XX.~~ “Cost Analysis” is the evaluation of cost data for the purpose of arriving at costs actually incurred or estimates of costs to be incurred, prices to be paid, and costs to be reimbursed.

~~XXI.~~

~~XXVIII.~~ “County” means the County of Gadsden, Florida.

~~XXII.~~ “Data” means recorded information, regardless of form or characteristic.

~~XXIII.~~ “Debarment” A vendor is prohibited from submitting bids, proposals, quotes, or responses to any competitive procurement, or otherwise conducting business with the county until such time they are reinstated to the status of active vendor.

~~XIX.~~

~~XXIV.~~ “Define Quantity Contract” is a contract whereby the contractor(s) agrees to furnish a specific quantity of an item or items at a specified price and time to specified locations. Delivery by the vendor and acceptance of the specific quantity by the County complete such contract.

~~XXV.~~

~~XX.~~ “Department Director” means the director of a department as designated in the job description and organizational chart.

~~XXI-XXVI.~~ “Designee” means a duly authorized representative of a person holding a superior position.

~~XXII-XXVII.~~ “Emergency” means when there exists a threat to public health, welfare, or safety; natural unexpected events; accidents; or loss to the county under emergency conditions which shall be considered to mean those situations where the operation of a department or division would be seriously impaired if immediate action were not taken.

~~XXIII-XXVIII.~~ “Emergency Purchase” is a purchase necessitated by a sudden unexpected turn of events (e.g., acts of God, riots, fires, floods, accidents or any circumstances or cause beyond the control of the agency in the ~~normal~~ normal conduct of its business where the delay incident to competitive bidding would be detrimental to the interests of the county.

~~XXIV-XXIX.~~ “Employee” means an individual drawing a salary from Gadsden County, whether elected or non-elected. For the purposes of this policy, it also means that any non-compensated individual performing personal services for Gadsden County is to be governed by these rules.

~~XXV-XXX.~~ “Established Catalog Price” is the price included in a catalog, price list, schedule, or other form that:

Is regularly maintained by a manufacturer or contractor;

Is either published or otherwise available for inspection by customers; and

States prices at which sales are currently or were last made to a significant number or any category of buyers or those buyers constituting the general buying public for the supplies or services involved.

~~XXVI.~~ “Field Purchase Order” means the procurement of commodities or services through the issuance of a purchase order by a department or division head under procedures established by the Purchasing Office and with a value within the thresholds set for this category. ~~Field Purchase orders do not require quotes, bids, or public notice prior to issuance~~ ^[sk3].

~~XXVII.~~ “Field Quotes” is the procurement procedure used by the operating ~~department~~ ^[sk4] or divisions to purchase commodities or contractual services with a value within the threshold amounts set for this category. ~~Field Quotes are conducted by the department or division obtaining either written or oral quotations from two or more vendors, do not require a public bid opening, and are awarded by the Purchasing Office.~~

~~XXVIII-XXXI.~~ “f.o.b. or FOB (free on board)” is a term used in conjunction with an identified physical location to determine the responsibility and basis for payment of freight charges, and the point at which title for the shipment passes from seller to buyer. Commonly used deliveries are:

FOB Destination: A shipment to be delivered to a destination designated by the buyer and the point at which buyer accepts title.

FOB Shipping Point (Origin): A shipment is to be delivered to the buyer with passage of title, on board the indicated conveyance or carrier at the contractor's designated facility.

32. "Formal Solicitation" means the placement of a (legal) notice in a newspaper of general circulation according to legal requirements to inform the public that the County is requesting responses for a specific procurement it intends to make.

~~XXIX-XXXII.~~ "Gratuity" is a payment, loan, subscription, advance, deposit of money, service, or anything of more than nominal value, present or promised, inuring to the benefit of an employee, unless consideration of substantially equal or greater value is given by the employee.

~~XXX-XXXIII.~~ "Informal Sealed Bids" is the procurement method used by the county for selecting a provider of commodities or services with a value within the threshold for this category. Informal Sealed Bids have the title, date, and hour of the public bid opening designated, specifically define the commodity, group of commodities, or services for which bids are sought in written specifications and do not require public advertisement. A recommendation of award is made by the Purchasing director and awarded by the County Administrator. It is normally the intent of the county to select the qualified and responsive bidder primarily on the basis of price.

~~XXXIV.~~ "Invitation for Bid (Competitive Sealed Bidding)" means a written solicitation for sealed competitive bids used for the procurement of a commodity, group of commodities, or services valued more than the threshold for this category. The Invitation for Bids must be publicly advertised and has the title, date, and hour of the public bid opening designated and specifically defines the commodity, group of commodities, or services for which bids are sought. It includes instructions prescribing all conditions for bidding and shall be distributed to all prospective bidders simultaneously. The invitation for bids is used when the County is capable of specifically defining the scope of work for which a contractual service is required or when the County is capable of establishing precise specifications defining the actual commodity or group of commodities required.

29. "Irregularity" Any change or omission in an offer or contract that does not have an adverse effect on the County's best interest, and does not affect the outcome of the source selection process by giving an offer an advantage or benefit not enjoyed by any other offeror, and, not consistent with applicable laws.

~~XXXI.~~

~~XXXII-XXXV.~~ “Joint Venture” means:

A combination of contractors performing a specific job in which business enterprises participate and share a percentage of the net profit or loss; or

A joint business association of a minority individual(s)/firm(s) to carry out a single business enterprise for which purpose the individuals/firms combine their property, money, efforts, skills and/or knowledge.

~~XXXVI.~~ “Manufacturer” means a person or firm engaged in the process of making, fabricating, constructing, forming or assembling a product(s) from raw, unfinished, semi-finished, finished, or recycled materials through a direct contract/agreement on behalf of the general contractor.

“Material Mistake” means any deviation or variance from the procurement requirements or other mistake that gives one vendor a substantial advantage over other vendors in a competitive procurement.

31. “Non-materials Mistake” means any deviation variance from the procurement requirements or other mistake that does not affect price, give one vendor an advantage or benefit not enjoyed by other vendors and does not adversely affect the interest of the County.

“Option to Renew” means a contract clause that allows the County and the contracted a party an option to renew the Contract for defined additional terms if mutually agreeable to both parties and subject to the same terms and conditions of the original contract. to reinstate the contract for an additional term.

“Payment Bond” means the approved form of security furnished by the vendor and its surety that assures payments, as required by law, to all persons supplying goods, equipment or services, for the completion of work under the contract, also known as a contract bond.

~~XXXIII.~~ “Performance Bond” means the approved security furnished by the vendor and its surety as a guarantee that the vendor will fully perform in accordance with the terms of the contract.

~~XXXIV-XXXVII.~~ “Optionen to Renew” means a contract clause that allows the County and the contracted a party an opportunity to renew the contract for a defined period of time and shall be in writing, and approved in the same manner as the original contract. to reinstate the contract for an additional term.

XXXVIII. “Person” means any business, individual, committee, club, other organization, or group of individuals.

XXXIX. “Personal Property” means property consisting of movable articles that are either tangible, such as furniture or computers, or intangible such as stocks, bonds, licenses.

XL.

XXXV-XLI. “Posting” means the act whereby the County places on a bulletin board, in a designated location, and/or on the County website, a listing which indicates the County’s recommendations for bid awards and solicitations for bids, proposals or formal quotes.

XXXVI-XLII. “Pre-Bid Conference” means a meeting held with prospective bidders prior to solicitation of or the date for receipt of bids or proposals, to recognize state of the art limits, technical aspects, specifications, and standards relative to the subject, and to elicit expertise and bidders interest in pursuing the task.

XLIII. “Professional Services” means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered land surveying, as defined by the State of Florida, or those performed by any architect, professional engineer, landscape architect, or registered land surveyor in connection with his professional employment or practice.

XXXVII-XLIV. “Proposal” means an executed document submitted to the County stating the goods, consultant services, and/or services order to satisfy the need as requested in the request for proposal.

XXXVIII-XLV. “Purchase Order” means that document used by Gadsden County to request that a contract be entered into for a specified need, and may include, but not be limited to, the technical description of the requested item, delivery schedule, transportation, and criteria for evaluation, payment terms, and other specifications.

XXXIX-XLVI. “Purchasing” means buying, procuring, renting, leasing, or otherwise acquiring any materials, supplies, services, construction, or equipment. It also includes all functions that pertain to the obtaining of any material, supplies, services, construction, and equipment, including description of specifications and requirements, selection and solicitation resources, preparation and award of contract.

XL-XLVII. “Purchasing Director” means the Gadsden County employee duly authorized to enter into and administer contracts and make written determinations with respect thereto under the terms of the purchasing policies of the Board of County Commissioners.

XLVIII. “Purchasing Quotes” is the procurement procedure used to purchase commodities or contractual services with a value within the threshold amounts set for this category. Purchasing quotes are conducted by the Purchasing Director or Purchasing Agents obtaining either written or oral quotations from two or more vendors, do not require a public bid opening, and are awarded by the Purchasing Director. Written evidence of all quotations must be maintained in the Purchasing Division.

~~XL.~~ 39. “Real Property” means property consisting of land and all rights, privileges, or improvements belonging to and passing to lands, as buildings, crops, or mineral rights.

~~XLH.~~XLIX. “Recycled Content” means materials that have been recycled and are contained in the products or materials to be procured, including, but not limited to, paper, plastic, aluminum, glass, and composted materials. The term does not include internally generated scrap purchased from another manufacturer who manufactures the same or a closely related product.

~~XLIII.~~L. “Regulation” means a statement by the Board of County Commissioners having general or particular applicability and future effect, designed to implement, interpret, or prescribe law, policy, or practice.

LI. “Request for Proposals” means a written solicitation for sealed proposals with the title, date and hour of public opening designated. The request for proposals is used when the County is unable to specifically define the scope of work for which the commodity, group of commodities, or contractual service is required, and when the County is requesting that a qualified offeror proposed a commodity, group of commodities, or contractual service to meet the specifications of the solicitation document. A request for proposals include, but is not limited to, applicable laws and rules, functional or general specifications, statement of work, proposal instructions, and evaluation criteria. Request for proposals shall state the relative importance of price and any other evaluation criteria. Evaluation of a proposal, when such proposal is for “professional services” shall be in accordance with Florida Statutes, chapter 287.055.

~~XLIV.~~LII. “Request for Qualifications (RFQ)” means a written, competitive solicitation of responses for services where the specifications of required services are broad and specialize in nature, such as attorney, auditor, CPA, etc. The RFQ outlines the procurement process and contract terms and provides guidance on how the response should be formatted and presented. RFQ solicitations focus on the qualifications of the potential providers of service rather than price. Primary qualifications include key staff, relevant past experience of the company and client references.

~~XLV-LIII.~~ “Responsible bidder or offeror” means a person who has the capability, in all respects, to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.

~~LIV.~~ “Responsive Bidder” means a person who has submitted a bid which conforms in all material respects to the invitation to bid or the request for proposals.

~~XLVI-LV.~~ “Selection Committee” means a group of members established by the County pursuant to this Purchasing Policy for the purpose of evaluating RFPs, RFQ, and ITN as part of a competitive procurement.

~~LVI.~~ “Services” means the furnishing of labor, time, or offeror by a contractor, not involving the delivery of a specific end product other than those which are not defined as supplies and which are merely incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements.

~~XLVII.~~

~~XLVIII-LVII.~~ “Small Purchases” means the procurement of commodities or services with a value within the thresholds set for this category without the requirement of quotes, bids, or public notice under procedures established by the Purchasing Division.

~~XLIX.~~ “Sole (Single) Source Purchases” means that the goods, services or equipment can be procured from multiple sources, but, in order to meet certain functional or performance requirements (repair parts, matching existing equipment or materials) there is only one economically feasible (single) source for the purchase means the purchase of a commodity, service, equipment, or construction item(s) from one available practical source of supply. A Sole (single) source may be declared such by the Board of county Commissioners for reasons acceptable to it.

~~LVIII.~~ “Sole Source Purchases” means a commodity, equipment or service that can be legally procured from only one source. This is usually due to the source owning patents and/or copyrights. A requirement for a particular proprietary item does not justify a sole source purchase if there is more than one potential supplier. Use of brand names and model numbers does not constitute a sole source purchase.

~~LIX.~~

~~L-LX.~~ “Specification” means any description of the physical or functional characteristics of the nature of a material, supply, service, construction, or equipment item. It may include a description of any requirement for inspection, testing, recycled or degradable materials content, or preparing a material, supply, service, construction, or equipment item for delivery.

LXI. “Supplier” means a person or firm who engages in the selling of materials and supplies to contractors, subcontractors, and/or manufacturers for the purpose of constructing, repairing, altering, remodeling, adding to or subtracting from or improving any building, structure or property through a direct contract/agreement on behalf of the general contractor.

LII. 49. “Suspension” means a vendor is prohibited from submitting bids, quotes, or responses to any competitive procurement, or otherwise conducting business with the County for a definite period of time.

LII. “Term Contract” means indefinite quantity contract whereby a contractor(s) agrees to furnish an item or items during a prescribed period of time (such as 3, 6, 9, 12 months or a specific date). The specified period of time or date completes such contract.

LXII. “Tie (Identical) Bid” is when two or more bids are equal with respect to price and it appears that the quality and service offered by the vendor are otherwise comparable.

LIII-51. “Vendor” any business or individual that will be or has been awarded a contract by the County.

Section 4 AUTHORITY OF PURCHASING DIRECTOR

- 4.1 The Assistant County Administrator shall serve as the Purchasing Director, unless otherwise delegated, and shall serve as the central is the official purchasing officer of Gadsden County.
- 4.2 The Purchasing Director shall develop and administer operational procedures governing the internal functions of the Division of Purchasing.
- 4.3 Except as otherwise specifically provided in this policy, the Purchasing Director, or his/her designee, shall, in accordance with regulations promulgated by the Board of County Commissioners:
 - 4.3.1 Purchase or supervise the purchase of all supplies, services, materials, equipment, and construction services defined within the scope of this policy.
 - 4.3.2 Operate a central supply office for the purchasing, in bulk, of items which may be more economically bought and distributed than when purchased on an individual basis; and to provide facilities for storage of critically needed supplies.
- 4.4 Upon the prior approval of the County Administrator, the Purchasing Director may delegate authority to designee(s) as allowed by law or rule.
- 4.5 The Purchasing Director shall act as the Minority Business Enterprise Coordinator, implement, monitor, and enforce the County's Minority Business Enterprise program policy, if applicable.

Section 5.0—PURCHASING PURCHASING AUTHORITY, THRESHOLD, AND CATEGORIES; CATEGORIES; THRESHOLD AMOUNTS

Purchasing Authority and thresholds identifies who must approve the purchase of goods and services up to a dollar threshold amount and when a purchase must be brought before the Board for approval and award. The following purchasing thresholds and authorities are established regardless of the purchasing process:

<u>Division Manager/Superintendent/ Buyer (Purchasing Department)</u>	Not to Exceed \$3,500.00
<u>Department Director</u>	Not to Exceed \$10,000.00
<u>Purchasing Director/ Assistant County Administrator</u>	Not to Exceed \$25,000.00
<u>County Administrator</u>	Not to Exceed \$50,000.00
<u>Board</u>	Over \$50,001.00

Each individual representing a level of purchasing authority must have on file with the Purchasing Department and Clerk’s Finance Office, a completed signature authorization.

Contract Authority identifies who must approve contracts, task orders, and agreements (i.e., “Contracts”) up to a dollar threshold amount for goods, services and equipment, and when a contract, task order or agreement must be brought before the Board for approval and award. The following purchasing thresholds and authorities are established regardless of the purchasing process

<u>Purchasing Director/ Assistant County Administrator</u>	Not to Exceed \$25,000.00
<u>County Administrator</u>	Not to Exceed \$50,000.00
<u>Board</u>	Over \$50,001.00

Purchasing Categories; Requirements. The following establishes requirements for purchases by amounts. Each purchase, contract and/or request for payment associated with the purchase and/or contract, must be signed by the appropriate approving authority as set forth above.

<u>Up to \$3,500.00</u>	<u>Small Purchases – not quotes are required but best practices should be</u>
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used to ensure a competitive price.

Over \$3,501.00 up to \$10,000 Verbal Quotes – three telephone quotes are required. The quotes should be documented in writing using the format or form provided by the Purchasing Office.

Over \$10,001 up to \$25,000.00 Written Quotes -three formal written quotes from separate vendors. Each vendor shall be provided the same written request for a quote with the scope of work and specifications, and project background.

\$25,001.00 and over Competitive Solicitation is Required

Exemptions are discussed in Section 2.0 Application of Policy

~~_____ Field Purchase Order (Section 5.1) — \$1 to \$500~~

~~_____ Small Purchase Procedures (Section 5.2) — \$1 to \$1,000~~

~~_____ Blanket Purchase Orders (Section 5.3)~~

~~_____ Non-Contractual Basis — \$501 to \$5,000~~

~~_____ Contractual Basis not to exceed — \$5,000~~

~~_____ Field Quotes (Section 5.4) — \$1,000 001 to \$35,000~~

~~_____ Purchasing Quotes (Section 5.5) — \$35,001 to \$510,000~~

~~_____ Informal Bid Process (Section 5.6) — \$310,001 to \$515,000~~

~~_____ Competitive Sealed Bids (Section 5.7) — \$5,00125,000 and above~~

~~_____ Competitive Sealed Proposals (Section 5.8) — \$25,001 and above~~

Section 5.1 FIELD PURCHASE ORDERS [sk5]

~~5.1.1 Field purchase orders shall be used for purchases of small, sundry items which~~

~~cost not more than the threshold authorized for field purchase orders in Section 5. Field purchase orders shall be used for a single or aggregate purchase, but only for a single transaction.~~

~~5.1.2 Field purchase orders shall not be combined to purchase any item which costs more than the approved threshold limit and shall not be used in the manner of or in lieu of a blanket purchase order.~~

~~5.1.3 Field purchase orders shall be issued and authorized only by department and division heads.~~

Section 5.2 SMALL PURCHASES (up to \$3,500)

The purchase of commodities, equipment and services which cost less than the threshold authorized in Section 5 does not require solicitation of quotes or bids. Small purchases shall be authorized by the Purchasing Director or designees.

Section 5.3 BLANKET PURCHASE ORDERS

5.3.1 Non-contractual Basis – No purchase order shall be issued for an amount greater than the limit established for a non-contractual blanket purchase order in Section 5 of this policy for the purchase of goods or services not under a contractual arrangement authorized under this purchase policy or approved by the Board.

5.3.2 Contractual Basis – No purchase order shall be issued for an amount greater than the limit established for a contractual blanket purchase order in Section 5 of this policy for the purchase of goods or services unless approved by the Board.

Section 5.4 FIELD QUOTES

~~The purchase of goods and services which cost within the range authorized for field quotes in Section 5 shall require competitive quotations from two or more vendors. The quotations may be obtained by the Department/Divisions. The Purchasing Director shall review the quotations and make the award or require additional quotations prior to award.~~

Section 5.5 VERBAL PURCHASING QUOTES (\$3,501.00 up to \$10,000.00)

The purchase of goods, equipment and services which cost within the range authorized for verbal purchasing quotes in Section 5 shall require verbal written, competitive quotations from three ~~two~~ or more vendors. The quotations shall be obtained by the Department Director or Purchasing Division Office and shall be reviewed and approved awarded by the Purchasing Director.

Section 5.6 WRITTEN QUOTES (\$10,000.01 up to \$25,000.00) INFORMAL BIDS

For purchases within the cost range authorized for informal bids in Section 5, the Purchasing Director shall secure, when possible, a minimum of three written quotations which shall be the result of written specifications transmitted orally, by email, mail, or by “fax”. ~~When such quotations are received by “fax”, the purchasing agent will immediately seal and label the quotations until the time set for opening bids.~~ In those instances where the securing of three quotations is not practicable, the Purchasing Director shall provide written justification of such. The quotations shall be reviewed and a written recommendation of award shall be prepared by the Department Director for approval by the Purchasing Director. ~~for approval by the County Administrator. Either a purchase order or contract will be used for the award and the scope of work and the vendor’s written quote shall be attached to the purchase order or contract.~~

Section 5.7 COMPETITIVE SEALED BIDDING (\$25,001.00 and over)

5.7.1 Conditions For Use – All contracts for purchases of a single item or aggregate in excess of the established base amount for competitive sealed bidding in Section 5 shall be awarded on the basis of sealed competitive bidding, except as provided in Section 5.8, Competitive Sealed Proposals.

5.7.2 Invitation to Bid (ITB) – An invitation to bid shall be issued and shall include specifications, all contractual terms and conditions, and the place, date, and time for opening or submittal. No later than five working days prior to the date of receipt of bids, a vendor shall make a written request to the County for interpretations or corrections of any ambiguity, inconsistency or error which the vendor may discover. All interpretations or corrections will be issued as addenda. The county will not be responsible for oral clarifications.

No negotiations, decisions or actions shall be initiated or executed by the proposer as a result of any discussions with any County employee prior to the opening of proposals. Only those communications which are in writing from the County may be considered as a duly authorized expression on the behalf of the Board. Also, only communications from firms or individuals which are in writing and signed will be recognized by the Board as duly authorized expressions on behalf of proposers.

Alternate(s) – Alternate bids will not be considered unless authorized by and defined in the special Conditions of the bid specifications.

Approved Equivalents – The County reserves the right to determine acceptance of item(s) as an approved equivalent. Bids which do not comply with stated requirements for equivalents in the bid conditions are subject to rejection. The procedure for acceptance of equivalents shall be included in the general conditions of the bids.

- 5.7.3 Public Notice – Public notice shall be by publication in a newspaper of general circulation, the local papers and posted to the Board’s website and a minimum of three weeks for LAP projects prior to bid opening. Notice of the Invitation to Bid shall give the date, time, and place set forth for the submittal of proposals and opening of bids. ~~Bids for Federal Aid Projects will comply with 23CFR 635.112.~~
- 5.7.4 Bid Opening – Bids shall be opened publicly by the Bid Committee at the time and place designated in the Invitation to Bid, at least one representative from the Purchasing Office shall attend all bid openings. The amount of each bid, and such other relevant information as may be deemed appropriate by the Purchasing Director, together with the name of each bidder, and all witnesses shall be recorded. The record (Bid Report) and each bid shall be open to public inspection. ~~Bid openings will comply with 23 CFR 635.113.~~
- 5.7.5 Bid Acceptance and Evaluation – Bids shall be unconditionally accepted without alteration or correction, except as authorized in this policy. Bids shall be evaluated based on the requirements set forth in the Invitation to Bid, which may include, but not be limited to criteria to determine acceptability such as; inspection, testing, quality, recycled or degradable materials content, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measured, such as discounts, transportation costs, and total of life cycle costs. No criteria may be used in bid evaluation that is not set forth in the Invitation to Bid, in regulations, or in this policy. ~~Bids for Federal Aid Projects shall comply with 23 CFR 635.114.~~
- 5.7.6 Bid Agenda Item – The Bid Report shall be presented to the appropriate department or committee head for review and recommendation. The department or committee head shall prepare the recommendation as an agenda item for review by the Purchasing Director prior to submission to the County Administrator for review and approval. Upon approval, the County Administrator shall place the item on the agenda of the board of County Commissioners.
- 5.7.7 Correction or Withdrawal of Bids; Cancellation of Awards – Correction or withdrawal of inadvertently erroneous bids before or after award, or

cancellation of awards or contracts based on such bid mistakes, shall be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written or telegraphic notice received in the office designated in the Invitation for Bids prior to the time set for bid opening. After bid opening, corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. After bid opening, no changes in bid price or other provisions of bids prejudicial to the interest of the County or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw his bid if:

The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident, or

The bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes shall be supported by a written determination made by the Purchasing Director and concurred with the County Administrator.

5.7.8 ~~Multi-Step Sealed Bidding – When it is considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.~~

5.7.9 Award – The contract shall be awarded with reasonable promptness to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation to Bid. The County reserves the right to waive any informality in bids and to make an award in whole or in part when either or both conditions are in the best interest of Gadsden County.

Notice of Intended Award – The contract shall be awarded by purchase order or other written notice. Every procurement of contractual services shall be evidenced by a written agreement. Notice of the intended award, including rejection of some or all of bids received, may be given by posting the bid tabulations where the bids were opened, by telephone, by first class mail, or by certified United State mail, return receipt requested, whichever is specified in the bid solicitation. A vendor may request, in their bid submittal, a copy of the tabulation sheet to be mailed in a vendor provided, stamped, self-addressed envelope for their record.

Notice of Right to Protest – All notices of decision or intended decisions shall contain the statement: “Failure to file a protest within the time prescribed in Section 5 of the Purchasing Policy of the Gadsden County board of County Commissioners shall constitute a waiver of proceedings under that section of this Policy”.

5.7.10 Cancellation of Invitations for Bids – An invitation for bids or other solicitation may be canceled, or any or all bids may be rejected in whole or in part when it is in the best interest of the County, as determined by the Board. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to complete on any re-solicitation or future procurement of similar items.

5.7.11 Disqualification of Vendors – For any specific bid, vendors may be disqualified by the Purchasing Director for the following reasons:

Failure to respond to bid invitation three consecutive times.

Failure to update the information on file including address, project or service, or business description.

Failure to perform according to contract provisions.

Conviction in a court of law of any criminal offense in connection with the conduct of business.

Clear and convincing evidence of a violation of any federal or state anti-trust law based on the submission of bids or proposals, or the awarding of contracts.

Clear and convincing evidence that the vendor has attempted to give a board employee a gratuity of any kind for the purpose of influencing a recommendation or decision in connection with any part of the Board’s purchasing activity.

Failure to execute a Public Entity Crimes Statement as required by Florida Statutes Chapter 287.133(3)(a).

Other reasons deemed appropriate by the Board of County Commissioners.

5.8 REQUEST FOR QUALIFICATIONS FOR COMPETITIVE SEALED PROPOSALS

~~5.8.1~~ PROFESSIONAL ARCHITECTURAL, ENGINEERING, LANDSCAPE ARCHITECTURAL, AND LAND SURVEYING SERVICES

Request for Qualifications (RFQ) is competitive procurement issued when a professional service is required for architectural, engineering, landscaping architectural and/or land surveying services. A single project specific RFQ may be issued, or the County may elect to use a CCNA Consultant as discussed below, if allowable based on funding source, and more efficient than issue project specific RFQ.

An RFQ is focus is on the proposers' qualifications, staff, and relevant recent experience, and price is not included as an evaluation factor. The process as set forth in section 287.017 and 287.055, Florida Statutes shall be followed for a specific, one-time RFQ and for CCNA consultants.

Public Announcement – ~~It is the policy of the County to publicly announce a~~All RFQs for requirements for professional architectural, engineering, landscape architectural, and land surveying services shall be public advertised. ~~and to~~ Contracts shall be negotiated ~~such contracts~~ on the basis of demonstrated competence and qualifications at fair and reasonable prices. In the procurement of such services, the Purchasing Director may require firms to submit a statement of qualifications, performance data and other related information of the performance of professional services.

Scope of Project Requirements – Prior to submission of the request for proposals for professional services as an agenda item for approval by the Board, the using agency or agencies for which the professional services are requested shall submit to the Purchasing director written project requirements indicating the nature and scope of the professional services needed by the using agency or agencies, including but not limited to the following:

- The general purpose of the service or study;
- The objectives of the study or service;
- Estimated period of time needed for the service or study;
- The estimated cost of the service or study;
- Whether the proposed study or service would or would not duplicate any prior or existing study or service;
- List of current contracts or prior services or studies which are related to the proposed study or service; and
- The desired qualifications, listed in order of importance, of the person or firm applicable to the scope and nature of the services requested.

Review of Project Requirements – The Purchasing Director or his/her designee shall review the scope of project requirements and, if revisions of project requirements are warranted to best met the needs of the County, copies of the revised project requirements shall be submitted to the user department for consideration prior to public distribution of the project requirements.

Distribution of Project Requirements – The Purchasing director shall distribute the written project requirements to all persons on the mailing list who have indicated an interest in being considered for the performance of such professional services and to any

other additional person as the Purchasing director or using agency deems desirable. The project requirements shall be accompanied by an invitation to such person to submit an indication of interest in performing the required services, and by notification of the date and time when such indications of interest are due. This date shall not be less than 14 calendar days from the date of public notice which the Purchasing Director shall publish in at least one newspaper of general circulation in Gadsden County.

Resolution – If the County receives indications of interest from less than three persons, the Purchasing Director may resolicit indications of interest from all persons previously solicited and from such additional persons as may seem advisable. Thereafter, the Purchasing Director may proceed to consider those persons responding to the solicitation or re_solicitation.

Modification Prohibition – After the publicized submission time and date, indications of interest shall not be modified or allowed to be modified in any manner except for correction of clerical errors or other similar minor irregularities as may be allowed by the Selection Committee (defined in Section 5.8.1) prior to making its selection of those best qualified to be formally interviewed.

Reuse of Existing Plans – There shall be no public notice requirements or utilization of the selection process as provided in this section for projects in which the county is able to reuse existing plans from a prior project. However, public notice of any plans which are intended to be reused at some future time shall contain a statement which provides that the plans are subject to reuse.

Consultants' Competitive Negotiation Act (CCNA) Exemptions – ~~This section shall not apply to a professional service contract for a project where the basic construction cost is estimated by the agency to be less than the threshold amount provided in s. 287.055, Florida Statutes, or for a planning or study activity when the fee for professional services is estimated by the agency to be less than the threshold amount provided in s. 287.055, Florida Statutes, or in cases of valid public emergency so certified by the County Administrator. The purpose of obtaining professional services is to offer the County special expertise, practical experience, knowledge, resources and an objective outside professional opinion. The provisions and exemptions contained in the CCNA pursuant to section 287.017 and 287.055, Florida Statutes, shall apply herein for the procurement of all professional architecture, engineering, landscape architecture, or registered surveying and mapping services for projects that exceed certain statutory dollar thresholds.~~

Task Orders shall be issued for each specific project as the needed and are subject to the contract authority as setforth in the section.

Selection Committee Membership and Evaluation – Depending on the expected complexity and expense of the professional services to be contracted, the County Administrator or his/her designee shall determine whether a three member (the bid committee), or five member selection committee will best serve the needs of the County.

Three Member Committee Composition – Membership of a three-member selection committee shall be appointed by the County Administrator or his/her designee.

Five Member Committee Composition – Membership of a five member selection committee shall be appointed by the County Administrator or his/her designee.

Selection Committee Evaluation – Only written responses of statement of qualifications, performance data, and other data received in the purchasing office by the publicized submission time and date shall be evaluated. Only those respondents who are determined to be best qualified based upon the evaluation of written responses and selected for formal interview may submit additional data. Form among those persons evidencing, by timely submission of written responses, an interest in performing the services the Selection Committee shall:

Prepare an alphabetical list of those persons determined by the Selection Committee to be qualified, interested and available; and

Designate no less than three persons on the alphabetical list considered by the Selection Committee to be best qualified to perform the work required.

Shortlisting – The best qualified respondents shall be based upon the Selection Committee’s ability to differentiate qualifications applicable to the scope and nature of the services to be performed. The Selection Committee shall determine qualifications, interest and availability by reviewing the written responses that express an interest in performing the services, and by conducting formal interviews of no less than three selected respondents that are determined to be best qualified based upon the evaluation of written responses. The determinations may be based upon, but not limited to, the following considerations:

Competence, including technical education and training, experience in the kind of project to be undertaken, availability of adequate personnel, equipment and facilities, the extend of repeat business of the persons, and where applicable, the relationship of construction cost estimates by the person to actual costs on previous projects;

Current work load;

Financial responsibility;

Ability to observe and advise whether plans and specifications are being complied with, where applicable;

Record of professional accomplishments;

Proximity to the project involved, if applicable;

Record of performance;

Ability to design an approach and work plan to meet the project requirements, where applicable.

Interview and Board Approval – After conducting the formal interviews, [if needed](#), the Selection Committee shall list those respondents interviewed in order of preference based upon the considerations listed in subsection (M) above. The respondents so listed shall be considered to be the most qualified and shall be listed in order of preference starting at the top of the list. The list of best qualified persons shall be forwarded to the Board for approval prior to beginning contract negotiations. Negotiation sequence shall be based on the order of preference.

Negotiation Staff – Contract negotiations shall be conducted by the County Administrator unless the County Administrator directs that negotiations be conducted by a Negotiation Committee.

Negotiation Committee Membership – Membership of the three member Negotiation Committee shall consist of:

The County Administrator or the designee of the County Administrator who shall chair the committee.

The head of the primary using department or agency, or his/her designee,

The County Attorney or designee.

Negotiation – The County Administrator and the Negotiation Committee shall negotiate a contract with the firm considered to be the most qualified to provide the services at compensation and upon terms which the County Administrator determines to be fair and reasonable to the County. In making this decision, the County Administrator and the Negotiation Committee shall take into account the estimated value, the scope, the complexity, and the professional nature of the services to be

rendered. Should the County Administrator and the Negotiation Committee be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, negotiations with that firm shall be formally terminated. The County Administrator and the Negotiation Committee shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the County Administrator and the Negotiation Committee shall formally terminate negotiations, and shall then undertake negotiations with the third most qualified firm. Should the County Administrator and the Negotiation Committee be unable to negotiate a satisfactory contract with any of the selected firms, the Selection Committee shall select additional firms in order their competence and qualifications, and the County Administrator and the Negotiation committee shall continue negotiations in accordance with this Section until an agreement is reached or until a determination has been made not to contract for such services.

Continuing Contracts – Nothing in this section (5.8.1) shall be construed to prohibit continuing contracts for professional services between a firm and the County.

Section 5.9 REQUEST FOR PROPOSAL (RFP) OTHER COMPETITIVE SEALED PROPOSALS

An RFP is a competitive, written solicitation for sealed proposals with the title, date and hour of public opening designated.

The request for proposals is used when the County is unable to specifically define the scope of work for which the commodity, group of commodities, or contractual service is required, and when the County is requesting that a qualified offeror proposed a commodity, group of commodities, or contractual service to meet the specifications of the solicitation document. A request for proposals include, but is not limited to, applicable laws and rules, functional or general specifications, statement of work, proposal instructions, and evaluation criteria. Request for proposals shall state the relative importance of price and any other evaluation criteria. Evaluation of a proposal, when such proposal is for “professional services” shall be in accordance with Florida Statutes, chapter 287.055.

~~5.9.1 Condition for Use—When the Director of Purchasing determines that the use of competitive sealed bidding is either not practical or not advantageous to the County, a contract may be entered into by the use of competitive sealed proposals.~~

~~5.9.2 Consultant’s Competitive Negotiation Act—Professional services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered land surveying, as defined under the Consultant’s Competitive Negotiation Act. (Section 287.055, Florida Statutes), shall be secured under the provision of Section 5.8.1~~

5.9.3 Board Approval – Proposals anticipated to exceed the threshold established in Section 5 for competitive Sealed Proposals shall be approved by the Board of County Commissioners prior to solicitation.

5.9.4 Public Notice – Adequate public notice of the Request for Proposals shall be given in the same manner as provided in subsection 5.7.3 of this policy for competitive sealed bidding.

5.9.5 Evaluation – The Request for Proposals shall state the relative importance of criteria outlined in the scope of services, fee proposal, and other evaluation.

5.9.6 Proposal Cancellation or Postponement – The Director of Purchasing may, prior to a proposal opening, elect to cancel or postpone the date and/or time for proposal opening or submission.

5.9.7 Revisions and Discussions with Responsible Offerors – As provided in the Request for Proposals, and under regulations promulgated by the Board of County Commissioners, discussions may be conducted with responsible offerors who submit proposals determined to be qualified or being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining the best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

5.9.8 Award – Award shall be made to the lowest responsible offeror whose proposal is determined in writing to be the most advantageous to Gadsden County, taking into consideration the evaluation factors set forth in the Request for Proposals. No other factors or criteria shall be used in the evaluation criteria that is not included in the Request for Proposal.

Section 5.10 SINGLE SOURCE AND SOLE SOURCE PURCHASES

5.10.1 Single Source Certification - means that the goods, services or equipment can be procured from multiple sources, but, in order to meet certain functional or performance requirements (repair parts, matching existing equipment or materials) there is only one economically feasible (single) source for the purchase. A requirement for a particular proprietary item does not justify a sole source purchase if there is more than one potential supplier. Use of brand names and model numbers does not constitute a sole source purchase.

A single source award may be awarded for a supply, service, material, equipment or construction item(s) without competition when the Purchasing Director, with the concurrence of the County Administrator, certified in writing, after conducting a good faith review of available sources, that there is only one available source for the required material, supply, services, equipment or construction item(s). Such award will be made within the authorized procurement limits. When a purchase exceeds the written quote threshold (or \$25,000.00), the item shall require Board approval and certification that the vendor and item has been determined to be a single source purchase.

Sole Source Certification – means a commodity, equipment or service that can be legally procured from only one source. This is usually due to the source owning patents and/or copyrights. A requirement for a particular proprietary item does not justify a sole source purchase if there is more than one potential supplier. Use of brand names and model numbers does not constitute a sole

source purchase.

A sole source award~~contract~~ may be awarded for a supply, service, material, equipment or construction item(s) without competition when the Purchasing Director, with the concurrence of the County Administrator, certified in writing, after conducting a good faith review of available sources, that there is only one available source for the required material, supply, services, equipment or construction item(s). Such awards will be made within the authorized procurement limits. When a purchase exceeds the written quote threshold (or \$25,000)ten thousand dollar (\$10,000.00) limit, the item shall requirewill be agendaed for Board approval and certification that the vendor has been determined to be a sole source.

5.10.2 Additional Purchases from Certified Single or Sole Source – The Purchasing Director shall be authorized, after initial sole source certification, to make additional purchases from a single or sole source vendor for not less than one year or until such time as contrary evidence is presented regarding single or sole source eligibility, whichever period is less.

Section 5.11 EMERGENCY PURCHASES

5.11.1 Authorization During Normal Business Hours – In the case of emergencies which require the immediate purchase of goods, equipment or services, the County Administrator, Purchasing Director, Department Head, or his designee shall be empowered to secure such goods or services without competitive bidding when there exists: a threat to public health, welfare, or safety; natural unexpected events; accidents; or loss to the County under emergency conditions. In this event, all measures reasonably possible under the circumstances shall be taken to assure the maximum cost benefit to the County of the goods or services procured.

5.11.2 Authorization Outside of Normal Business Hours – A department, during non-business hours, is authorized to make purchases without competitive bids, when an emergency arises and such purchases are necessary to protect the safety, health, welfare, or property of the county or any of its citizens.

5.11.3 Documentation and Approval – Documentation for emergency purchases pertaining to the above shall be submitted to the Purchasing Office on the standard requisition form with a detailed explanation, and support material attached, if applicable, within ten (10) work days after the event occurred. Emergency purchases that exceed the competitive sealed bid thresholds shall be approved by the County Administrator after-the-fact.

Section 5.12 COOPERATIVE PURCHASING

5.12.1 State Contracts – The Purchasing Director is authorized to purchase goods or services for any dollar amount from authorized vendors listed on the respective state contracts of the Department of Management Services. Such purchases shall be made without competitive bids provided that funding has been appropriated and approved by the Board of County commissioners in Department/Division accounts.

5.12.2 Other Governmental Units – The Purchasing Director shall have the authority to join with other units of government in cooperative purchasing ventures when the best interest of the County would be served thereby, and the same is in accordance with the County and State law. The Purchasing Director shall make a written recommendation for approval by the County Administrator for such cooperative purchasing arrangements.

Section 5.13 BID PROTEST

5.13.1 Right to Protest – Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of contract may protest to the Board of County Commissioners. Protestors shall seek resolution of their complaints initially with the Purchasing Director, and secondly with the County Administrator prior to protesting to the Board of County Commissioners.

5.13.2 Filing a Protest – Any person who is affected adversely by the decision or intended decision of the county shall file with the Purchasing Division a notice of protest in writing within 72 hours after the posting of the bid tabulation or protest within 10 calendar days after the date he/she filed the notice of protest. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under this Section. A written protest is filed with the County when it is delivered to and received by the Purchasing Division.

The notice of protest shall contain at a minimum; the name of the bidder; the bidder's address and phone number; the name of the bidder's representative to whom notices may be sent; the name and bid number of the solicitation; and, a brief factual summary of the basis of the protest.

The formal written protest shall: identify the protestant and the solicitation involved; include a plain, clear statement of the grounds on which the protest is based; refer to the statutes, laws, ordinances, or other legal authorities which the protestant deems applicable to such grounds; and, specifically request the relief to which the protestant deems himself entitled by application of such authorities to such grounds.

The protestant shall mail a copy of the notice of protest and the formal written protest to any person with whom he/she is in dispute.

5.13.3 Settlement and Resolution – The Director of Purchasing shall, within 14 days of the formal written protest, attempt to resolve the protest prior to any proceedings arising from the position. Provided, however, if such settlement will have the effect of determining a substantial interest of another party or business, such settlement must be reached in the course of the proceedings provided herein.

5.13.4 Protest Proceedings – If the protest cannot be resolved by mutual agreement, the County Administrator shall conduct or designate another to conduct a protest proceeding pursuant to the following procedures.

The presiding officer shall give reasonable notice to all substantially affected persons or business. Otherwise petitions to intervene will be considered on their merits as received.

At or prior to the protest proceeding, the protestant may submit any written or physical materials, objects, statements, affidavits, and arguments which he/she deems relevant to the issued raised.

In the proceeding, the protestant, or his representative or counsel, may also make an oral presentation of his evidence and arguments. However, neither direct nor cross examination of witnesses shall be permitted, although the presiding officer may make whatever inquiries he/she deems pertinent to a determination of the protest.

The judicial rules of evidence shall not apply and the presiding officer shall base his/her decision on such information given in the course of the proceeding upon which reasonable prudent persons rely in the conduct of their affairs.

Within seven (7) working days of the conclusion of the proceeding, the presiding officer shall render a decision which sets forth the terms and conditions of any settlement reached. Such decision of the presiding officer shall be conclusive as to the recommendation of the Board of County Commissioners.

Any party may arrange for the proceedings to be stenographically recorded and shall bear the expense of such recording.

5.13.5 Intervener – The participation of interveners shall be governed by the terms of the order issued in response to a petition to intervene.

- 5.13.6 Time Limits – The time limits in which protests must be filed as provided herein may be altered by specific provisions in the Invitations to Bid or Requests for Proposal documents.
- 5.13.7 Entitlement to Costs – In no case will the protesting bidder or offeror be entitled to any costs incurred with the solicitation, including bid preparation costs and attorney’s fees.
- 5.13.8 Stay of Procurements During Protests – In the event of a timely protest under Subsection 5.14.1 of this Section, the Purchasing Director shall not proceed further with the solicitation or award of the contract until all administrative remedies have been exhausted or until the County Administrator makes a written determination that the award of a contract without delay is necessary to protect the substantial interest of the County.

Section 5.14 CONTRACT CLAIMS

- 5.14.1 Authority of the Purchasing Director to Settle Bid Protests and Contract Claims – The Purchasing director is authorized to settle any protest regarding the solicitation or award of a County contract, or any claim arising out of the performance of a County contract, prior to any appeal to the Board of County Commissioners or the commencement of an action in a court of competent jurisdiction, but may not settle any such protest or claim for consideration of \$10,000 or greater in value without the prior approval of the Board of County Commissioners.
- 5.14.2 Decision of the Purchasing Director – All claims by a contractor against the county relating to a contract, except bid protests, shall be submitted in writing to the Purchasing Director for a decision. The contractor may request a conference with the Purchasing Director on the claim. Claims include, without limitation, disputes arising under a contract, and those based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission.
- 5.14.3 Notice to the Contractor of the Purchasing Director’s Decision – The decision of the Purchasing Director shall be promptly issued in writing, and shall be immediately mailed or otherwise furnished to the contractor. The decision shall state the reasons for the decision reached, and shall inform the contractor of his appeal rights under Subsection 5.14.4 of this Section.
- 5.14.4 Finality of Purchasing Director’s Decision; Contractor’s Right to Appeal – The Purchasing Director’s decision shall be final and conclusive unless, within ten

calendar days from the date of receipt of the decision, the contractor files a notice of appeal with the Board of County Commissioners.

Section 5.15 REMEDIES FOR SOLICITATIONS OR AWARDS IN VIOLATIONS OF LAW

5.15.1 Prior to Bid Opening or Closing Date for Receipt of Proposals – If prior to the bid opening or the closing date for receipt of proposals, the Purchasing Director, after consultation with the County Attorney, determines that a solicitation is in violation of federal, state, or local law or ordinance, then the solicitation shall be canceled or revised to comply with applicable law.

5.15.2 Prior to Award – If after bid opening or the closing date for receipt of proposals, but prior to the award of contract, the Purchasing director, after consultation with the County Attorney, determines that a solicitation or a proposed award of a contract is in violation of federal, state, or municipal law or ordinance, then the solicitation or proposed award shall be canceled.

5.15.3 After Award – If after award, the Purchasing Director, after consultation with the County Attorney, determines that a solicitation or award of a contract was in violation of applicable law or ordinance, then:

if the person awarded the contract has not acted fraudulently or in bad faith;

- a. the contract may be ratified and affirmed, provided it is determined that doing so is in the best interest of the County; or
 - b. the contract may be terminated and the person awarded the contract shall be compensated for the actual costs reasonably incurred under the contract, plus a reasonable profit, but excluding attorney's fees, prior to termination; or
2. if the person awarded the contract has acted fraudulently or in bad faith the contract may be declared null and void or voidable, if such action is in the best interest of the County.

Section 6 CONTRACT ADMINISTRATION

Section 6.1 CONTRACT PROVISIONS

6.1.1 Standard Contract Clauses and Their Modification – The Purchasing Director, after consultation with the County Attorney, may establish standard contract clauses for use in County contracts. However, the Purchasing Director may, upon consultation with the County Attorney, vary any such standard contract clauses for any particular contract.

6.1.2 Contract Clauses – All County contracts for supplies, services, and construction shall include provisions necessary to define the responsibilities and rights of the parties to the Contract. The Purchasing Director, after consultation with the county Attorney, may propose provisions appropriate for supply, service, or construction contracts, addressing among other the following subjects:

 The unilateral right of the County to order, in writing, changes in the work within the scope of the contract;

 The unilateral right of the County to order, in writing, temporary stopping of the work or delaying performance that does not alter the scope of the contract;

 Variations occurring between estimated quantities or work in contact and actual quantities:

 Defective pricing;

 Time of performance and liquidated damages;

 Specified excuses for delay or nonperformance;

 Termination of the contract for default;

 Termination of the contract in whole or in part for the convenience of the County;

 Suspension of work on a construction project ordered by the County;

 Site conditions differing from those indicated in the contract, or ordinarily encountered, except that a differing site conditions clause need not be included in a contract:

 When the contract is negotiated;

 When the contractor provides the site or design;

 When the parties have otherwise agreed with respect to the risk of differing site conditions.

 Value engineering proposals.

Section 6.2 PRICE ADJUSTMENTS

6.2.1 Method of Price Adjustment – Adjustments in price during the term of a contract shall be computed in one or more of the following ways upon approval by the Board:

By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;

By unit prices specified in the contract or subsequently agreed upon;

By the costs attributable to the events or situations under such clauses with adjustment or profit or fee, all as specified in the contract or subsequently agreed upon by the Board;

In such other manner as the contracting parties may mutually agree; or

In the absence of agreement by the parties, by a unilateral determination by the county of the costs attributable to the events or situations under such clauses with adjustment of profit or fee as computed by the County, subject to the provisions of this section.

6.2.2 Cost or Pricing Date Required – A contractor shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provisions of this Section.

Section 6.3 CHANGE ORDERS/CONTRACT AMENDMENTS

6.3.1 Change Orders – For change orders, whether a capital improvement or a consultant services project, the following limits shall apply;

The County Administrator is granted authority to approve, within budgeted funds, change orders not to exceed five thousand dollars (\$5,000).

Change orders which exceed five thousand (\$5,000) shall require approval of the Board of County Commissioners.

Section 6.4 ASSIGNMENT OF CONTRACTS

No agreement made pursuant to any section of this policy shall be assigned or sublet as a whole or in part without the written consent of the County nor shall the contractor assign any monies due or to become due to the contractor hereunder without the previous written consent of the County.

Section 6.5 RIGHT TO INSPECT PLANT

The County may, at its discretion, inspect the part of the plant or place of business of a contractor or any subcontractor which is related to the performance of any contract awarded, or to be awarded, by Gadsden County. The right expressed herein shall be included in all contracts or subcontracts that involve the performance of any work or service involving Gadsden County.

Section 7 RIGHTS OF BOARD OF COUNTY COMMISSIONERS

Nothing in this Policy shall be deemed to abrogate, annul, or limit the right of the Board, in the best interests of the County, to reject all bids received in response to a request, to determine in its sole discretion the responsiveness and responsibility of any bidder, to approve and authorize or to enter into any contract it deems necessary and desirable for the public welfare, or to vary the requirements of the Policy in any instance when desirable for the public good.

Section 8 COUNTY PROCUREMENT RECORDS

- 8.1 Contract File – All determinations and other written records pertaining to the solicitation, award, or performance of a contract shall be maintained for the County in a contract file by the Purchasing Director.

- 8.2 Retention of Procurement Records – All procurement records shall be retained and disposed of by the County in accordance with records retention guidelines and schedules established by the State of Florida.

Section 9 SPECIFICATIONS

Section 9.1 MAXIMUM PRACTICABLE COMPETITION

All specifications shall be drafted to promote overall economy and encourage competition in satisfying the County's needs and shall not be unduly restrictive. This policy applies to all specifications including, but not limited to, those prepared for the County by architects, engineers, designers, and draftsmen.

Section 9.2 BRAND NAME SPECIFICATIONS

- 9.2.1 Use of Brand Name Specifications – Since use of a brand name specification is restrictive of product competition, it may be used only when the Purchasing Director makes a determination that only the identified brand name item or items will satisfy the County's needs.
- 9.2.2 Competition – The Purchasing Director shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 5.10, Sole Source Purchases.

Section 10 ETHICS IN PUBLIC CONTRACTING

Section 10.1 CRIMINAL PENALTIES

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 civil sanctions set forth in this part.

Section 10.2 EMPLOYEE CONFLICT OF INTEREST

10.2.1 Participation – It shall be unethical for any County employee to participate directly or indirectly in a procurement contract when the County employee knows that:

The County employee or any member of the County employee’s immediate family (father, mother, brother, sister, child, grandparent, or grandchild of employee or spouse) has a financial interest pertaining to the procurement contract; or

Any other person, business, or organization with whom the County employee or any member of a County employee’s family is negotiating or has an arrangement concerning prospective employment is involved in the procurement contract.

10.2.2 Blind Trust – A County employee or any member of a County employee’s immediate family who holds a financial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest.

Section 10.3 CONTEMPORANEOUS EMPLOYMENT PROHIBITED

It shall be unethical for any County employee who is participating directly or indirectly in the procurement process to become or to be, while such a County employee, the employee of any person contracting with the County.

Section 10.4 USES OF CONFIDENTIAL INFORMATION

It shall be unethical for any employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

Section 10.5 WAIVERS FROM CONTEMPORANEOUS EMPLOYMENT PROHIBITION AND OTHER CONFLICTS OF INTEREST

The County Administrator may grant a waiver from the employee conflict of interest provision or the contemporaneous employment provision upon making a written determination that:

The contemporaneous employment or financial interest of the County employee has been publicly disclosed;

The County employee will be able to perform his procurement functions without actual or apparent bias or favoritism; and

The award will be in the best interest of the County.

Section 10.6 GRATUITIES AND KICKBACKS

10.6.1 Gratuities – It shall be unethical for any person to offer, give or agree to give any County employee, or for any County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendations, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advise, investigation, auditing, or performing in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, subcontract, or to any solicitation or proposal thereof.

10.6.2 Kickbacks – It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

10.6.3 Contract Clause – The prohibition against gratuities and kickbacks prescribed in this section shall be conspicuously set forth in every contract and solicitation therefore.

Section 10.7 SANCTIONS

10.7.1 Employee Sanctions – Upon violation of the ethical standards by an employee, the County Administrator, Purchasing Director, or other appropriate authority may;

Impose one or more appropriate disciplinary actions as defined in the County Personnel Rules and Regulations, up to and including termination of employment; and,
May request investigation and prosecution.

10.7.2 Nonemployee Sanctions – The Board may impose any one or more of the following sanction on a nonemployee for violation of the ethical standards;

Written warnings;

Termination of contracts; or

Debarment or suspension as provided in Section 15.

Section 10.8 RECOVERY OF VALUE TRANSFERRED OR RECEIVED IN BREACH OF ETHICAL STANDARDS

10.8.1 General Provisions – The value of anything being transferred or received in breach of the ethical standards of this policy by a County employee or nonemployee may be recovered from both county employee and nonemployee.

10.8.2 Recovery of Kickbacks by the County – Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order there under, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the County and will be recoverable hereunder from the recipient. In addition, that amount may also be recovered from the subcontractor making such kickback. Recovery from one offending party shall not preclude recovery from other offending parties.

Section 11 FEDERAL POLICY NOTICE

Section 11.1 PATENTS

If a contract involving research and development, experimental, or demonstration work is being funded in whole or in part by assistance from a federal agency, then the contract shall include the following provisions.

Notice to Contractor – The contract shall give notice to the contractor of the applicable grantor agency requirements and regulations concerning reporting of, and rights to, any discovery of invention arising out of the contract.

Notice by Contractor – The contract shall require the contractor to include a similar provision in all subcontracts involving research and development, experimental, or demonstration work.

Section 11.2 NOTICE OF FEDERAL PUBLIC POLICY REQUIREMENTS

11.2.1 Applicability – If the contract is being funded in whole or in part by assistance from any federal agency, the contract is subject to one or more federal public policy requirements such as:

Equal employment opportunity;
Affirmative action;
Fair labor standards;
Energy conservation;
Environmental protection; or
Other similar socio-economic programs.

11.2.2 Notice – The Purchasing Director shall include in the contract all appropriate provisions giving the contractor notice of these requirements. Where applicable, the Purchasing Director shall include in the contract provisions the requirement that the contractor give a similar notice to all of its subcontractors.

11.2.3 Community Development Block Grant (CDBG) Awards. All procurements using CDBG grant funds shall be in accordance with this Procurement Policy and those CDBG specific policy requirements in Appendix A: Procurements and Contracts with Federal Funds, herein incorporated by reference. The specific grant award shall also be reviewed and any and all procurement and contract requires not addressed herein shall be followed. Should a conflict arise between this Purchasing Policy and the CDBG laws, regulations, or award agreement, then the CDBG laws will take precedence.

Section 12 INSURANCE REQUIREMENTS [sk6]

- 12.1 Minimum Requirements – Contractor shall purchase and maintain such insurance as will protect it from claims under Workers’ Compensation laws, disability benefit laws or other similar employee benefits plans; from claims or damages because of bodily injury, occupational sickness or disease or death of its employees and claims insured by usual personal injury liability coverage in amounts determined and set annually by a committee composed of the Management Service director, County Administrator, and the Director of the Office of Management and Budget.
- 12.2 Certificates of Insurance – Certificates of Insurance acceptable to the County shall be filed with the Purchasing Division prior to the commencement of the work.
- 12.3 Cancellation Clause – These Certificates of Insurance shall contain a provision that coverage afforded under the policies will not be canceled until at least thirty (30) days prior written notice has been given to the County. The cancellation clause should read as follows: “Should any of the above described policies be canceled before the expiration date thereof, the issuing company will mail thirty (30) days written notice to the certificate holder named herein”.
- 12.4 Change of Insurance Requirements – The Board of County Commissioners reserves the right to change the insurance requirements based on the project scope, or when determined in the best interest of the County.

Section 13 BONDS AND DEPOSITS^[sk7]

When any of the following bonds is (are) required, the bond(s) will be requested in the bid document. No work in connections with the fulfillment of a contract shall commence until the appropriate bonds(s) is (are) accepted by the County.

Section 13.1 TYPES OF BONDS AND DEPOSITS

- 13.1.1 Combination Payment and Performance Bond – This type of bond is required for repairs, renovations, new construction, and other public works costing in excess of \$50,000. For projects less than the amount, it may be required at the discretion of the Purchasing director with the approval of the County Administrator. When a payment and performance bond is required, the bond will be requested in the bid document. No work in connection with the fulfillment of a contract shall commenced until the payment and performance bond is accepted by the County.
- 13.1.2 Performance Bond – For a project of an estimated value less that \$50,000, requirement of a performance bond will be at the discretion of the Purchasing Director with the approval of the County Administrator. For projects estimated to be \$50,000 or more, such bond will be required to insure that a contract is carried out in accordance with the applicable specifications and at the agreed contract price.
- 13.1.3 Payment and Material Bond – For a project of an estimated value less that \$50,000, requirement of a payment and material bond will be at the discretion of the Purchasing Director with the approval of the County Administrator. For projects estimated to be \$50,000 or more, such bond will be required to protect the County from suites for non-payment of debts which might be incurred by a contractor’s performance for the County.
- 13.1.4 Warranty Bond – At the discretion of the Purchasing Director, after consultation with user departments, a Warranty Bond may be required from a successful bidder to insure warranty provisions are fulfilled.
- 13.1.5 Guaranty of Good Faith Deposit (Bid Deposit) – For purchases of an estimated value less than \$100,000, and projects estimated to be less than \$40,000, requirement of a bid bond will be at the discretion of the Purchasing Director with the approval of the County Administrator. For purchases estimated to be \$100,000 or more, and projects estimated to be \$40,000 or more, bidders will be required to submit with their bid or proposal a guaranty of good faith deposit. When in the best interest of the County, it is recommended by the Purchasing Director and approved by the County Administrator, these requirements may be

waived.

Return of Bond. Such deposit may not be withdrawn until a specified time after the proposals are opened and awards made. The deposit of the bond shall be retained by the Finance Officer of the Board until the Purchasing Director is satisfied that the contractor's obligations have been satisfactorily completed.

Substitutes. In lieu of a surety bid bond, contractor may submit a certified check, cashier's check or treasurer's check, on any national or state bank. Such deposits shall be in the same percentage amounts as the bond. Such deposits shall be retained by the Finance Officer of the Board until all provisions of the contract have been complied with.

13.1.6 Irrevocable Letter of Credit – Upon approval of the Purchasing Director, a contractor may present an irrevocable Letter of Credit from a national or state chartered bank in lieu of any of the foregoing bonds for the same face value as required for the bond. The letter of credit shall be for a period of time not less than three months beyond the scheduled completion date of the purchase of the contracted services or materials.

13.1.7 Retention of Payments – The County may require the payment for a project, or a portion thereof, be withheld until the project has been completed as a method of protecting the County's interest. Retention may also be used in lieu of the above listed bonds. The solicitation document shall specifically state if retention of any portion or all of the payment for the project is to be done.

Section 13.2 AMOUNT OF BOND OR DEPOSIT

13.2.1 Amount of Bond – Bonds or deposits which may be required shall normally be in the following amounts, except as provided in the following subsection 13.2.2.

Performance Bond: 100% of contract price.

Payment Bond: 100 % of contract price.

Payment and Performance Bond: 100% of contract price.

Guaranty of Good Faith Deposit (Bid Deposit or Bond): The bid deposit will be 5% of the price bid by the vendor.

13.2.2 Exceptions to Amount of Bond – Any of the above listed bonds may be required at another amount recommended by the Purchasing director and approved by the county Administrator when in the best interest of the County.

Section 13.3 PROCESSING OF BONDS AND DEPOSITS

- 13.3.1 Responsibility for Securing Bonds – The contractor shall be responsible for securing the bond. Any costs may be included in the contract price.
- 13.3.2 Licensure of Bonding Company – The company acting as surety for any bond issued shall be licensed to do business in the State of Florida.
- 13.3.3 Review of Bonds by County Attorney – Surety bonds furnished will be reviewed by the County Attorney, who shall either accept or reject it for the Board. All surety bonds accepted shall be forwarded to the Finance Officer of the Board by the Purchasing Director to be filed in the official records of the Board.
- 13.3.4 Failure to Provide Required Bond – In the event a contractor fails to provide an acceptable bond when required, within ten (10) days after notification, the County Attorney will be notified. Upon the recommendations of the County Attorney, the Board may declare the contract null and void, and retain in the account of Gadsden County any good faith deposits or guaranty which may be submitted as liquidated damages under the terms of the solicitation.
- 13.3.5 Filing of Bonds – Bonds, when accepted, shall be forwarded to the Finance Officer of the Board and shall be filed with the applicable contract documents.
- 13.3.6 Deposits – Cash deposits (cashier's check, money orders, bank drafts, etc.) of all bidders shall be forwarded to the Finance Officer of the Board for deposit to the account of the Board of County Commissioners. Upon award of Contract, the Purchasing Director or designee shall be responsible for approving the return of deposits to unsuccessful bidders.
- 13.3.7 Plans and Specification Deposit – Deposits of all bidders for plans and specifications shall be forwarded to the Finance Officer of the Board for deposit to the account of the Board of County Commissioners. Upon award of contract, the Purchasing Director or designee shall be responsible for approving the return of refundable deposits to unsuccessful bidders.

Section 14 PAYMENT TO VENDORS

- 14.1 Outright Purchases – Payment of invoices shall be made within thirty (30) days of receipt of invoice. All invoices shall be approved by the department or division head, or authorized designee and submitted to the Finance Officer of the Board for payment.

- 14.2 Contractual Purchases – Payment of invoices shall be made in accordance with the contract terms, conditions, and scopes of service being provided.

- 14.3 Prompt Payment Act – All payment to vendors shall also be in accordance with the amended “Prompt Payment Act”, Chapter 89-297, Florida Statutes.

Section 15 AUTHORIZATION TO DEBAR OR SUSPEND VENDOR(S)

- 15.1 Suspension – After consultation with the County Attorney, the Purchasing Director 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 which might lead to debarment. The suspension shall be for a period not to exceed three (3) months, and the Purchasing Director shall immediately inform the Board and provide notice to the affected person.
- 15.2 Debarment – After reasonable notice and a reasonable opportunity for the suspended person to be heard, the board shall either disbar such person or terminate the suspension. The debarment should be for a period of not more than three (3) years.
- 15.3 Causes for Debarment – The causes for debarment include:

Entry of a plea of guilty, no contest, or nolo contendere to or conviction of a criminal offense as incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

Entry of a plea of guilty, no contest, or nolo contendere to or conviction under state or federal statutes of embezzlement, theft, forgery, 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 County contractor;

Entry of a plea of guilty, no contest, or nolo contendere to or conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;

Violation of contract provisions, as set forth below, of a character which is regarded by the Board to be so serious as to justify debarment action:

Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

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.

Having been adjudicated guilty of any violation by the Gadsden County Contractor's Licensing Board, or the State of Florida Construction Industry Licensing Board within the past twelve (12) month period at the time of bid submittal;

Having been adjudicated guilty by the Gadsden County Code Enforcement Board of any violation of an environmental ordinance within the past six (6) month period at the time of bid submittal; and

Any other cause the Purchasing Director or Board determines to be so serious and compelling as to affect responsibility as a County contractor, including debarment by another governmental entity.

15.4 Notice of Decision – The Purchasing Director shall issue a written notice to the person of the decision to debar or suspend. The decision shall state the reasons for the action taken and inform the debarred or suspended person involved of his/her rights concerning judicial or administrative review. The written decision shall be mailed or otherwise furnished immediately to the debarred or suspended person.

15.5 APPEAL OF DECISION TO DEBAR OR SUSPEND

The Board's decision to debar or suspend a person or business shall be final and conclusive, unless the debarred person commences a timely action in court in accordance with applicable law [sk8].

AMENDMENT HISTORY
By Date

5.3.94 – Adopted

Section 2.3.3 amended by Board on 5-21-96

Section 2.3.7 and 2.3.8 amended by Board 1-20-98

Section 5.7.3 amended by Board 4-4-00

Section 2.3.1, 2.3.8, 5.0, 5.3.2, 6.3.1 amended by Board on 4-4-06

Section 5.0 amended by Board on 3-3-15

Section 2.3.13 added by Board 12-1-2015

Section 2.3.1 amended by Board on 3-1-2016

Procurement Policy
Attachment A: Procurements and Contracts with Federal Funding

GADSDEN COUNTY
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
PROCUREMENT POLICY
INCLUDING THE MINORITY BUSINESS ENTERPRISE POLICY

PURPOSE

This Appendix A, Procurements and Contracts with Federal Funding to the County's Purchasing Policy policy is adopted to assure that commodities, equipment, and services purchased with ~~for~~ federal funds, specifically the **Community Development Block Grant Programs** are obtained efficiently and effectively in free and open competition and through the use of sound procurement practices. . All County staff and other persons (subgrantees or contractors) with designated responsibility for the administration of CDBG award contracts are responsible for ensuring compliance with all applicable federal and state laws and regulations. . These include but are not limited to: OMB Circular A - 102, Attachment O; 2 CFR 200-.317-.326, s. 255.0525 and 287.055 Florida Statutes and Rule 73C-23 Florida Administrative Code, and the current County Purchasing Policy.

APPLICATION OF POLICY

- A. This policy shall apply to contracts or agreements for the procurement of all materials, supplies, services, constructionconstruction, and equipment for any Community Development Block Grant Program solicited or entered into after the effective date of this policy.

In the event there is a conflict between the CDBG Procurement Policy and the County Procurement Policy, the following hierarchy of law shall be followed:

1. Federal Law
 2. State Law
 3. County Purchasing Policy, with the exception of the bid protest procedures.
 4. Appendix A: Procurements and Contracts with Federal Funding
- B. Vendors who assist with or are involved with the development of draft specifications, requirements, statements of work or development of competitive procurement solicitations may not compete for such procurements.
- C. Procurement documents (paper and electronic form) shall be ADA accessible in accordance with section 508, of the Rehabilitation Act of 1973, as amended.
- D. The County will ensure that personally identifiable information, bids/proposals that include proprietary or copyrighted information, and any financial statements are kept secure and private. Should any public record be made for procurement or contract documents such information shall redacted and protected in accordance with federal and state laws concerning such matters.

- E. All competitive procurements shall include a "Cone of Silence" as set forth in the County's Purchasing Policy, Section 5.
- F. Time and material contracts are not encouraged and in the event a time and materials contract are awarded it shall have a "not-to-exceed" clause and dollar amount cap. Each invoice will be reviewed closely to ensure that the cap will not be exceeded prior to completion of the contract work.
- G. Competitive procurements shall not be written as to restrict competition. However, examples or information about the geography or area can be used to ensure that interested firms are aware of physical conditions such as wetlands, areas of historical significance, flooding, distance of project from major cities, roads, or airports.
- H. Labor Standards/Davis-Bacon Act requirements when applicable shall be addressed in the competitive procurement document and included as contract requirements pursuant to labor standards in Section 110 of the Housing and Community Development Act of 1974, as amended and ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this agreement shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 3141, *et seq.*) and 29 CFR part 1, 3, 5, 6 and 7, provided, that this requirement shall apply to the rehabilitation of residential property only if such property contains not less than 8 units.

PURCHASING OFFICER

The County employee designated by the County Commission shall serve as the central purchasing officer (the "Purchasing Officer") of Gadsden County for all contracts or agreements described in Section II.

LXIII. PURCHASING THRESHOLDS AND DELEGATION OF AUTHORITY AND CONTRACT AWARD PROCEDURES

The County Purchasing Policy, Section 5, provides the purchasing thresholds and delegations of authority for all County purchases, and shall be followed for purchasing and contracting activities.

A. PURCHASING CATEGORIES; THRESHOLD AMOUNTS

Except as to Sole Source Purchases (Section IV-F) and Cooperative Purchasing (Section IV-G), all purchases and contract awards are to be made subject to the provisions of the appropriate Section according to the following threshold amounts: purchasing categories, thresholds and delegations provided in Section 5 of the Purchasing Policy.

<u>IV-B)</u>	<u>Small Purchases (Section</u> <u>\$1 to \$1,999</u>
<u>IV-C)</u>	<u>Purchasing Quotes (Section</u> <u>\$2,000 to \$9,999</u>
<u>Competitive Sealed Bids/Proposals (Section IV-D & IV-E)</u>	<u>\$10,000 and above</u>

IV. PURCHASING CATEGORIES, AND AWARD AND CONTRACT PROCEDURES

All competitive procurements, awards and contracts herein are subject to the awarding agency's approval and the executed

agreement for each project should be reviewed for compliance with awarding agency's requirements and any special terms and conditions not included herein.

B. SMALL PURCHASES

The purchase of commodities, equipment and services which cost less than the threshold authorized for ``Small Purchases'' is set forth in the **Purchasing Policy, Section IV-A-15** does not require solicitation of quotes or bids. Small purchases shall be authorized by the Purchasing Officer or his/her designees.

B. PURCHASING QUOTES

The purchase of goods and services which cost within the range authorized for verbal and written purchasing quotes is set forth in Section IV-A-2 in the Purchasing Policy, Section 5. shall require competitive quotations from two or more vendors. The quotations shall be obtained by, and shall be reviewed and awarded by the Purchasing Officer or his/her designee.

C. COMPETITIVE SEALED BIDDING

1. Conditions for Use. . All contracts for purchases of a single item, services, or aggregate in excess of the established base amount for Competitive Sealed Bids/Proposals in **Section IV**, where price, not qualifications, is the basis for contract award, shall be awarded by competitive sealed bidding.
2. Invitation to Bid. . Under Section 255.0525(2), F.S. and Rule 73C-23.00521 (2) (a), F.A.C., an invitation to bid for construction projects that are projected to cost more than \$200,000 meeting the threshold category for competitive bids shall be published as follows:
 - a) Project Cost is Greater than \$200,000.00 shall be publicly advertised in at least one daily newspaper of general circulation in Gadsden County as well as a nearby federal Office of Management and Budget (OMB) designated metropolitan statistical area (MSA) newspaper (i.e., Tallahassee) at least **21 days** prior to the established bid opening and at **least 5 days prior** to any scheduled pre-bid conference. .
 - b) Project Cost is Greater than \$500,000.00 An invitation to bid for construction projects that are projected to cost more than \$500,000 shall be publicly advertised at least once in a newspaper of general circulation in Gadsden County at least 30 days prior to the established bid opening and at least 5 days prior to any scheduled pre-bid conference.
 - c) Additionally, Furthermore, notice shall be sent to those vendors and contractors on the County's State of Florida, the Florida Department of Transportation, and/or other local MBE government's MBE/WBE solicitation list to notify and encourage MBE/WBE participation in accordance with **Section below**.
 - d) Alternatively, the County may substitute the above notice with any solicitation procedure which generates at least three responsible and responsive bids or proposals which can be considered. .
 - e) However, if three responsible and responsive bids or proposals are not received, the procurement will may be invalid, unless the awarding agency approves the award based on a sole source basis.
 - f) . An invitation to bid shall be issued and shall include specifications, all contractual terms and conditions, and the place, date, and time for opening or submittal. . No later than five working days prior to the date for receipt of bids, a vendor shall make a written request to the County for interpretations or corrections of any ambiguity, inconsistency, or error, which the vendor

may discover. . All interpretations or corrections will be issued as addenda. . The County will not be responsible for oral clarifications. . No negotiations, decisions or actions shall be initiated or executed by the proposer as a result of any discussions with any County employee prior to the opening of proposals. . Only those communications which are in writing from the County may be considered as a duly authorized expression on the behalf of the Commission. . Also, only communications from firms or individuals which are in writing and signed will be recognized by the Commission as duly authorized expressions on behalf of proposes.

- g) Alternate(s). . Alternate bids will not be considered unless authorized by and defined in the Special Conditions of the bid specifications.
- h) Approved Equivalents. . The County reserves the right to determine acceptance of item(s) as an approved equivalent. . Bids which do not comply with stated requirements for equivalents in the bid conditions are subject to rejection. . The procedure for acceptance of equivalents shall be included in the general conditions of the bid.
- 3. Public Notice. . For projects not covered in Section D2 above, Ppublic notice shall be by publication in a newspaper of general circulation at least twelve (12) working days prior to bid opening for all solicitations not covered Section D2 above. . This requirement does not apply to bidding on behalf of a client for Housing Rehabilitation/Replacement. . That bidding is accordance with the Gadsden County Housing Assistance Plan. . Notice of the invitation to Bid shall give the date, time, and place set forth for the submittal of proposals and opening of bids.
- 4. Bid Opening. . Bids shall be opened publicly. . The Purchasing Officer or his designee shall open the bids in the presence of one or more witnesses at the time and place designated in the Invitation to Bid. . The amount of each bid, and other such relevant information as may be deemed appropriate by the Purchasing Officer together with the name of each bidder, and all witnesses shall be recorded. . The record (Bid Report) and each bid shall be open to public inspection.
- 5. Bid Acceptance and Evaluation. . Bids shall be unconditionally accepted without alteration or correction, except as authorized in this policy. . Bids shall be evaluated based on the requirements set forth in the Invitation to Bid, which may include, but not be limited to criteria to determine acceptability such as;as inspection, testing, quality, recycled or degradable materials content, workmanship, delivery, and suitability for a particular purpose. . Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measured, such as discounts, transportation costs, and total or life cycle costs. . No criteria may be used in bid evaluation that are not set forth in the Invitation to Bid, in regulations, or in this policy.
- 6. Correction or Withdrawal of Bids; Cancellation of Awards. . Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, shall be permitted where appropriate. . Mistakes discovered before bid opening may be modified or withdrawn by written or telegraphic notice received in the office designated in the Invitation for Bids prior to the time set for bid opening. . After bid opening, corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake of non-judgmental character was made, the nature of the mistake, and the bid price actually intended. . After bid opening, no changes in the bid price or other provisions of bids prejudicial to the interest of the County or fair competition shall be permitted. . In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw his bid if:
 - a) the mistake is clearly evident on the face of the bid documentdocument, but the intended correct bid is not similarly evident; or
 - b) the bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. . All decisions to permit the correction or withdrawal of bids or to cancel awards or contracts based on bid mistakes shall be supported by a written determination made by the Purchasing Officer.
- 7. Multi-Step Sealed Bidding. . When it is considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation of bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.
- 8. Award. . The contract shall be awarded with reasonable promptness to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation to bid. . The

County reserves the right to waive any informality in bids and to make an award in whole or in part when one or both conditions are in the best interest of Gadsden County.

- a) Notice of Intended Award. . The contract shall be awarded by written notice to the successful bidder/proposer and posted on the County’s website. . Every procurement of contractual services shall be evidenced by a written agreement. . Notice of the intended award, including rejection of some or all of bids received, may be given by posting the bid tabulations where the bids were opened, by telephone, by first class mail, or by certified United States mail, return receipt requested. .
9. Cancellation of Invitations for Bids. . An invitation for bids or other solicitation may be canceled, or any or all bids may be rejected in whole or in part when it is in the best interests of the County, as determined by the Commission as long as such action does not violate federal code, state statutes, Rule 73C-23 Florida Administrative Code, and program requirements. . Notice of cancellation shall be sent to all businesses solicited.
10. Disqualification of Vendors. . For any specific bid, vendors may be disqualified by the Purchasing Officer, for the following reasons:
 - a) Failure to respond to bid invitation three consecutive times within the last eighteen (18) months period.
 - b) Failure to update the information on file including address, project or service, or business description.
 - c) Failure to perform according to contract provisions.
 - d) Conviction in a court of law of any criminal offense in connection with the conduct of business.
 - e) Clear and convincing evidence of a violation of any federal or state anti-trust law based on the submission of bids or proposals, or the awarding of contracts.
 - f) Clear and convincing evidence that the vendor has attempted to give a Countycounty employee a gratuity of any kind for the purpose of influencing a recommendation or decision in connection with any part of the County’s purchasing activity.
 - g) Failure to execute a Public Entity Crimes Statement as required by Florida Statutes Chapter 287.133(3)(a).
 - h) Other reasons deemed appropriate by the County.

C. COMPETITIVE SEALED PROPOSALS

All contracts for purchases of a single item or services or aggregate in excess of the established base amount for Competitive Sealed Bids/Proposals in Section IV, where qualifications, not price, is the basis for contract award, shall be awarded by competitive sealed proposals. . All contracts for the procurement of professional architectural, engineering, landscape architectural, and land surveying services will be awarded according to the provisions of Section IV-E-1. . All other contracts required to be awarded by competitive sealed proposals will be awarded according to the provisions of Section IV-E-2.

1. PROFESSIONAL ARCHITECTURAL, ENGINEERING, LANDSCAPE ARCHITECTURAL, AND LAND SURVEYING SERVICES

- a) Public Announcement. . It is the policy of the County to publicly announce all requirements for professional architectural, engineering, landscape architectural, and land surveying services and to negotiate such contracts on the basis of demonstrated competence and qualifications at fair and reasonable prices. In the procurement of such services, the County may require firms to submit a statement of qualifications, performance data and other related information for the performance of professional services.
 - (1) Distribution of Project Requirements. The Purchasing Officer shall distribute the written Request for Proposals, which shall include the project requirements. The project requirements shall be accompanied by an Invitation to such persons to submit an indication of interest in performing the required services and by notification of the date and time when such indications of interest are due. This date shall not be less than 12 calendar days from the date of public notice which the

Purchasing Officer shall publish in at least one newspaper of wide general circulation in the region.

(2) Modification Prohibition. After the publicized submission time and date, indications of interest shall not be modified or allowed to be modified in any manner except for correction of clerical errors or other similar minor irregularities as may allowed by the Selection Committee prior to making its selection of those best qualified to be formally interviewed.

(3) Reuse of Existing Plans. There shall be no public notice requirements or utilization of the selection process as provided in this section for projects in which the County is able to reuse existing plans from a prior project. However, public notice of any plans which are intended to be reused at some future time shall contain a statement which provides that the plans are subject to use.

(4) Selection Committee Membership and Evaluation. The County has the option of using a selection committee or designate the Commission as the committee that reviews the proposals. .

(a) Selection Committee Evaluation. Only written responses of statements of qualifications, performance data, and other data received in the purchasing officer by the publicized submission time and date shall be evaluated. . The selection committee may interview the offerors prior to evaluation or evaluate the offers based on their written response to the Request for Proposals. . The selection committee may “shortlist” proposals received, or received or appoint a subcommittee to “shortlist” by evaluating those proposals received and selecting those proposals deemed most responsive to the RFP. . The proposals selected by the “shortlisting” process shall then be presented to the Evaluation Committee for an evaluation utilizing the evaluation criteria utilized in the public announcement and RFP. . The Selection Committee may interview shortlisted respondents.

(5) Commission Approval. Evaluation results shall be forwarded to the Commission by the Selection Committee Purchasing Director for approval prior to beginning Contract negotiations based on thresholds set forth in the Purchasing Policy, Section 5. . Negotiation sequence shall be based on the order of preference

b) Negotiation Staff. . Contract negotiations shall be conducted by the Purchasing Officer, a Negotiation Committee (NC) appointed by the County Commission or the County Commission.

c) Negotiation.

(1) The Purchasing Officer, NC, or the County Commission shall negotiate a contract with the firm considered to be the most qualified to provide the services at composition and upon terms which the Purchasing Officer, NC, or the County Commission determines to be fair and reasonable to the County. In making this decision, the Purchasing Officer, NC, or the County Commission shall take into account the estimated value, the scope, the complexity, and the professional nature of the services to be rendered.

(2) As part of the negotiation, the Purchasing Officer, NC, or the County Commission shall conduct a cost analysis, including evaluation of profit, based on a cost breakout by the firm of its proposed price. Should the Purchasing Officer, NC or the County Commission be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, negotiations with that firm shall be formally terminated. The Purchasing Officer, NC or the County Commission shall then undertake negotiations with the second most qualified firm. Failing accord with the second most-qualified firm, they may negotiate with the third most qualified firm or may reach a determination not to contract for services.

2. OTHER COMPETITIVE SEALED PROPOSALS (non-287.055 services)

a) Condition for Use. All contracts required by Section IV-E to be awarded by competitive sealed proposals that are not for the procurement of professional architectural, engineering, landscape architectural, and land surveying services, will be awarded according to the provisions of this section.

b) Consultant’s Competitive Negotiation Act. . Professional services within the scope of the practice of architecture, or registered land surveying, as defined under the Consultant’s Competitive Negotiation Act (Section 287.055, Florida Statutes), shall be secured under the provisions of Section IV-E-1.

c) Commission Approval. . Proposals anticipated to exceed the threshold established in Section IV-A-3 for Competitive Sealed Proposals shall be approved by Gadsden County prior to solicitation.

- d) Public Notice. Adequate public notice of the Request for Proposals shall be given in the same manner as provided in subsection IV-D-3 of this policy for competitive sealed bidding.
- e) Evaluation Factors. . The Public Notice and Request for Proposals shall identify evaluation factors and their relative importance. . When services are not covered by CCNA, price information will be an evaluating factor. . Ranking forms, reflecting evaluation factors and importance will be developed prior to evaluation. .
- f) Proposal Cancellation or Postponement. The Purchasing Officer may, prior to a proposal opening, elect to cancel or postpone that date and/or time for proposal opening or submission.
- g) Award. Award shall be made by the County Commission to the highest ranking Board to the ranking responsible offeror whose proposal is determined to be the most advantageous to Gadsden County, taking into consideration the evaluation factors set forth in the evaluation criteria that are included in the Request for Proposals. . A cost analysis as detailed in **E.I.C.2** shall be conducted prior to the award of any contract.

D. Sole Source Purchase

- a) Sole Source Certification. A contract may be awarded for a supply, service material, equipment, or construction item(s) without competition when the Purchasing Officer with the coinsurance of the County Clerk, certifies in writing, after conducting a good faith review of available sources, that there is only one available source for the required material, supply, service equipment, or construction item(s). Such awards will be made within the authorized procurement be placed on the agenda for Commission Approval and Clarification that the vendor has been determined to be a sole source. . When a purchase exceeds (\$25,000) it will require prior approval by the Florida Department of Economic Opportunity, Small Cities CDBG program office.

E. Cooperative Purchasing

Use of cooperative purchasing, while allowed, is not encouraged for procurements and contracts using federal grant funds. In the event the use of a state contract or other governmental unit is more efficient and time consideration is a factor, the County shall seek the written approval of the granting agency prior to exercising Cooperative Procurement as set forth in the Purchasing Policy, Section 5.

- 1. State Contracts. The Purchasing Officer is authorized to purchase goods or services for any dollar amount from authorized vendors listed on the respective state contracts of the Department of General Services, subject otherwise to the requirements of this policy.
- 2. Other Government Units. The Purchasing Officer shall have the authority to join with other units of government in cooperative purchasing ventures when the best interest of the County would be served thereby, and the same in accordance with this policy and with County and State law.

F. BID PROTEST

- 1. Right to Protest. . Any actual prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of contract may protest to the County Commission. . Protestors shall seek resolution of their complaints initially with the Purchasing Officer prior to protesting to the County Commission.
- 2. Filing a Protest. Any person who is effected/affected adversely by the decision or intended decision of the County shall file with the Purchasing Officer a notice of protest in writing within 72 hours after the posting of the bid tabulation or after receipt of the notice of intended decision and file a formal written protest shall constitute a waiver of proceedings under this Section. A written protest is filed with the County when it is delivered to and received in the office of the Purchasing Officer.
 - a) The notice of protest shall contain at a minimum; the name of the bidder; the bidder's address and phone number; the name and bid number of the solicitation; and a brief factual summary of the basis of the protest.

- b) The formal written protest shall identify the protestant and the solicitation involved; include a plain, clear statement of the grounds on which the protest is based; refer to the statutes, laws, ordinances, or other legal authorities which the protestant deems applicable to such grounds; and specifically request the relief to which the Protestant deems himself entitled by application of such authorities to such grounds.
- c) The protestant shall mail a copy of the notice of protest and the formal written protest to any person with whom he/she is in dispute.
- 3. Settlement and Resolution. . The Purchasing Officer shall within 14 days of the formal written protest, attempt to resolve the protest prior to any proceedings arising from the position. Provided, however, if such settlement will have the effect of determining a substantial interest of another party or business, such settlement must be reached in the course of the proceedings provided herein.
- 4. Protest Proceedings If the protest cannot be resolved by mutual agreement, the Purchasing Officer shall conduct or designate another to conduct a protest proceeding pursuant to the following procedures.
 - a) Protest Proceeding Procedures
 - (1) The presiding officer shall give reasonable notice to all substantially affected persons or businesses. Otherwise petitions to intervene will be considered on their merits as received.
 - (2) At or prior to the protest proceeding, the Protestant may submit any written or physical material, objects, statements, affidavits, and arguments which he/she deems relevant to the issues raised.
 - (3) In the proceeding, the Protestant, or his representative or counsel, may also make an oral presentation of his evidence and arguments. . HoweverHowever, neither direct nor cross examination of witness shall be permitted, although the presiding officer may make whatever inquiries he/she deems pertinent to a determination of the protest.
 - (4) The judicial rules of evidence shall not apply, and the presiding officer shall be his/her decision on such information given in the course of the proceeding upon which resale prudent persons rely in the conduct of their affairs.
 - (5) Within seven (7) working days in the conclusion of the proceeding, the presiding officer shall render a decision which sets forth the terms and conditions of any settlement reached. Such decision of the presiding officer shall be conclusive as to the recommendation the County Commission.
 - (6) Any party may arrange for the proceedings to be stenographically recorded and shall bear the expense of such recording.
 - b) Intervenor. The participation of intervenors shall be governed by the terms of the offer issued in response to petition to intervene.
 - c) Time Limits. The time limits in which protests must be filed as provided herein may be altered by specific provisions in the invitation for bids or request for proposals documents.
 - d) Entitlement to Cost. In no case will this protesting bidder or offeror be entitled to any costs incurred with the solicitation, including bid preparation costs and attorney's fees.
- 5. Stay of Procurement during Protests. In the event of a timely protest under Subsection A of this Section, the Purchasing Officer shall not proceed further with the solicitation or award of the contract until all administrative remedies have been exhausted or unless the County Commission makes a determination that the award of a contract without delay is necessary to protect the substantial interest of the County.

G. CONTRACT CLAIMS

- 1. Authority of the Purchasing Officer to Settle Bid Protest and Contract Claims. The Purchasing Officer is authorized to settle any protest regarding the solicitation or award of a County contract, or any claim arising out of the performance of a County contract, prior to an appeal to the County Commission or the commencement of an action in court of competent jurisdiction but may not settle any such protest or claim for consideration of \$1,000.00 or greater in value without the prior approval the County Commission.
- 2. Decision of the Purchasing Officer. All claims made by a contractor against the County, relating to a contract, except bid protests, shall be submitted in writing to the Purchasing Officer for a decision. The contractor may request a conference with the Purchasing Officer on the claim. Claims include, without limitation, disputes arising under a contract, and those based upon breach of contract mistake, misrepresentation, or other cause for contract modification or rescission.

3. Notice to the Contractor of the Purchasing Officer's Decision. . The decision of the purchasing officer shall be promptly issued in writing, and writing and shall be immediately mailed or otherwise furnished to the contractor. The decision shall state the reasons for the decision reached, and reached and shall inform the contractor of his appeal rights under Subsection D of this Section.
4. Finality of the Purchasing Officer Decision; Contractor's Right to Appeal. . The purchasing Officer's decision shall be final and conclusive unless within ten calendar days from the date or receipt of the decision, the contractor files a notice of appeal with the County Commission.
5. Failure to Render Timely Decision. . If the Purchasing Officer does not issue a written decision regarding any contact controversy within fourteen calendars days after receipt of a written request for a final decision, or within such longer period may be agreed upon between the parties, then the approved party may proceed as if an adverse decision had been issued.

H. Remedies for Solicitations or Awards in Violation of Law

1. Prior to Bid Opening or Closing Date for receipt of Proposals. If prior to the bid opening or the closing date for receipt or proposals, the Purchasing Officer after consultation with County Attorney, determines that a solicitation is in violation of federal, statestate, or local law or ordinance, then the solicitation shall be canceled or revised to comply with applicable law.
2. Prior to Award. If after bid opening or the closing date for receipt of proposals, but prior to the award contract, the Purchasing Officer after consultation with the County Attorney, determines that a solicitation or a proposed award of a contract is in violation of federal, statestate, or municipal law or ordinance, then the solicitation or proposed ward shall be canceled.
3. After Award If, after award, the Purchasing Officer after consultation with the County Attorney, determines that a solicitation or award of a contract was in violation of applicable law or ordinance then:
 - a) If the person awarded the contract has not acted fraudulently or in bad faith:
 - (1) the contract may be ratified and affirmed, provided it is determined that doing so is in the best interest of the County and such action does not violate federal code, state statutes, Rule 73C-23 Florida Administrative Code and program requirements; or
 - (2) the contract may be terminatedterminated, and the person awarded the contract shall be compensated for the actual cost reasonably incurred under the contract plus a reasonable profit, but excluding attorney's fees, prior to termination or
 - (3) if the person awarded the contract has acted fraudulently or in bath faith the contact may be declared null and void or violable, if such action is in the best interest of the County.

LXIV. Contract Administration

A. Contract Provisions

1. Standard Contract Clauses and Their Modification.
 - a) The County after consultation with the County attorney, may establish standard contract clauses for use in County contracts.
 - b) HoweverHowever, the Purchasing Officer may, upon consultation with the County Attorney, vary any such standard contract clauses for any particular contract.
2. Contract Clauses. All County contracts for supplies, services, and construction shall include provisions necessary to define the responsibilities and rights of the parties to the contract. . The Purchasing Officer after consultation with the County Attorney, may propose provisions appropriate for supply, serviceservice, or construction contracts, addressing among others the following subjects:
 - a) The unilateral right of the County to order, in writing changes in the work within the scope of the contract;contract.
 - b) The unilateral right of the County or offer in writing temporary stopping of the work or delaying performance that does not alter the scope of the contract;contract.
 - c) Variations occurring between estimated quantities or work in contract and actual quantities;quantities.
 - d) Defective pricing;pricing.
 - e) Time of performance and liquidated damages;damages.
 - f) Specified excuses for delay or nonperformance;nonperformance.

- g) Termination of the contract for default;default.
- h) Termination of the contract in whole or in part for the convenience of the County;County.
- i) Suspension of work on a construction project ordered by the County;County.
- j) Site conditions differing from those indicated in the contract, or ordinarily encountered, except that a differing site conditions clause need not be included in a contract;contract.
 - (1) when the contract is negotiated;negotiated.
 - (2) when the contractor provides the site or design; or
 - (3) when the parties have otherwise agreed with respect to the risk of differing of differing site conditions;conditions.
- k) Value engineering proposals;proposals.
- l) Remedies;Remedies.
- m) Access to records/retention records;records.
- n) Environmental compliance; and
- o) Prohibition against contingent fees
- p) Insurance to be provided by contractor covering employee, property damage liability and other claims, with requirements of certificates of insurance cancellation clauses.
- q) Bonding requirements as set by the County Commission.
- r) Causes of and authorization for suspension of contract for improper contractor activity.

B. Price Adjustments

1. Methods of Price Adjustment Adjustments in price during the term of a contract shall be computed in one or more of the following ways upon approval by the County:
 - a) By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;practicable.
 - b) By unit prices specified in the contract or subsequently agreed upon;upon.
 - c) By the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon by the County;
 - d) In such other manner as the contracting parties may mutually agree; or
 - e) In the absence of agreement by the parties, by a unilateral determination by the County of the costs attributable to the events or situations under such clauses with adjustment of profit or fee as computed by the County, subject to the provisions of this section.
2. Cost or Pricing Data Required. A contractor shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provisions of this Section.

C. Change Orders/Contract Amendments

1. Change orders and contract amendments, which provide for the alteration of the provisions of a contract may be approved by an appropriate person based upon the dollar cost of the change or amendment.
2. The purchasing categories thresholds designated in the Purchasing Policy, Section 5s IV-A shall govern the appropriate level of approval.

D. Assignments of Contracts

No agreement made pursuant to any section of this policy shall be assigned or sublet as a whole or in part without the written consent of the County nor shall the contractor assign any moneys due or to become due to the contractor hereunder without the previous written consent of the County.

E. Right to Inspect Plant

The County may, at its discretion, inspect the part of the plant or place of business of a contractor or any subcontractor which is related to the performance of any

contract awarded, or to be awarded, by the County. . The right expressed herein shall be included in all contracts or subcontracts that involve the performance of any work or service involving the County.

LXV. Rights of County Commission

A. Nothing in this policy shall be deemed to abrogate, annul, or limit the right of the Commission, in the best interests of the County, to reject all bids received in response to a request, to determine in its sole discretion the responsiveness and responsibility of any bidder, to approve and authorize or to enter into any contract it deems necessary and desirable for the public welfare, or to vary the requirements of the Policy in any instance when desirable for the public good; and such action does not violate federal code, state law, Rule 73C-23 Florida Administrative Code, and program requirements.

LXVI. County Procurement Records

- A. Contract File. . All determinations and other written records pertaining to the solicitation award, or performance of a contract shall be maintained for the County in a contract file.
- B. Retention of Procurement Records. . All procurement records shall be retained and disposed of by the County in accordance with records retention guidelines and schedules established by the State of Florida.

LXVII. Specifications

A. Maximum Practicable Competition

1. All specifications shall be drafted to promote overall economy and encourage competition in satisfying the County needs and shall not be unduly restrictive.
2. This policy applies to all specifications including, but not limited to, those prepared for the County by architect, engineers, designersdesigners, and draftsman.

B. Use of Brand Name or Equivalent Specifications.

1. Brand name or equivalent specifications may be used when the County determines that:
 - a) No other deigndeigns, performance, or qualified product list is applicable;applicable.
 - b) Time does not permit the preparation of another form of purchase description, not including a brand name specification;specification.
 - c) The nature of the product or the nature of the County requirements makes use of a brand name or equivalent specification suitable for the procurement; or
 - d) Use of brand name or specification is in the County's best interest.
2. Designation of Several Brand Names. . Brand name or equivalent specifications shall seek to designate three, or as many different brands as are practicable, as products to those designated may be considered for award.
3. Required Characteristics. . The brand name or equivalent specifications shall include a description of the particular design, functional, or performance characteristic required.
4. Nonrestrictive Use of Brand Name or Equivalent Specifications. Where a brand name or equivalent specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.
5. Determination of Equivalents. . Any prospective bidder may apply, in writing for a pre-bid determination of equivalence by the Purchasing Director. . If sufficient information is provided by the prospective bidder, the Purchasing Director may determine, in writing and prior to the bid opening time, that the proposed product would be equivalent to the brand name used in the solicitation.
6. Specifications of Equivalents Required for Bid Submittal. . Vendors proposing equivalent products must include in their bid submittal the manufacturer's specifications for those products. . Brand names and model numbers are used for identification and reference purposes only.

C. Brand Name Specifications

1. Use of Brand Name Specifications. . Since use of a brand name specification is restrictive of product competition, it may be used only when the Purchasing Director makes a determination that only the identified brand name item or items will satisfy the County needs.
2. Competition. . The Purchasing Director shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such one source that can supply the requirement, the procurement shall be made under Section IV-F, Sole Source Purchases.

LXVIII.Ethics in Public Contracting

A. Criminal Penalties. . 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 civil sanctions set forth in this part.

B. Employee Conflict of Interest

1. Participation. . It shall be unethical for any County employee, officerofficer, or agent to participate directly or indirectly in a procurement or administration of a contact. A conflict of interest would arise when:
a) the County employee, officer or agent:agent.
b) any member of his immediate family:family.
c) his or her partner; or
d) an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The officers, employees or agents will neither solicit nor accept gratuities favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.
2. Blind Trust. . A County employee, officer or agent or any member of his family who holds a financial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest.

C. Contemporaneous Employment Prohibited

1. It shall be unethical for any County employee who is participating directly or indirectly in the procurement process to become or to be, while such a County employee, the employee of any person contracting with Gadsden County.

D. Use of Confidential Information

1. It shall be unethical for any employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

E. Gratuities and Kickbacks

1. Gratuities. . It shall be unethical for any person to offer, give or agree to give any County employee, officer or agent or for any County employee, officer or agent to solicit, demand, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision approval, or a purchase request, influencing the content of any specification or procurement standard rendering of advice, investigation auditing, or performing in any other advisory capacity in any proceeding or application request for ruling, determination claim or controversy, or other particular matter, subcontract, or to any solicitation or proposal therefor.
2. Kickbacks. . It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.
3. Contact Clause. . The prohibition against gratuities and kickbacks prescribed in this section shall be conspicuously set forth in every contract and solicitation therefor.

F. Sanctions

1. Employee Sanctions. . Upon violation of the ethical standard by an employee, officer, or agent the County or other appropriate authority may:
 - a) impose one or more appropriate disciplinary actions as defined in the County Personnel Rules and Regulations up to and including termination of employment; and
 - b) may request investigation and prosecution.
2. Non-employee Sanctions. . The Commission may impose any one or more of the following sanctions on a non-employee for violation of the ethical standards:
 - a) written warnings;warnings.
 - b) termination of contracts; or
 - c) debarment or suspension from the Bid List as provided in Section XV.

G. Recovery of Value Transferred or Received in Breach of Ethical Standards.

1. General Provisions. . The value of anything being transferred or received in breach of the ethical standards of this policy by a Countycounty employee or non-employee may be recovered from both County employee and non-employee.
2. Recovery of Kickback by Holmes County. . Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the County and will be recoverable thereunder from the recipient. In addition, that amount may also be recovered from the subcontractor making such kickback. Recovery from one offending party shall not preclude recovery from other offending parties.

LXIX. Federal Policy Notice

- A. Patents: If a contract involving research and development, experimental or demonstration work is being funded in whole or in part by assistance from a federal agency, then the contract shall include the following provisions.
 1. Notice to Contractor. . The contract shall give notice to the contractor of the applicable grantor agency requirement and regulations concerning reporting of, and rights to, any discovery or invention arising out of the contact.
 2. Notice by Contractor. . The contract shall require the contractor to include a similar provision in all subcontracts involving research and development, experimental, or demonstration work.
- B. Notice of Federal Public Policy Requirements
 1. Applicability. . If the contract is being funded in whole or in part by assistance from any federal agency, the contract is subject to one or more federal public policy requirements such as:
 - a) equal employment opportunity;opportunity.
 - b) affirmative action;action.
 - c) fair labor standards;standards.
 - d) energy conservation;conservation.
 - e) environmental protection;protection.
 - f) Labor Standards/Davis Bacon Act.
 - g) Drug Free Workplace; or
 - h) other similar socio-economic programs.
 2. Notice. . The Purchasing Officer shall include in the contract all appropriate provisions giving the contractor notice of these requirements. Where applicable, the Purchasing Officer shall include in the contact provisions the requirement that the contractor give similar notice to all of its subcontractors.

LXX. Payment to Vendors

- A. The County employee preparing the purchase order for goods or services under the programs covered by this policy shall not be the same employee that prepares the voucher for the payment for the goods or services covered by the purchase order. The employee preparing the payment voucher shall insure that there is a properly

prepared purchase order or contract in place and invoices are properly prepared prior to preparing payment vouchers. . The County Commission shall approve all payment vouchers.

LXXI. Minority Business Enterprise Participation Program

A. It shall be the policy of the County to encourage minority and women’s business enterprises to submit proposals, bids, or quotes. . The Purchasing Officer is responsible for the coordination of the Minority Business Enterprise Program and shall ensure that all MBE/WMB efforts are undertaken and documented in the procurement file to include at a minimum the company names and addresses of those MBE/WMB’s that received notice of the competitive solicitation.

1. Capital Improvement Project

a) Review: The Purchasing Officer and an appropriate department representative shall review each proposed project or bid to determine potential for utilization of MBE/WBEs. . This review is based on known availability of capable MBE/WBEs in the area in relation to the scope of the bid package and considers how a project might be broken down into sub-bids.

2. Contractor Responsibilities

a) Contractors are required to make good faith efforts to obtain MBE/WBE participation when so stipulated by bid specifications and/or contracts. If these efforts are unsuccessful, the contractor will submit a non-availability or refusal to participate and will request waiver of MBE/WBE participation.

b) The contractor who is the successful bidder will attend pre-construction conferences with appropriate County representatives to review the project scope and the MBE/WBE utilization plan.

c) The contractor who is the successful bidder must request a change order for any modification to the MBE/WBE plan. Change orders require Commission approval and are contingent on contractor documentation or MBE/WBE involvement in the change requested and documentation of cause for the change.

B. Fulfilling MBE/WBE Participation Requirements

For the purpose of this policy, a general contractor may utilize the services of an MBE/WBE subcontractor, manufacturer and/or supplier in estimating and satisfying the scope of work, provided that written contact/agreement is executed between the general contractor and the subcontractor, manufacturer, and/or the supplier.

LXXII. Waiver of Bid Bond and Insurance Requirements

A. The Purchasing Policy sets forth bond requirements (Section XXX0 and insurance requirements (section X) for all procurements and contracts.

The Commission may at its discretion, waive any of the requirements of this Section when it is determined to be in the best interest of the County provided such action does not violate federal code, state statutes, Rule 73C-23 Florida Administrative Code, or program requirements..

LXXIII. Bid List

A bid list for the purpose of bid solicitations shall be maintained by the County. The list shall consist of firms that apply.

A. The County staff may remove firms from the bid list for any of the following reasons:

1. Consistent failure to respond to bid invitations three (3) consecutive instances within the last eighteen montheighteen-month period; or

2. Failure to update the information on file including address, product or service description or business description.

B. The Commission may remove firms from the bid list for the following reasons:

1. Failure to perform according to contract provisions;provisions.

2. Conviction in a court of law of any criminal offense in connection with the conduct of business;business.

3. Clear and convincing evidence of a violation of any federal or state anti-trust law based on the submission of bids or proposals or the awarding of contracts;contracts.

4. Clear and convincing evidence that the vendor has attempted to give a Commission employee, officer, or agent a gratuity of any kind for the purpose of influencing a recommendation or decision in connection with any part of the Commission's purchasing activity;activity.

5. Violation or circumvention of the Minority Business Enterprise Program; or

6. Other reason deemed appropriate by the County Commission.

C. This policy is consistent with and subordinate to the County Purchasing Policy. Wherever conflicts may exist, the provision in the Purchasing Policy will prevail.

LXXIV.Reporting

A. The Purchasing Officer or appropriate person will report, at least annually, to the Commission on the status of the Minority Business Enterprise Program.

B. Records will be maintained reflecting participation of local minority and women owned businesses and shall be reported.

LXXV.Severability Clause

Each separate provision of this program is deemed independent of all other provisions herein so that if any provision or provisions be declared invalid, all other provisions hereof shall remain valid and full force and effect.