

**CITY OF ALBEMARLE**  
**FINANCE DEPARTMENT**



**PURCHASING & CONTRACTING**  
**POLICY & PROCEDURES**  
**MANUAL**

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144 North Second Street  
Post Office Box 190  
Albemarle, North Carolina 28002-0190  
704-984-9444 ☐ 704-984-9448 (FAX) ☐ Website: [www.albemarlenc.gov](http://www.albemarlenc.gov)

**CITY OF ALBEMARLE**  
**FINANCE DEPARTMENT**



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**POLICY & PROCEDURES MANUAL**

**APPROVAL**

**UPDATE TO POLICY**

**Effective**

September 19, 2022

**Approved by**

City Council

**Signature**

A handwritten signature in black ink, appearing to read "G. R. Michael".

G. R. Michael, Mayor

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**CITY OF ALBEMARLE**  
**PURCHASING & CONTRACTING**  
**POLICY & PROCEDURES MANUAL**

**Section 1 – General Information**

**1.1 Forward**

This purchasing policy and procedures manual is intended for use as a guide to the City of Albemarle’s (City) purchasing methods and practices. When used properly the policies and procedures established herein will enable City Staff to obtain needed materials, equipment, supplies, and services efficiently and economically. It also provides for application of all North Carolina General Statutory provisions pertaining to local governmental purchasing.

Understanding and cooperation of all employees is essential if the City is to obtain the maximum value for each tax and utility dollar spent for a sound modified centralized purchasing system.

The basic goals of the City’s purchasing program are:

- To comply with the legal requirements of public purchasing and procurement.
- To assure vendors that impartial and equal treatment is offered to all that wish to do business with the City.
- To receive maximum value for each dollar spent by awarding purchase orders to the lowest responsible, responsive bidder, taking into consideration quality, performance, technical support, delivery schedule, past performance and other relevant factors.
- To provide City Departments the required goods, equipment, and services at the time and place needed and in the proper quantity and quality.
- To assure that the search for sources of supplies, the development of new sources, the selection of suppliers and negotiations are performed in a professional manner.
- To promote good and effective vendor relations, cultivated by informed and fair buying practices and strict adherence to ethical standards.

If the policies and procedures established in this manual are followed, each Department can efficiently manage, control and plan its available resources to meet present and future departmental needs and help the City to meet these goals. Should there be any questions pertaining to the policies and procedures in this manual, contact the Finance Department, Purchasing Division.

The purchasing process is an ever-changing process due to new technology and tools available to the purchasing profession. Therefore, this manual shall be reviewed and revised periodically to keep current with continued developments as they pertain to the purchasing process.

The City of Albemarle, City Council, has approved the policies contained within this manual. The City Manager has authority to approve future policy changes to ensure best practices and compliance with State and Federal regulations.

## **1.2 Overview**

### **1.2.1 Modified Centralized Purchasing**

It is the policy of the City of Albemarle that the Purchasing Division provide modified centralized procurement services for the City and its Departments for a uniform and systematic method of purchasing the necessary goods and services required by the City Departments.

The Purchasing Division provides technical assistance to all City Departments in the areas of standardization, where applicable; specifications; cost reduction; product and price information.

### **1.2.2 Program Administration**

The Purchasing Coordinator shall administer an effective modified centralized purchasing program for the City by:

- Carrying out the policy directives of the City Council / City Manager / Finance Department Director / Assistant Finance Department Director and the procedures established;
- Contractual assistance with construction and repair projects;
- Providing timely, effective, and efficient service to City Departments and Divisions, and to vendors doing business with the City;
- Maintaining open communications with Departmental representatives and the public in general;
- And Encouraging free and open competition in the bid process.

### **1.2.3 Competitive Bidding**

The City shall obtain competitive bids on all purchases as required by North Carolina General Statutes and Federal guidelines where applicable. When economically feasible, competitive bids are to be obtained, regardless of the dollar amount, whenever it is deemed to be in the best interest of the City.

### **1.2.4 Departmental Relations**

It is the desire of the Office of Purchasing to establish and maintain at all times a close working relationship with each Department so that from the initial request to delivery of the order, the coordinated actions have been successful in accomplishing the procurement of the goods and services requested.

### **1.2.5 Approval Authority**

No City Employee shall purchase or contract for any goods, services, technology or construction except as provided in this policy and all applicable statutes. Any purchase or contract made contrary to the provisions of this policy may be voidable at the option of the City. Any employee signing a contract without designated authority may be held personally liable.

### 1.3 Code of Ethics

The Code of Ethics is intended to govern the conduct of Employees involved in the purchasing process to:

- Comply with the legal and ethical requirements of public purchasing and procurement.
- Ensure vendors that impartial and equal treatment is afforded to all who do business with the City.
- Receive maximum value for each dollar spent by awarding contracts to the lowest responsible responsive bidder; taking into consideration quality, performance, technical support, delivery schedule, past performance, and other relevant factors.
- Provide City departments with required goods, equipment, and services at the time and place needed and in proper quantity and quality.
- Maintain the City's reputation for fairness, honesty, and integrity in conducting business by:
  - Keeping competition open and fair
  - Observing truthfulness in all transactions
  - Submitting complete and logical specifications
  - Adhering to purchasing and payables policies and principles
  - Respecting the confidence of the vendor on quotations and other confidential information
  - Completing purchasing negotiations before placing orders to avoid further adjustments
  - Stating, on request, the reason for rejection of bids or awarding business elsewhere as fully as possible
  - All Departments shall remain free from obligation to any seller
- Encourage progressiveness by:
  - Keeping an open mind on new methods and materials offered
  - Encouraging the making of tests or trials on new materials of interest for future procurement
  - Visiting, when advisable, major sources of supply and keeping informed as to methods of manufacture and appraising new materials and equipment that may be of benefit to the using department.

### 1.4 Historically Underutilized Business (HUB) Program

On November 18, 2002, (last amendment 01-06-14), the City of Albemarle adopted its Historically Underutilized Business Program (HUB) establishing a 10% verifiable percentage goal for participation by HUB businesses in the total value of work for which a contract is awarded to include but not limited to commodities and services, and construction and renovation projects in the Formal and Informal Bid Range in accordance [NC G.S. 143-128](#) and [NC G.S. 143-131](#).

The City of Albemarle is not a certifying agency. Only those firms who have been certified through the North Carolina Department of Administration, Office for Historically Underutilized Businesses, Statewide Uniform Certification Program will be considered for meeting the HUB participation percentage goal.



## **1.5 Local Buying**

The City does not have the authority to establish local preferences of any kind and is bound by law to award to the “lowest responsible responsive” bidder, taking into consideration quality, performance and time specified in the proposals for the performance of the contract. [G.S. 143-129\(b\)](#)

However, it is the desire of the City to contract with vendors and contractors located within Albemarle and Stanly County whenever possible. The purchasing division shall update the Departments of new local vendors and contractors and encourage Departments to obtain quotes from local vendors when appropriate.

## **1.6 Planning**

Planning for purchases should be done on both a short-term and long-term basis; thereby, minimizing small orders and last minute purchases. Planning will also reduce the number of trips required to obtain materials and minimize clerical and supervisory time spent on documenting purchases. *Poor planning or the lack thereof does not constitute an emergency purchase.*

## **1.7 Buying Proper Quality**

Quality and service are as important as price. It is the duty of the requesting Department to secure the best, most economical quality that will meet the requirements for which the goods or services are intended. In some instances, the lowest price will not necessarily mean the lowest cost overall.

## **1.8 Future Commitment to Vendors**

Employees do not have the authorization to commit in writing or verbally, future City business to vendors.

## **1.9 Conflict of Interest**

Pursuant to [N.C. G.S. 14-234](#), no elected official or employee who is involved in making or administering a contract on behalf of the City may derive a direct benefit from the contract except as provided in [N.C. G.S. 14-234\(b\)](#), or as otherwise allowed by law. An elected official or employee who will derive a direct benefit from a contract with the City, but who is not involved in making or administering the contract, shall not attempt to influence any other person who is involved in making or administering the contract. To preclude any appearance of impropriety, each individual shall disclose any personal interest he/she may have in regards to contracts. The City Council must approve all contracts allowed under an exemption in advance and the interested party may not participate in that vote.

## **1.10 Acceptance of Gifts and Favors**

Pursuant to [N.C. G.S. 133-32](#), no elected official or employee of the City shall solicit or accept any gift, reward or promise of reward, favor, or item of value from vendors that may tend to influence employees in the discharge of the employee’s duties, or grant in the discharge of duty an improper favor, service, or item of value to the vendor.

No elected official or employee may solicit or receive any gift, reward, or promise of reward in exchange for recommending, influencing, or attempting to influence the award of a contract by the City.

A violation of this policy shall be a Class 1 Misdemeanor. [G.S. 133-32\(b\)](#).

## **1.11 Authority**

The Finance Department, Purchasing & Contracting Division, serves to assist the Departments in acquiring the goods and services essential to their activities in an efficient, ethical, and cost-effective manner utilizing a modified centralized process.

The City is authorized to purchase and contract under [G.S. 160A-11](#). Statutory provisions regulating to purchasing is contained primarily in [G.S. 143-129](#) through 143-135; other specific duties, responsibilities and authorities are contained in G.S. Chapters 66-152 through 66-157, [87](#); [143-64.31](#), [143-64.32](#) Selection of Architectural, Engineering, and Surveying Services; [160A-11](#) Corporate Powers; and 159 Article 3 the Local Government Budget and Fiscal Control Act. The City Council has full budget authority to sign such contracts. Authority to sign contracts for procurement of supplies and services has been delegated to the City Manager or his/her designee.

## **1.12 Authorization for Expenditures – Pre-Audit**

Prior to entering into any agreement, or making a purchase of \$1,000 or more, funds must be properly appropriated or budgeted to meet the contractual obligation. The Finance Director must determine whether a sufficient balance remains in the budget to pay the sum obligated by the transaction. [G.S. 159-28\(a\)](#) requires a Pre-Audit Certificate signed by the Finance Director to appear on the contract, agreement, or purchase order before it becomes an obligation of the City.

**Pre-Audit Certificate Exemption on Electronic Obligations:** The pre-audit procedures are still applicable; however, the pre-audit certificate is not required to be affixed to the document.

If an officer or employee of the City incurs an obligation or pays out or causes to be paid out any funds in violation of this section, that officer or employee, and the sureties on any official bond for that officer or employee, are liable for any sums so committed or disbursed. If the finance officer or any duly appointed deputy finance officer gives a false certificate to any contract, agreement, purchase order, check, draft, or other document, the finance officer or duly appointed deputy finance officer, and the sureties on any official bond, are liable for any sums illegally committed or disbursed. The City Council shall determine, by resolution, if payment from the official bond shall be sought and if the governing body will seek a judgment from the finance officer or duly appointed deputy finance officer for any deficiencies in the amount. G.S. [159-28\(e\)](#).

Employees do not have the authorization to commit in writing or verbally, future City business to vendors.

## 1.13 Availability and Transfer of Budgetary Funds

A Request for Transfer of Funds is required for any purchase or commitment for which there are insufficient funds available in the budgetary account against which a purchase or commitment is to be applied before a requisition or purchase order will be approved. The Finance Director and City Manager must approve this request. Transfers of Funds are not allowed for making it possible to spend all appropriations. The City Manager can approve transfers within budgeted authority; however, if the transfer changes the budget, City Council must approve.

Department Managers may inquire to make certain changes among operating expenditure line items (i.e. non-capital and/or non-personnel related items) in the budget of their Departments as defined in the annual budget authorization of City Council when they feel the changes would be in the best interest of the City. A Request for Transfer of Funds must be submitted electronically by the Department through the City's Enterprise Resource Planning (ERP) system and be fully approved before any commitments are approved against an expenditure line item that would exceed the amount budgeted for that particular line item. The Finance Director is authorized to inquire about the appropriateness of all Requests for Transfer of Funds.

## 1.14 Insurance

It is the City's risk management policy to impose certain minimum standards for insurance, hold harmless, indemnification and safety requirements upon contractors performing work on behalf of the City. These requirements are set forth to protect the City and its contractors and are a benefit to both.

In order to be a contractor eligible of performing work as called upon by the City, contractors must meet the following minimum liability insurance requirements:

Worker's Compensation:	\$100,000; \$500,000 policy limit
Commercial General Liability:	\$1,000,000 each occurrence \$2,000,000 aggregate limit
Business Auto Policy:	\$1,000,000
Professional (Errors and Omissions) Liability:	\$1,000,000

### 1.14.1 Additional Insurance Requirements

- The City shall reserve the right to require additional insurance coverages for specialty operations and/or higher limits of liability for projects where the City is exposed to significantly higher liability risks (such as explosion/collapse/underground (XCU) coverage or builder's risk).
- Coverage shall remain in effect at least until the completion of the contracted project and at any time when the contractor may be correcting, replacing or removing any defective work.
- The City of Albemarle shall be given a thirty day notice prior to the expiration of a certificate of insurance and failure to provide such notice shall impose no liability on the City, its agents or representatives.
- It shall be the responsibility of the contractor to ensure that all subcontractors comply with the requirements of this policy.

### **1.14.2 Additional Insured**

The City of Albemarle shall be endorsed as an additional insured on the applicable liability insurance policies with the exception of professional liability policies.

Two certificates shall be provided by the agent or broker that produced the policy denoting compliance with the above requirements including additional insured status for the City. Certificates of insurance shall be provided prior to the awarding of any contract; and such certificate shall include provisions that the insurance shall not be cancelled, allowed to expire or be materially changed without giving the City thirty (30) days advance written notice.

### **1.14.3 Indemnification and hold harmless**

The contractor shall indemnify and hold harmless the City of Albemarle, its officers, agents and employees from and against all loss, cost, damages, expense and liability caused by an accident or other occurrence resulting in bodily injury, including death and disease to any person or damage or destruction of property either real or personal, arising directly or indirectly from operations, products, or services rendered or purchased under the contract.

### **1.15 Non-Discrimination Policy**

The City of Albemarle invites and encourages the participation of minorities, women, socially and economically disadvantaged, and disabled business enterprises, and prohibits discrimination against any person or business in pursuit or award of purchasing or contracting opportunities on the basis of race, color, sex, religion, national origin, age, disability, or veteran status.

### **1.16 Vendor Relations**

Good vendor relations are valuable business assets established through mutual confidence and satisfactory business relationships between the buyer and seller. An important contribution toward promoting and preserving these relations is a clear understanding of the method of contract between buyer and seller.

Should a department have trouble with or have a complaint with a particular vendor; the concerns should be documented and forwarded to the Purchasing Division. The documentation should detail the circumstances, dates, personnel involved, and telephone numbers. This information will be helpful in determining if the vendor shall remain on the vendor list.

### **1.17 Vendor Selection**

Vendors will be selected on a competitive basis. Formal bids, informal bids, and quotations must be solicited in written form by the Department Manager and or their designee(s). Bid awards, Purchase Orders, and/or contracts will be issued to the lowest responsible responsive bidder in accordance with [G.S. 143-129](#) and [143-131](#). If a department wishes to add a specific vendor or contractor to the bid list, they must notify Purchasing.

After an introduction and overview of how to do business with the City by Purchasing, Vendors are

welcomed to market their products directly to the Department. Departments are instrumental in prescribing the specifications for the equipment / supplies they require, and marketing contacts are recognized as a necessary part of educating users on the capabilities and varieties of products in the market place.

All vendors will be required to complete a Vendor Information Packet which includes an Information Letter, Vendor Information Form, W-9 Form, Electronic Funds Transfer Form, E-Verify Affidavit Form, if applicable.

## **1.18 Policy Violations**

Finance Management Staff and the Purchasing Coordinator are available to assist the Department Manager and other City personnel with questions or concerns regarding the City's purchasing policy and general contracting issues. In an effort to be transparent as well as to protect and maintain the integrity of internal controls, violations of the policies and procedures set forth in this document, no matter how minor, will have the reason documented, a correction action plan issued, and should be signed off on by the Department Director and Finance Director.

Repeated policy violations may be referred to Human Resources for resolution procedures per the City of Albemarle Employee Handbook.

## **Section 2 – General Purchasing & Contracting Policy**

This policy and procedures statement provides guidance in applying applicable laws and regulations for the benefit of City Departments and Staff when acquiring the necessary materials, supplies, equipment, facilities, and services, at the lowest possible cost, essential to the activities of the City of Albemarle.

The purchasing and contracting process is also designed to provide a proper system of internal control, in an efficient, ethical, and cost-effective manner while utilizing a modified centralized process, to ensure that proper authorizations are obtained before goods and services are obtained.

### **2.1 Contracts**

***No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this policy or State and Federal Law. G.S. 143-133***

A contract is a binding agreement between the City and one or more contractors to provide goods or services in accordance with specific terms and conditions. Contracts with substantive terms and conditions as determined by the City Attorney are subject to legal review prior to their execution. Quotations shall not be subject to legal review as they are not legally binding agreements and simply an intent to proceed. Departments should take consideration of legal review into account when preparing timelines for procurement.

Purchase Orders (section 2.7) are the preferred contract for purchases of apparatus, supplies, materials, equipment, and services (where applicable) when at all possible. Purchase Orders are issued by the City through a requisition process and contain standardized terms and conditions required by the City of Albemarle for basic procurements and do not require additional legal review. Purchase Orders will still be issued for contracts that meet the standards of legal review for the sake of budgetary control, however, the terms and conditions of the Purchase Order may be subject to contest and therefore Departments are expected to take extreme caution prior to executing any documents presented by vendors that may contain legally binding terms and conditions. In the event of a conflict between the terms of the Purchase Order and any contract with the vendor, the terms of the Purchase Order shall govern.

A Department may not permit a contractor to start work, or create an obligation on the part of the City, until a contract has been fully executed and the copies are in the possession of the Department, the Finance Department - Purchasing Coordinator, and the Contractor.

#### **Quotations:**

Quotations are not contracts and do not require legal or pre-audit signatures. Signing of quotations does not constitute a liability to perform under any agreed upon terms, is merely the intent to proceed, and has no binding authority unless accompanied by a Purchase Order or fully executed contract. Exceptions to this statement are only allowed for purchases authorized by a Request for Payment form per Section 2.7.1 Request for Payment vs. a Purchase Order.

### **2.1.1 Contract Management**

Departments are responsible for managing their contracts and keeping track of renewal dates. Contract renewals must be made prior to the expiration of the existing contract. An original contract will be maintained by the Department.

### **2.1.2 City Council Approval of Contracts**

City Council must approve all contracts that meet any of the following criteria:

- Contract subject to statutory bid thresholds
- Contracts requiring payment that have terms greater than one year
- Contracts exceeding budgetary approval which require a budget amendment
- Contracts suggesting a significant policy change as determined by the City Manager

Contracts authorized by City Council through direct award or budget authorization shall be executed by the Mayor or designee. The City Manager may be the designee for formally bid purchase contracts.

### **2.1.3 Multi-Year Contracts**

The City may enter into multi-year or continuing contracts that extend beyond the fiscal year in which the contract entered. The usual types of multi-year contracts are service agreements or leases.

A non-appropriation clause must be included on all multi-year contracts.

*“Notwithstanding any other provision contained herein, if funds for the continued fulfillment of this purchase order, by the City of Albemarle, are at any time not forthcoming or are insufficient through failure of the City of Albemarle or any other funding entity to appropriate funds or otherwise, then the City of Albemarle will have the right to terminate this contract at no additional cost and with no penalty whatsoever by giving prior written notice documenting the lack of funding. The City of Albemarle will endeavor to provide at least thirty (30) days advance written notice of such termination to Seller.”*

The original contract period may be for a term of one to five years, with two one-year renewal options for a maximum contract period of seven years. At the end of a maximum term of seven years the contract shall be rebid.

#### Group Purchasing Program Master Agreements

In accordance with G.S. 143-129(e)(3) exceptions (to the bidding statute), the City of Albemarle is allowed to make purchases through a competitive bidding group purchasing program which is a formally organized program that offers competitively obtained purchasing products and services at discount prices without Council Approval. However, where a Master Agreement is necessary and involves a multi-year contract for the purchase, City Council must approve the cooperative agreement purchase and the Master Agreement.

## 2.1.4 Other Contract Types

### Term Contracts

Also known as indefinite quantity or requirement contracts are used generally to establish suppliers and prices for a given commodity, printing, or services for a period of time without guaranteed quantities being specified.

### Convenience Contracts

Are indefinite quantity contracts that may be used by state agencies to purchase goods or services at their discretion, and their use is not mandatory. However, whenever possible, the State of North Carolina Department of Administration Purchase and Contract Division should be sought as a resource for procurement of capital and non-capital items. This system expedites the purchase of goods, offers compatible pricing with quotes received from formal and informal bids, and satisfies North Carolina General Statutes.

### Contract Amendment or Addendum

A document that adds or deletes a portion of the original contract without changing or rewriting the entire contract. Amendments should be used infrequently as generally it is better to have a new contract.

### Contract Extension

An agreement used only to extend and/or renew the term of the original contract.

### Consultant Service Contracts

Contracts to investigate problems or projects and to provide counsel, review, analysis or advice to the City.

### Information Technology Contracts

Contracts for electronic data processing goods and services, telecommunications goods and services, microprocessors, software, information processing, office systems, and any service related to the foregoing, and consulting or other services for design or redesign of information technology that supports business processes. All information technology contracts must be reviewed and signed off by the Information Systems Director.

### Inter-Local Agreement

An agreement between two governmental entities or agencies.

### Lease

An agreement conveying use of property for a designated period of time in exchange for rental payment. Lease Agreements that are less than one year are to be approved by the City Manager or Designee. Leases over one year and involving Real Property must be approved by City Council. Leases of more than ten years must be treated as a sale and are subject to the upset bid process. A copy of the final executed copy of the Lease Agreement must be forward to the Finance Department.

### Memorandum of Understanding

An agreement between City Departments, agencies and/or City officials that outlines the obligations of each party (policy or procedure).



### Non-Standard/Vendor Contract

A contract provided by a vendor or contractor. Certain information technology hardware/software contracts fit in this category.

### Open Market Contracts

Contracts awarded as a result of a publicly advertised competitive solicitation, purchase or contract not covered by a term contract.

### Settlement and Release Agreements

Settlement and Release Agreements that involve the release of a Vendor from liability in exchange for payment of an outstanding obligation or to resolve a dispute. Agreements up to \$20,000 shall be approved by the City Manager. Agreements over \$20,000 shall be approved by City Council.

### Agreements without a Financial Commitment

A contractual arrangement without a financial commitment from the City of Albemarle. Agreements without a financial commitment require the approval of the City Manager.

## **2.1.5 The Two Pillars of Local Government Procurement**

In Local Government procurement, contracts fall into four main categories:

- Purchase Contracts
- Service Contracts (Non-Professional)
- Professional Service Contracts
- Construction and Repair Contracts

Sections 2.2 through 2.5 provide additional detail on the four main types of contracts and should be thoroughly reviewed by all personnel who engage with procurement activities. Understanding contract types is the *first critical pillar* of local government procurement.

Source of funding is the *second critical pillar* of local government procurement. Source of funding may be thought of as “where did the money originate?” Any funds, be they direct grant award or pass-through grant awards, that originate from the **Federal Government or any related Agencies** become subject to the procurement methods and procedures of section 4 of this policy. All other sources of funds are considered **Non-Federal** and are subject to the procurement methods and procedures of section 3 of this policy.

## **2.2 Purchase Contracts**

Purchases of apparatus, supplies, materials, and equipment are considered purchase contracts. Purchase Orders are the preferred contract for purchase contracts over \$1,000.

### **2.2.1 Non-Federal Procurement**

- Purchase Contracts between \$0 up to \$30,000 have no method of solicitation and may be procured using any means available.
- Purchase Contracts between \$30,000 up to \$90,000 shall be procured using Informal Bidding procedures.
- Purchase Contracts of \$90,000 and above shall be procured using Formal Bidding procedures.

## **2.2.2 Federal Procurement**

Purchase contracts made with federally sourced funds are subject to Federal Uniform Guidance and State bidding procedures, whichever is most restrictive.

- Purchase contracts between \$0 up to \$10,000 shall be procured using the Uniform Guidance “micro-purchase” procedures.
- Purchase contracts of \$10,000 up to \$90,000 shall be procured using the Uniform Guidance “small purchase” procedure.
- Purchase Contracts of \$90,000 and above shall be procured using a combination of Uniform Guidance “sealed bid” procedure and State Formal Bidding procedures.

## **2.3 Service Contracts (Non-Professional)**

Non-professional service contracts are distinguished by the provision of personal performance rather than the delivery of a tangible item. Services may be contracted with purchase orders or a standard contract form. Examples of services for this type contract are janitorial, security, lawn care, demolition, etc.

- The contractor must provide proof of required insurance with the requesting City Department listed as an additional insured, where applicable
- A copy of the completed and signed contract, where applicable, should be attached to the requisition and purchase order prior to the release of the purchase order
- The City will not enter into contractual agreements that are subject to automatic renewal and will attempt to structure contracts to coincide with the fiscal year.
- In actions where services are disputed, written findings of fact shall be prepared and referred by the Purchasing Coordinator to the Finance Director for guidance and or a decision. The Finance Director may refer the matter to the City Manager and City Attorney if the dispute cannot be remedied after the conclusion of the proceedings with respect to the disputed facts.

### **2.3.1 Non-Federal Procurement**

Service Contracts are a State bidding exception with no method of solicitation and may be procured using any means available. However, the following shall apply:

- Service Contracts between \$0 up to \$30,000 have no method of solicitation and may be procured using any means available.
- Service Contracts of \$30,000 and above shall be procured using Informal Bidding procedures or a Request for Proposal, where applicable.

### **2.3.2 Federal Procurement**

Service contracts made with federally sourced funds are subject to Federal Uniform Guidance and State bidding procedures, whichever is most restrictive.

- Service contracts between \$0 up to \$10,000 shall be procured using the Uniform Guidance “micro-purchase” procedures.

- Service contracts of \$10,000 up to \$90,000 shall be procured using the Uniform Guidance “small purchase” procedure.
- Service Contracts of \$90,000 and above shall be procured using a combination of Uniform Guidance “sealed bid” procedure and State Formal Bidding procedures.

## **2.4 Professional Service Contracts**

Normal competitive procedures are difficult to use in securing professional services such as, attorneys, planners, architects, engineer, surveyor, construction manager at risk, or design-build contractor professionals who, in keeping with the standards of their discipline, will not enter into a competitive bidding process.

### **2.4.1 Non-Federal Procurement**

- The Qualification-Based Selection procedure will be used in accordance with the Mini-Brooks Act ([G.S. 143-64.31](#)).
- An exemption is authorized only for projects where the estimated fee is less than \$50,000 in accordance with the Mini-Brooks Act ([G.S. 143-64.32](#)).

### **2.4.2 Federal Procurement**

Professional service contracts made with federally sourced funds are subject to Federal Uniform Guidance and State bidding procedures, whichever is most restrictive.

- Professional Service Contracts between \$0 up to \$250,000 shall be procured using the State’s “Mini-Brooks Act.”
- Professional Service Contracts of \$250,000 and above shall be procured using the Uniform Guidance “Competitive Proposal” procedure.

## **2.5 Construction and Repair Contracts**

Construction Contracts are written agreements relating to the construction, alteration, repair, maintenance, moving or demolition of any building, structure or improvement.

### **2.5.1 Non-Federal Procurement**

- Construction Contracts between \$0 up to \$30,000 have no method of solicitation and may be procured using any means available.
- Purchase Contracts between \$30,000 up to \$500,000 shall be procured using Informal Bidding procedures.
- Purchase Contracts of \$500,000 and above shall be procured using Formal Bidding procedures.

### **2.5.2 Federal Procurement**

Construction contracts made with federally sourced funds are subject to Federal Uniform Guidance and State bidding procedures, whichever is most restrictive.

- Construction contracts between \$0 up to \$10,000 shall be procured using the Uniform Guidance “micro-purchase” procedures.
- Construction contracts of \$10,000 up to \$250,000 shall be procured using the Uniform Guidance “small purchase” procedure.
- Construction Contracts of \$250,000 up to \$500,000 shall be procured using the Uniform Guidance “sealed bid” procedure.
- Construction Contracts of \$500,000 and above shall be procured using a combination of the Uniform Guidance “sealed bid” procedure and State formal bidding procedures.

### **2.5.3 Contractor Licensing**

Contractors on construction or repair projects for projects that include improvements to any building or structure, highway, or public utilities, and grading must comply with state contractor licensing requirements in accordance with General Statutes Article 1 of Chapter 87. The contract threshold for licensure of general contractors is \$30,000 ([G.S. 87-1](#)).

Architects and engineers who prepare specifications for public projects are required to include information about licensure requirements in the invitation to bidders and the specifications ([G.S. 87-15](#)). Licenses are not required for work performed by the City’s own work forces.

### **2.5.4 E-Verify Requirements ([G.S. 160A-20.1](#))**

The General Statutes of North Carolina requires an employer that transacts business in the State of North Carolina and employs 25 or more employees to verify the work authorization of its employees through the Federal E-Verify program operated by the United States Department of Homeland Security and other Federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees.

The City of Albemarle is prohibited from entering into contracts with contractors and subcontractors who have not complied with the requirements of General Statutes Article 2 Chapter 64.

### **2.5.5 Non-Collusion Affidavit ([G.S. 133-30](#))**

Non-collusion Affidavit is required as set forth in the invitation to bid.

The Non-Collusion Affidavit certifies that the offeror, his agents, servants, and / or employees, to the best of their knowledge, have not in any way colluded with anyone for and on behalf of the offeror, or themselves, to obtain information that would give the offeror an unfair advantage over others, nor have they colluded with anyone for and on behalf of the offeror, or themselves, to gain any favoritism in the award of the contract, or to fix any overhead, profit, or cost element of the bid price directly or indirectly.

Failure to provide a required Non-Collusion Affidavit shall be grounds for disqualification of the bid.

## **2.5.6 Performance and Payment Bonds ([G.S. 143-129](#))**

Where the sum of all contracts for a construction or repair project exceeds \$300,000, the successful bidder must provide performance and payment bonds for the full amount of each contract exceeding \$50,000. In place of bonds, the contractor may provide cash, certified checks, or government securities.

## **2.5.7 HUB Participation**

The City is required to solicit Historically Underutilized Business (HUB) participation and to maintain a record of contractors and efforts made to recruit HUB participation in accordance with the Historically Underutilized Business Program Policy. HUB participation is required for construction and repair contracts in both the informal and the formal ranges. The City's HUB participation rate is 10%. Construction and repair contracts involving a building costing \$300,000 or more require Formal HUB participation requirements, including bidder good faith efforts (G.S. 143-128.2).

## **2.5.8 Bid Deposit or Bond ([G.S. 143-129](#))**

Bids for construction or repair work in the formal bidding range must be accompanied by a bond or deposit equal to at least five (5) percent of the amount of the bid. Bid bonds/deposits are not required for any purchase contracts or for construction or repair contracts in the informal bidding range or federal small purchase range.

A formal construction bid that is not accompanied by a bid bond/deposit at the time the bid is submitted cannot be considered or accepted and thus cannot be counted toward the three-bid minimum required to open bids. The bid deposit may be in any of the following forms: cash, cashier's check, certified check, or bid bond executed by a surety licensed in North Carolina. If the successful bidder does not execute the contract within ten days after the contract is awarded or fails to give satisfactory surety as required by law, the bidder forfeits the bid bond/deposit.

## **2.5.9 Large Building Construction and Repair Contracts**

### Specifications

Plans and specifications for public building construction or repair projects must be prepared by a registered architect or a registered engineer (or both, depending upon the requirements of the project) when the expenditure exceeds:

- \$300,000 for projects that do not include "major structural change in framing or foundation support systems"
- \$100,000 for the repair of public buildings "affecting life safety systems"
- \$135,000 for projects that include major structural change in framing or foundation support systems
- \$135,000 for the construction of, or additions to, public buildings

### Separate Specifications

Separate specifications are required for "subdivisions or branches" of work on the project, meaning certain trades as well as general construction work:

- HVAC and cold storage with cooling load of 15 tons or more;
- Plumbing and gas fittings;
- Electrical; and
- All other general work. G.S. 143-128(s)

### Construction Methods

Building construction and repair contracts costing more than \$300,000 can only use the following methods:

- Separate-prime bidding
- Single-prime bidding (Heating, ventilating, Air Conditioning, Plumbing, Electrical, General)
- Dual bidding
- Construction management at risk
- Alternative contracting methods authorized pursuant to G.S. 143-128.1
- Design-Build contracts pursuant to G.S. 143-128.1A
- Design-Build bridging contracts pursuant to G.S. 143-128.1A
- Public-private partnership construction contracts pursuant to G.S. 143-128.1C

### Dispute resolution Procedures

Dispute resolution procedures **must be provided for all** building construction projects, regardless of the dollar value. The minimum amount in controversy is \$15,000.

## 2.6 Requisitions

The purpose of the requisition is to initiate the procurement of all supplies, equipment, materials, and/or other repairs and services being requested by the City Departments and to encumber the purchase(s).

Upon receipt of the requisition, the proper approval and ordering procedures shall be followed which subsequently gives the Purchasing Officer the authority to convert the requisition into a Purchase Order if there are no further updates or corrections required.

All Information Technology (IT) related items shall be forwarded to the Information Systems Director for approval prior to initiating the requisition by the issuing Department.

A purchase order will be issued for the purpose of procurement of the supplies, equipment, materials, repairs, and/or services unless the item(s) are ordered with a procurement card or are less than \$1,000. A contract may be applicable for certain services.

The requesting Department must submit a requisition and attach all associated backup documentation to the requisition by scanning and uploading the information. All associated backup information includes written quotes, emails, contracts, proposals, etc.

## 2.7 Purchase Orders

The purchase order serves as authorization to the vendor to furnish goods and services to the City in and is not binding until accepted by the vendor.

Purchase Orders will be issued for purchases of **\$1,000.00** or more. Although purchase orders are not required for the items listed below the **\$1,000.00** threshold, special instances may arise whereby a purchase order may be issued if the Department has a need for tracking historical data, or the vendor requires a written order document. Purchase orders of **\$2,500** or more require City Manager approval.

The purchase order is generated by the Purchasing Officer once the requisition from the ordering Department has been processed and the general ledger coding has been approved by Finance. Purchase orders may be distributed electronically or printed out to be mailed and are processed daily.

The purchase order will contain:

- Purchase order number
- Vendor number
- Vendor name and address
- Department name and address
- Description of item(s) or services ordered
- Units ordered
- Unit price, total price or extension
- Funding code
- Date
- Date delivery required
- Freight/shipping Cost
- Terms
- P O total
- Pre-Audited Statement
- Signature of Finance Director

The Purchase Order is distributed as follows:

- Vendor Copy: The original copy of the purchase order shall be emailed or mailed to the vendor unless otherwise noted by the Department.
- Department / Receiving Copy: This form can be found electronically in the financial system for all purchase order information.
  - This form is to be submitted when the order has been received in full, along with the applicable invoice, to Accounts Payable for payment.
  - Receipt of the purchase order items and partial shipment information should be indicated on the Department Copy of the Purchase Order and forwarded to Accounts Payable with the applicable invoice.

### **2.7.1 Request for Payment vs. a Purchase Order**

A request for payment for goods and services may be used when a purchase order is not feasible. A request for payment may be authorized as a “sign and return” invoice or submitted as a request for payment form along with a copy of the invoice. Examples of the kinds of transactions for which a request for payment can be used are as follows:

- Purchases under \$1,000
- Advertising (legal ads, radio announcements, etc.)
- Airline Tickets
- Annual Dues and Subscriptions
- Claim Payments
- Contract General Offices Supplies
- Copy Machine Maintenance
- Equipment Rentals
- Food/Concession Items
- Gasoline, Diesel Fuel, Motor Oil
- Health and Medical Supplies

- Insurance Premiums
- Insurance Claim Payments
- Installment Purchase Agreements
- Land Purchases
- Medical Examinations
- Memberships
- Petty Cash – replenishment of funds
- Postage Permits and Expenses
- Purchases from State or Independent Labs
  - *must be accompanied by a copy of the Lab's Certification or Accreditation source*
- Rebates
- Refunds
- Revolving Accounts
  - *with approval of Finance Director*
- Tipping Fees
- Tires
- Travel and Meetings
- Tuition Fees for Educational purposes
- Uniform Rental
- Utilities

If a written contract is used for these purchases, it must be pre-audited by the Finance Director.

Although purchase orders are not required for the items listed above, it is the responsibility of the Department Manager to be prudent and economical in making these purchases.

In order to satisfy accounting and statutory requirements, special instances may arise whereby a purchase order may be issued for the items listed above or the Department has a need for tracking historical data, or the vendor requires a written order document. A copy of the completed contract should be attached to the requisition if a purchase order is requested for an item or service that requires a contract.

### **2.7.2 Purchasing Calendar**

Purchase requests for materials, supplies, services, and equipment for the ending current fiscal year must be submitted no later than **May 15**. In securing financing and maintaining the fixed asset records for the fiscal year, all capital purchases must be completed no later than **March 15** with delivery scheduled no later than **May 15** if at all possible.

Unless prior approval has been received from the Finance Director, purchase requests of a routine nature that could have been scheduled prior to **May 15**, and are not critical, will be returned to the Department for disposition in the new fiscal year. This procedure affords the Finance Department the opportunity to complete fiscal year end activities in a timely manner.

### **2.7.3 Purchase Order Expiration Date**

- In order to allow sufficient time to receive all items on order prior to **June 30**, no requisitions or purchase orders will be issued after **May 15**, except for an extreme emergency.
  - Special circumstances will be considered on an individual Departmental basis.
  - Use of the procurement card is encouraged for many of the purchases that the Department may have need of on or before **June 30**.
- Departments are encouraged to check inventory and supply items for sufficient stock prior to the end of May.



- All purchases must be *received* by **June 30**. If the Purchase Order is not received by **June 30**, it will be canceled and re-issued in the new fiscal budget year.
- All Purchase Orders expire **June 30** of the current fiscal year.
- Accounts Payable will pay five regular cycles during the month of June to process expenditures for purchases subject to the current year budget

## 2.8 Procurement Considerations

### 2.8.1 Specifications (G.S. 133-3)

The Department Manager, in conjunction with the architect or engineer, where applicable, shall develop and prepare specifications for procuring goods, services, or construction in the formal or informal bidding ranges. The Purchasing Coordinator shall be responsible for ensuring that all North Carolina General Statutes are satisfied, including but not limited to newspaper advertisement and receipt of sealed bids. City Council, pursuant to [G.S. 143-129\(b\)](#), has further authorized advertisement by electronic means as an alternative to newspaper advertisement whenever it is deemed the most effective and efficient method of obtaining bids.

All specifications should do at least four things:

- Identify minimum requirements
- Encourage competitive bids
- Be capable of objective review (e.g., refrain from using acronyms that are not defined elsewhere in the specifications)
- Provide for an equitable award at the lowest possible cost

Specifications should be as simple as possible while maintaining the degree of exactness required to assure that bidders are offering the quality of goods and services required. Such exactness also prevents bidders from taking advantage of their competitors by not offering the quality of goods and level of service required by the City.

All specifications utilizing a name brand must include the term “or approved equal” to avoid being restrictive and eliminating fair competition from the bidding process.

Different methods of structuring specifications include:

- Qualified products on an acceptable vendor list
- Specification by blueprint or dimension sheet
- Specification by chemical analysis or physical properties
- Specification by performance, purpose or use
- Specification by identification with industry standards.
- Specification by samples

### 2.8.2 Cost

There are three cost areas to be considered in obtaining the lowest cost:

- Factors affecting the lowest ultimate cost:
  - A low price paid to a non-local vendor may be outweighed by transportation and packing charges.
  - A low price paid for a large quantity may be outweighed by the cost of storage and handling.
  - A low price obtained because of inferior materials could easily result in a higher cost due to unsatisfactory service and higher maintenance costs.
  - Vendor responsibility must be considered in determining ultimate cost.
  - All conditions being equal, the lowest price will be selected.
- Factors relating to determination of cost:
  - Price should have a reasonable relation to the cost of manufacturing and selling.
  - Prices should fluctuate with changes in market condition, created by supply and demand and other factors.
- Factors affecting net delivered cost:
  - Price quoted
  - F.O.B. point
  - Discount
  - Service offered by vendor
  - Delivery date

### **2.8.3 Quality**

As pertaining to purchasing, quality means suitability. It does not have to be the highest or best quality available, but should be the most suitable for the purpose intended. Obtaining the right quality means establishing the right specifications and inspecting delivered items for conformance to the specifications.

### **2.8.4 Quantity**

Quantity used in purchasing means ordering the amount of a given product that will provide the lowest price consistent with the cost of storing and handling. Some considerations involved in determining quantities to order are:

- Estimated quantity required for specific jobs or periods of time
- Price advantage involved in quantity purchase
- The cost of storage and storage space available
- Market trends
- The geographic location of the vendor which may affect the economy of quantity orders

## **2.9 Bid Protests**

Any party which is a prospective bidder, offeror, or contractor that may be aggrieved by the solicitation, must submit a written protest within five (5) calendar days prior to the opening of the Request for Bid, or Request for Proposal.

Any party which is an actual bidder, offeror, or contractor that may be aggrieved by the award of a contract, must submit a written protest within five (5) days of the City transmitting via fax, email or written communication, the announcement of the intent to award.

The protest must be addressed to the Purchasing Coordinator, City of Albemarle, P O Box 190, Albemarle NC 28002-0190, and must include all the following information:

- Name, address, telephone number, facsimile number and e-mail of the protester.
- Signature of the protester or authorized agent.
- The bid name and number.
- A detailed statement of the legal and factual grounds of protest including copies of relevant documents.
- Any supporting exhibits, evidence, or documents to substantiate any claims.
- All information establishing that the protester is an interested party for the purpose of filing a protest.
- The form of relief requested

After careful consideration of all relevant information, and consultation with City Management and / or City Attorney, the Finance Director shall make a written decision.

A decision of the Finance Director may be appealed to the City Manager or City Council, depending on the type of bid. An appeal must be in writing and be delivered to the City Manager, 144 North Second Street, Albemarle NC 28001, within seven (7) calendar days of the date that the Finance Director faxed, emailed, or submitted written communication of his / her decision

## **2.10 Public Records**

### **2.10.1 Online Resources**

The online Purchasing Module is integrated with the online Munis general ledger accounting system from which various forms of information and documentation can be retrieved to aid in budgeting, planning, payment information, and reporting requirements.

### **2.10.2 Invitation to Bid**

Bids received in response to an Invitation to Bid are subject to public inspections once they are opened and must be made available for inspection, subject to reasonable limitations necessary to maintain their integrity and to properly conduct the bidding procedure. Custody of the bids must be maintained to avoid any possibility that bids might be changed or that portions might be misplaced, removed, or altered.

Formal bids are public record once they are opened. State statutes provide an exception for information contained in a bid that meets the definition of a trade secret under State law, and that is so designated at the time the bid is submitted ([G.S. 132-1.2](#)) ([G.S. 66-152\(3\)](#)).

### **2.10.3 Request for Proposals**

Proposals submitted in response to a Request for Proposal for services are subject to public inspection once trade secret and confidential information issues have been resolved. Proposals submitted in response to a Request for Proposal for technology goods and services are not subject to public inspection until after the contract is awarded.

### **2.10.4 Informal Solicitations**

Informal solicitations are not subject to public inspection until after the contract is awarded. Information should not be disclosed verbally or otherwise to maintain confidentiality until after the award.

### **2.10.5 Records Retention and Disposition**

The retention and disposition of purchasing and contracting records will be governed in accordance with the Records Retention and Disposition Schedule – Municipal published by the North Carolina Department of Cultural Resources, as adopted by the City.

## **Section 3 – Non-Federal Procurement Methods and Procedures**

### **3.1 Discretionary Spending Under \$30,000**

It is the purchasing Department’s responsibility to exercise good judgement and fiscal control when procuring goods, services, or construction and repair contracts in this range. Multiple bids or quotes should be sought whenever feasible. Departments are to submit a requisition for any purchase over \$1,000 and attach at least 1 price quote. Once proper approvals are obtained the Purchasing Coordinator will issue the purchase order to encumber the funds and process the order.

### **3.2 Request for Proposals**

The purpose is to describe the City’s policy for the process used to purchase services, other than Professional Services, or a combination of information technology, goods and services which are classified as Request for Proposals.

Services are distinguished by the provision of personal performance rather than the delivery of a tangible item. Because competition is critical to public purchasing, it is the policy of the City to solicit competitive bids for services when it is in the best interest of the City. Considering the procurement of services is not governed by G.S. 143-129, City policy allows Departments to utilize any formal or informal method of procurement for services. The standard for services contracting should be based on the “best value” or best overall proposal or solution. Issuance of a Request for Proposals (RFP) is the preferred method used for service or technology contracts where specifications cannot be easily described in concrete terms and/or factors other than price need to be considered.

#### **3.2.1 Purchase of Information Technology Goods and Services [G.S. 143-129.8](#)**

In recognition of the complex and innovative nature of information technology goods and services and of the desirability of a single point of responsibility for contracts that include combinations of purchase of goods, design, installation, training, operation, maintenance, and related services, the City may contract for information technology, as defined in [G.S. 147-33.81\(2\)](#), using the procedure set forth in this section, in addition to or instead of any other procedure available under North Carolina law.

- Contracts for information technology may be entered into under a request for proposal procedure that satisfies the following minimum requirements:
  - Notice of the request for proposals shall be given in accordance with [G.S. 143-129\(b\)](#)
  - Contracts shall be awarded to the person or entity that submits the best overall proposal as determined by the City. Factors to be considered in awarding contracts shall be identified in the request for proposals.
- The City may use procurement methods set forth in [G.S. 143-135.9](#) in developing and evaluating requests for proposals under this section. The City may negotiate with any proposer in order to obtain a final contract that best meets the needs of the City. Negotiations allowed under this section shall not alter the contract beyond the scope of the original request for proposals in a manner that:
  - deprives the proposers or potential proposers of a fair opportunity to compete for the contract,

- and would have resulted in the award of the contract to a different person or entity if the alterations had been included in the request for proposals.
- Proposals submitted under this section shall not be subject to public inspection until a contract is awarded.

Department Manager, City Manager, or Designee approval is required for Information Technology Contracts for Goods or Purchases made directly through the State Office of Information Technology or under an optional request for proposal (RFP) procedure in the informal bid range.

Council Approval is required for Information Technology Contracts for Goods or Purchases (except if purchased from a State, Federal, or approved Cooperative agreement) in the formal bid range.

### 3.2.2 Determining “Best Value”

In determining “best value” in procurements, consider the following:

- The purchase price.
- The reputation of the vendor and the vendor’s goods and/or services.
- The quality of the vendor’s goods and/or services.
- The extent to which the goods and/or services meet City needs.
- The vendor’s past relationship with the City.
- The impact on the ability of the City to comply with the laws and rules regarding the procurement of goods and/or services.
- The total long-term cost to the City of acquiring the goods and/or services.
- The material used in repairing goods and/or property.
- Any other relevant factor regarding the particular good and/or service.

### 3.3 Informal Bidding

Informal bidding requirements apply to contracts for construction or repair work and to contracts for the purchase or lease-purchase of apparatus, supplies, materials, or equipment involving the expenditure of \$30,000 or more to up to the limits prescribed by the formal bidding requirement (\$500,000 for construction; \$90,000 for purchases). The threshold applies to the total contract, not each item, and contracts cannot be divided for the purpose of evading the bidding requirement [G.S. 143-133](#).

Informal bids must be awarded to the “lowest responsible, responsive bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract. The term “responsible” has been interpreted to imply “skill, judgment and integrity necessary to the faithful performance of the contract, as well as sufficient financial resources and ability”.

Records of quotes/bids/RFPs received must be kept and do not become subject to public inspection until after the contract is awarded.

Although North Carolina General Statutes do not require a minimum number of quotes or bids, the City of Albemarle requires that at least 3 informal quotes be solicited from prospective vendors.

### **3.3.1 Purchase (\$30,000 up to \$90,000) and Service Contracts (\$30,000 and above)**

Procurement of Information Technology goods and services must first be reviewed and approved by the Information Systems Director prior to following the procedures noted below.

#### **Procedures**

- Departments shall prepare and send a request for quotes or RFP (where applicable) to a minimum of three sources and allow vendors sufficient time to respond based on the complexity of the request.
  - When sufficient time to respond is unknown, a standard of five business days should apply.
  - Departments shall make all efforts to obtain price quotes/bids per the City's HUB policy when feasible.
- At least three informal quotes should be received by written submission or proper documentation should be provided by the Department justifying why less were received.
  - (e.g., sent out three requests, only received three responses)
- If a contract is required, Departments will be responsible for sending the contract to legal for review, where applicable.
- Departments shall submit a requisition for purchase and attach all documentation for the Purchasing Coordinator to review. (Quotes, justification of less than three, executed contracts, IT approval, contractor insurance (Service), etc.)
- Purchasing Coordinator will advise of any changes or approve the requisition to the next level.
- Approval of the Finance Officer, Deputy Finance Officer, City Manager, or designees where applicable, will be required.

### **3.3.2 Construction and Repair Contracts (\$30,000 up to \$500,000)**

Construction renovation or repair work per N.C. G.S. 143-131 of \$30,000 to \$499,999.99 to the formal limits established by [N.C. G.S. 143-129](#) shall be the responsibility of the Department Manager, the contracted engineer, the Purchasing Coordinator and other City officials as deemed necessary.

#### **Procedures**

- Departments and contracted engineers, where applicable, will prepare sufficient specification/scope of work and submit to the Purchasing Coordinator for review.
- The Purchasing Coordinator will ensure all state and local requirements have been met, such as:
  - Contractor licensing (over \$30,000)
  - E-verify
  - Non-Collusion Affidavit
  - Performance and Payment Bonds (100% of each contract \$50,000 for projects over \$300,000)
  - HUB participation (City goal of 10%)
  - Large Building construction contract requirements (engineered specs, separate specs, appropriate construction methods, and dispute resolutions)

- With approval of the Purchasing Coordinator, Departments and/or contracted engineers will send the bid package to a minimum of three sources and allow contractors sufficient time to respond based on the complexity of the request.
- At least three informal quotes/bids should be received by written submission or proper documentation should be provided by the Department justifying why less were received.
  - (e.g., sent out three requests, only received two responses)
- If a contract is required, Departments will be responsible for sending the contract to legal for review.
- Departments shall submit a requisition for purchase and attach all documentation for the Purchasing Coordinator to review. (quotes/bids, justification of less than three, executed contracts, etc.)
- The Purchasing Coordinator will advise of any changes or approve the requisition to the next level.
- Approval of the Finance Officer, Deputy Finance Officer, City Manager, or designees where applicable, will be required.

### 3.4 Formal Bidding ([G.S. 143-129](#))

In accordance with North Carolina General Statutes 143-129, the formal bidding requirement covers construction or repair contracts estimated to cost more than \$500,000 and the purchase of apparatus, supplies, materials, and equipment estimated to cost \$90,000 or more.

- The threshold applies to the estimated cost of the total contract not each item.
- The bidding requirements also cover lease-purchase contracts and leases containing an option to purchase.
- Contracts shall not be divided for the purpose of evading the bidding requirements. [G.S. 143-133](#)
- Where three (3) Formal Bids are required, documentation must be submitted sealed in a paper format, hand delivered or by mail, for purchases or construction or repair projects.
- North Carolina General Statutes [143-129\(e\)](#) provides “exceptions” from the Formal Bidding Requirements and allow you to purchase without bidding, advertising, or going to City Council. However, thought must be given to whether or not the procedure being considered is the best way to purchase the item(s) or if you can get a better buy (taking into account time/resource costs) through traditional bidding.

#### 3.4.1 Advertising for Bids ([G.S. 143-129](#))

##### Where?

Bidding opportunities must be advertised in a newspaper having general circulation in the jurisdiction for which we are seeking bids. Notice of bidding opportunities may also be provided by electronic means such as website posting. Advertising by electronic means requires the City Council to approve at a regular meeting.

##### When?

The advertisement must appear at least one time and at least seven (7) full days must lapse between the date on which the advertisement appears and the date of the opening of the bids. Where applicable,



an additional 10-day must be included to meet the requirements of the Historically Underutilized Business Program for construction or repair project.

#### What?

The advertisement must state the time and place where interested parties may obtain plans and specifications, specify the time and place for opening the bids, and reserve to the City Council the right to reject any or all bids.

### **3.4.2 Receipt and Opening of Bids, Form, Number of Bids ([G.S. 143-129](#), [143-129.9](#), [143-132](#); [132-1](#), [132-1.2](#))**

#### Public Opening

All proposals must be opened in public.

#### Sealed Bid

Formal Bids must be submitted sealed and cannot be opened prior to the advertised date and time of the bid opening. Knowingly opening a sealed bid or disclosing the contents of a bid without the permission of the bidder prior to the bid opening is a Class 1 misdemeanor.

#### Form

Bids for purchase contracts may be received either in paper form or electronically; bids for construction or repair projects must be received in paper form. Procedures for receiving purchase bids electronically must be designed to ensure the security, authenticity, and confidentiality of the bids to at least the same extent as is provided for with sealed paper bids.

#### Minimum Number

A minimum of three bids are required only for construction or repair contracts in the formal bidding range. If three bids are not received, the City must reject the bids received and re-advertise; if three bids are not received after the second advertisement, the City may open the bids and award the contract ([G.S. 143-132\(a\)](#)). No minimum number of bids is required for purchase contracts.

#### Public Records

Formal bids are subject to public inspection once they are opened. Trade secrets contained in bids are not public if properly identified at the time the bid is submitted.

### **3.4.3 Evaluating Bids, Negotiations When Bids Exceed Funds Available ([G.S. 143-129](#), [143-129.1](#), [143-129.9](#))**

#### Responsive Bid

Bids must be responsive, which means that they comply with all applicable laws and substantially meet the requirements of the specifications. The City cannot waive a defect in legal requirements, but may waive minor deviations (variations) from its specifications. However, the City is legally prohibited from waiving variations that are material. A material variation is one that, if waived, would give the bidder “an advantage or benefit which was not enjoyed by other bidders”. A bid that does not comply with all applicable legal requirements or that contains a material variation must be rejected as nonresponsive.

### Evaluation of Bids and Recommendation

Bids will be evaluated by the requesting Department staff and the architect or engineer where applicable.

### Tie-Bid

A tie-bid is one in which all things are equal in price, quality and content.

- To break a tie-bid, the following procedure(s) may be used in order to determine the winning bid:
  - NC Reciprocal Preference Law if all tied bidders are out-of-State. [G.S. 143-59](#)
  - North Carolina company selected over an out-of-state company
  - Best delivery, payment terms, or resources
  - If all still equal, then Coin-Flip with witnesses.

### Negotiations

The City may negotiate with bidders after bids are opened only in one instance. If all bid prices exceed funds available for the project or purchase, the City may enter into negotiations with the lowest responsive, responsible bidder making reasonable changes to the plans or specifications necessary to bring the contract price to within funds available if the bidder agrees to the changes. The City may then award the contract to that bidder.

### **3.4.4 Withdrawal of Bid Because of Error ([G.S. 143-129.1](#))**

Under G.S. 143-129.1, a bidder may request permission to withdraw his or her bid after the bid opening if the bidder can submit credible evidence that the bid was based on a mistake that constituted a substantial unintentional arithmetic error or unintentional omission, but not a judgment error, in the preparation of the bid. The request to withdraw must be made in writing no later than 72-hours after the opening of bids, unless a longer period has been specified in the instructions to bidders. If the City determines that the error meets the standard under the statute, the bid may be withdrawn. If not, the bidder forfeits his or her bid bond/deposit. A bidder who requests withdrawal cannot participate in the contract, even on re-advertisement.

### **3.4.5 Standards and Procedures for Awarding the Contract (G.S. 143-129)**

#### Responsible Bidder

The contract shall be made to the lowest responsible bidder, or bidders, taking into consideration quality, performance and the time specified in the proposals for the performance of the contract. The term responsible has been interpreted to imply skill, judgment and integrity necessary to the faithful performance of the contract, as well as sufficient financial resources and ability. The successful bid also must be responsive, meaning that it must comply with all applicable legal requirements and substantially conform to the City's specifications.

#### Award

Contracts for purchases and for construction or repair work in the formal bidding range must be awarded by the City Council to the lowest responsive responsible bidder taking into consideration quality, performance, and the time specified in the proposal for the performance of the contract.

The City Council may delegate to the manager or purchasing official, or both, the authority to award purchase contracts in the formal range, but it may not delegate such authority regarding contracts for construction or repair work.

Upon City Council approval of the recommendation, The Department Manager and or the architect or engineer will prepare the agreement for signature or a requisition will be initiated to create a purchase order to inform the successful bidder.

### **3.4.6 Contract Execution ([G.S. 143-129](#))**

#### *Execution*

All contracts that are subject to the formal bidding requirement must be executed in writing. There are no statutory provisions specifying who must execute the contract, so the City may authorize the official or employee of its choosing.

### **3.4.7 Purchase Contracts (\$90,000 and above)**

Procurement of Information Technology goods must first be reviewed and approved by the Information Systems Director prior to following the procedures noted below.

#### **Procedures**

- Departments shall prepare sufficient specifications and submit to the Purchasing Coordinator for review who will advise on any changes/updates necessary.
- The Purchasing Coordinator will assist Departments with compiling together the bid package and scheduling the bid opening date.
- The Purchasing Coordinator shall assist Departments with Advertising requirements (seven full days)
- After the bids have been received, opened, and evaluated, Departments shall recommend the lowest cost, responsive, responsible bid to council for approval.
- Departments shall submit a requisition for purchase and attach all documentation for the Purchasing Coordinator to review. (winning bid, council meeting minutes, etc.)
- Purchasing Coordinator will advise of any changes or approve the requisition to the next level.
- Approval of the Finance Officer, Deputy Finance Officer, City Manager, or designees where applicable, will be required.

### **3.4.8 Construction Contracts (\$500,000 and above)**

Construction contracts within the formal bid range of **\$500,000 or above**; per [NC.G.S. 143-129](#) shall be the responsibility of the Department Manager, the contracted engineer, the Purchasing Coordinator, and other City officials, as deemed necessary. These officials are responsible for specification development.

The Purchasing Coordinator shall be responsible for ensuring that all North Carolina General Statutes and local policies are satisfied, including, but not limited to newspaper advertisement, and receipt of sealed bids.

Three bids are required for construction or repair contracts in the formal bidding range. If three bids are not received, the City must reject the bids received and re-advertise; if three bids are not received after the second advertisement, the City may open the bids and award the contract ([G.S. 143-132\(a\)](#)). After the formal bidding process is completed, the Department Manager and or designee shall recommend to the City Council the lowest responsible responsive bidder deemed in the best interest of the City

Upon award of the contract by the City Council, the Department Manager shall initiate the contract or a requisition so that a purchase order can be generated to encumber the expenditure account and to inform the successful bidder(s).

## **Procedures**

- Departments and contracted engineers, where applicable, will prepare sufficient specification/scope of work and submit to the Purchasing Coordinator for review.
- The Purchasing Coordinator will ensure all state and local requirements have been met, such as:
  - Contractor licensing (over \$30,000)
  - E-verify
  - Non-Collusion Affidavit
  - Performance and Payment Bonds (100% of each contract \$50,000 for projects over \$300,000)
  - HUB participation (City goal of 10%)
  - Large Building construction contract requirements (engineered specs, separate specs, appropriate construction methods, and dispute resolutions)
  - Bid bond deposit (5%)
- The Purchasing Coordinator shall work with the Department to schedule the advertisement and public bid opening dates (seven full days).
- At least three formal bids are required. If three are not received, the package must be rebid.
- Departments shall provide the Purchasing Coordinator copies of all documentation and their recommendation for the winning bid.
- Department shall submit the recommendation for the winning bid to council for approval.
- With council approval, the contract shall be designed by the engineer and sent to legal for review, if applicable.
- Departments shall submit a requisition for purchase and attach all documentation for the Purchasing Coordinator to review. (winning bid, council meeting minutes, etc.)
- Purchasing Coordinator will advise of any changes or approve the requisition to the next level.
- Approval of the Finance Officer, Deputy Finance Officer, City Manager, or designees where applicable, will be required.

## **3.5 Exceptions to Non-Federal Competitive Bidding Requirements**

### **3.5.1 Purchase Contract Exceptions**

#### *Purchases directly from other governmental agencies*

Purchases made from agencies of the federal government, any state, and local governments in this or any other state, including purchases from government electronic bidding sites.

Competitive group purchasing programs.

Purchases made through a formally organized group purchasing program that offers competitively bid items at discount prices to two or more public agencies.

- Contact the Purchasing Coordinator for assistance and verification of the documents required with the Purchase Requisition to validate the competitive group purchasing program process being considered.
- Changes, updates, or adding additional items to a Cooperative Purchase Agreement or State Contract is not allowed unless the requested item(s) are available under the current Cooperative Purchase Agreement.
- Additional items being sought to be added to the original item(s) being considered on a Cooperative Agreement or State Contract must be bid if they are not available under the original Cooperative Agreement or State Contract.
- Where a Master Agreement is necessary and involves a multi-year contract for the purchase, City Council must approve the cooperative agreement purchase and the Master Agreement.

Purchases of gasoline, diesel fuel, alcohol fuel, motor oil, fuel oil, or natural gas

Although exempt from formal bidding requirements, informal bidding is required for any fuel purchase costing \$30,000 or more.

Sole source purchases

A contract under this exception requires City Council approval and applies only if performance or price competition for a product is not available, a needed product is available from only one source of supply, or standardization or compatibility is the overriding consideration.

Information technology

Information technology goods or services purchased directly through state Office of Information Technology or under an optional request for proposals (RFP) procedure.

State contract purchases.

Purchases from vendors under contract with a North Carolina state agency, so long as the vendor is willing to sell the same item under the same or more favorable prices, terms, and conditions as under the state contract.

Federal contract purchases.

Purchases from vendors under contract with a federal agency, as long as the vendor is willing to sell the same item under the same or more favorable prices, terms, and conditions as under the federal contract.

Used items

Purchases of used apparatus, supplies, materials, or equipment. This exception does not include remanufactured, refabricated, or demo items.

Previously bid or “piggybacking” contracts

A contract under this exception requires City Council approval at a regular meeting upon ten (10) days public notice, and the original contract must have been entered into within the previous twelve (12) months using competitive bidding procedures. This exception is only available for purchase contracts in the formal bidding range.

Purchase of goods and services from nonprofit work centers for the blind and severely disabled  
An eligible nonprofit work center must meet the definition of such an entity under [G.S. 143-48](#).

### **3.5.2 Construction and Repair Contract Exceptions**

#### Change order work

The term change order work is defined in [G.S. 143-129](#) as “construction or repair work undertaken during the progress of a construction or repair project initially begun pursuant to this section”.

#### Construction management at risk projects

These contracts are governed by [G.S. 143-128.1](#). The construction manager at risk must be a licensed general contractor, who provides construction management services and guarantees the total cost of the project, acts as the fiduciary of the City in handling and opening bids and in awarding contracts; plans and specifications must be drawn by a licensed architect or engineer who contracts directly with the City; must be selected based on qualifications, not estimated costs of the contract; contract costs can only be negotiated after the best qualified construction manager is initially selected.

#### Force account work (G.S. 143-135)

This entails work performed by full-time employees of the City where the total cost of the project does not exceed \$125,000 or the total cost of the labor does not exceed \$50,000. Competitive bidding requirements apply to materials purchased for this kind of project, and City Council approval of the work is required.

#### Projects using unemployment-relief labor

This exception applies whether the labor is paid for in whole or in part with state or federal funds.

#### Department of Transportation (DOT) contracts

Contracts entered into by the City with the North Carolina Department of Transportation (DOT) for street construction and repair of municipal streets.

### **3.5.3 Purchase and Construction and Repair Contract Exceptions**

#### Emergencies

Special emergency cases involving an imminent or actual threat to the health and safety of the people or their property. See section 5.7.

#### Guaranteed energy savings contracts

These contracts are subject to the requirements of [G.S. 143-64.17](#) through -64.17G.

#### Solid waste management facilities

The construction and operation of solid waste management facilities may be contracted for under an optional request for proposals (RFP) procedure.

## **3.6 Professional Services “Mini-Brooks Act”**

#### Announcement, Selection, Price

Requirements for architectural, engineering, and surveying services must be “announced”, and firms must be selected based on demonstrated competence and qualification without regard to fee other than

unit price information. Contract price cannot be solicited or provided during the request for qualifications (RFQ) process. Contract price can only be negotiated after the unit has evaluated proposals and determined which firm is the best qualified. If negotiations with the best qualified firm are not successful, the City may proceed to negotiate contract price with the second best qualified firm, and so on.

#### Good Faith Requirement

Good faith efforts must be used to notify minority firms of the opportunity to submit qualifications for consideration by the City.

#### Exemption – Contracts Involving Professional Fees under \$50,000. [G.S. 143-64.32](#)

The City may “in writing exempt particular projects” from the qualification-based selection requirement for contracts with an estimated professional fee of less than \$50,000. The exemption cannot be used for contracts where the estimated professional fee is \$50,000 or greater.

City Manager or Designee Approval is required for contracts less than \$50,000. City Council approval is required for contracts \$50,000 or more.

### **Procedures**

- Departments are to develop a scope of work/services needed and send to the Purchasing Coordinator for review.
- Department and the Purchasing Coordinator will develop the RFQ and plan the selection process, such as:
  - Establishing selection time frame
  - Establishing evaluation criteria and review committee
  - Compiling a list of Firms
  - Developing a review committee of qualified individuals
- Announcement of RFQ will be made
- Qualified firms will be evaluated by the review committee who selects a short list (3-5) of firms to be interviewed
- Short-list firms should be interviewed
- Final determination shall be made of the selected firm and City will enter into negotiations on contract pricing
- City Manager or City Council approval is required
- Departments shall submit a requisition and attach all documentation (executed contracts, RFQ documentation, etc.)

## **Section 4 - Federal Procurement Methods and Procedures**

City Contracts funded with Federal grant funds shall be procured in a manner that is in compliance with all applicable Federal laws, policies, and standards as well as State law and Local policies, *whichever is more restrictive*. (Federal Uniform Rules, 44 CFR Part 13, 22 CFR Chapter II Subpart D).

Federal procurement requirements can be found at: <https://www.law.cornell.edu/cfr/text/2/part-200>, Click on Subpart D – Post Federal Award Requirements, Procurement Standards will be found under Subject Group 31.

### **4.1 Purpose**

The purpose of this Policy is to establish guidelines that meet or exceed the procurement requirements for purchases of goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects when federal funds are being used in whole or in part to pay for the cost of the contract.

### **4.2 Policy**

#### Application of Policy

This policy applies to contracts for purchases, services, and construction or repair work funded with federal financial assistance (direct or reimbursed). The requirements of this Policy also apply to any sub-recipient of the funds.

All federally funded projects, loans, grants, and sub-grants, whether funded in part or wholly, are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal awards (Uniform Guidance) codified at [2 C.F.R. Part 200](#) unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds.

#### Compliance with Federal Law

All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procurement Standards codified in 2 C.F.R. § 200.317 through § 200-326 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. The City of Albemarle will follow all applicable local, state, and federal procurement requirements when expending federal funds. Should the City of Albemarle have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law.

#### Contract Award

All contracts shall be awarded only to the lowest responsive responsible bidder possessing the ability to perform successfully under the terms and conditions of the contract.

#### No Evasion

No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this Policy or state and federal law.



### Contract Requirements

All contracts paid for in whole or in part with federal funds shall be in writing. The written contract must include or incorporate by reference the provisions required under [2 C.F.R. § 200.326](#) and as provided for under [2 C.F.R. Part 200, Appendix II](#).

### Contractors' Conflict of Interest

Designers, suppliers, and contractors that assist in the development or drafting of specifications, requirements, statements of work, invitation for bids or requests for proposals shall be excluded from competing for such requirements.

### Approval and Modification

The administrative procedures contained in this Policy are administrative and may be changed as necessary at the staff level to comply with state and federal law.

## **4.3 General Procurement Standards**

Either the Purchasing Department or the Requesting Department shall procure all contracts in accordance with the requirements of this Section of the Policy.

### Necessity

Purchases must be necessary to perform the scope of work and must avoid acquisition of unnecessary or duplicative items. The Purchasing Department and/or the Requesting Department should check with the federal surplus property agency prior to buying new items when feasible and less expensive. Strategic sourcing should be considered with other departments and/or agencies who have similar needs to consolidate procurements and services to obtain better pricing.

### Clear Specifications

All solicitations must incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured, and shall include all other requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals. Technical requirements must not contain features that restrict competition.

### Notice of Federal Funding

All bid solicitations must acknowledge the use of federal funding for the contract. In addition, all prospective bidders or offerors must acknowledge that funding is contingent upon compliance with all terms and conditions of the funding award.

### Compliance by Contractors

All solicitations shall inform prospective contractors that they must comply with all applicable federal laws, regulations, executive orders, and terms and conditions of the funding award.

### Fixed Price

Solicitations must state that bidders shall submit bids on a fixed price basis and that the contract shall be awarded on this basis unless otherwise provided for in this Policy. Cost plus percentage of cost contracts are prohibited. Time and materials contracts are prohibited in most circumstances. Time and materials contracts will not be used unless no other form of contract is suitable and the contract includes a "Not to Exceed" amount. A time and materials contract shall not be awarded without express written permission of the federal agency or state pass-through agency that awarded the funds.

### Use of Brand Names

When possible, performance or functional specifications are preferred to allow for more competition leaving the determination of how they reached the required result to the contractor. Brand names may be used only when it is impractical or uneconomical to write a clear and accurate description of the requirement(s). When a brand name is listed, it is used as reference only and “or equal” must be included in the description.

### Lease versus Purchase

Under certain circumstances, it may be necessary to perform an analysis of lease versus purchase alternatives to determine the most economical approach.

### Dividing Contract for M/WBE Participation

If economically feasible, procurements may be divided into smaller components to allow maximum participation of small and minority businesses and women business enterprises. The procurement cannot be divided to bring the cost under bid thresholds or to evade any requirements under this Policy.

### Documentation

Documentation must be maintained by the Purchasing Department and/or the Requesting Department detailing the history of all procurements. The documentation should include the procurement method used, contract type, basis for contractor selection, price, sources solicited, public notices, cost analysis, bid documents, addenda, amendments, contractor’s responsiveness, notice of award, copies of notices to unsuccessful bidders or offerors, record of protests or disputes, bond documents, notice to proceed, purchase order, and contract. All documentation relating to the award of any contract must be made available to the granting agency upon request.

### Cost Estimate

For all procurements costing **\$250,000** or more, the Purchasing Department and/or Requesting Department shall develop an estimate of the cost of the procurement prior to soliciting bids. Cost estimates may be developed by reviewing prior contract costs, online review of similar products or services, or other means by which a good faith cost estimate may be obtained. Cost estimates for construction and repair contracts may be developed by the project designer.

### Contract Requirements

The Requesting Department must prepare a written contract incorporating the provisions referenced in Section II.C of this Policy.

### Debarment

No contract shall be awarded to a contractor included on the federally debarred bidder’s list.

### Contractor Oversight

The Requesting Department receiving the federal funding must maintain oversight of the contract to ensure that contractor is performing in accordance with the contract terms, conditions, and specifications.

### Open Competition

Solicitations shall be prepared in a way to be fair and provide open competition. The procurement process shall not restrict competition by imposing unreasonable requirements on bidders, including but not limited to unnecessary supplier experience, excessive or unnecessary bonding, specifying a

brand name without allowing for “or equal” products, or other unnecessary requirements that have the effect of restricting competition

#### Geographic Preference

No contract shall be awarded on the basis of a geographic preference.

### **4.4 Federal “Micro-Purchases”**

Purchase, service (except for A/E professional services), and construction and repair contracts costing less than \$10,000 shall be procured using the Uniform Guidance “micro-purchase” procedure ([2 C.F.R. § 200.320\(a\)](#)) as follows:

- The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
- To the extent practicable, purchases must be distributed among qualified suppliers.
- Departments are to submit a requisition for any purchase over \$1,000 and attach at least one price quote/bid.

### **4.5 Federal “Small Purchase”**

Purchase and Service Contracts (except for A/E professional services) costing \$10,000 up to \$90,000 and construction and repair contracts costing \$10,000 up to \$250,000 shall be procured using the Uniform Guidance “small purchase” procedure ([2 C.F.R. § 200.320\(b\)](#)) as follows:

- Cost or price analysis is not required prior to soliciting bids.
- Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under [2 C.F.R. § 200.321](#).
- Obtain price or rate quotes from an “adequate number” of qualified sources
  - A federal grantor agency might issue guidance interpreting “adequate number,” so the Requesting Department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued.
  - If there is no guidance from the federal grantor in interpreting the “adequate number” then “adequate number” will be at least three.
- Contracts must be in writing and include applicable UG contract provisions.
- Award the contract on a fixed-price basis (a not-to-exceed basis is permissible for service contracts where obtaining a fixed price is not feasible).
- Award the contract to the lowest responsive, responsible bidder.

#### **4.5.1 Purchase and Service Contracts (\$10,000 up to \$90,000)**

Procurement of Information Technology goods and services must first be reviewed and approved by the Information Systems Director prior to following the procedures noted below.

## Procedures

- Departments shall prepare and send a request for quotes or RFP (where applicable) to a minimum of three sources and allow vendors sufficient time to respond based on the complexity of the request.
  - When sufficient time to respond is unknown, a standard of five business days should apply.
  - Departments shall make all efforts to obtain price quotes/bids per the City's HUB policy when feasible.
- At least three informal quotes should be received by written submission or proper documentation should be provided by the Department justifying why less were received.
  - (e.g., sent out three requests, only received two responses)
- Departments will be responsible for sending the contract to legal for review. **Contracts must be in writing and include applicable UG contract provisions and awarded on a firm fixed-price basis.**
- Departments shall submit a requisition for purchase and attach all documentation for the Purchasing Coordinator to review. (Quotes, justification of less than three, executed contracts, IT approval, contractor insurance (Service), etc.)
- Purchasing Coordinator will advise of any changes or approve the requisition to the next level.
- Approval of the Finance Officer, Deputy Finance Officer, City Manager, or designees where applicable, will be required.

### 4.5.2 Construction and Repair Contracts (\$10,000 up to \$250,000)

- Departments and contracted engineers, where applicable, will prepare sufficient specification/scope of work and submit to the Purchasing Coordinator for review.
- The Purchasing Coordinator will ensure all state and local requirements have been met, such as:
  - Contractor licensing (over \$30,000)
  - E-verify
  - Non-Collusion Affidavit
  - HUB participation (City goal of 10%)
  - Large Building construction contract requirements (engineered specs, separate specs, appropriate construction methods, and dispute resolutions)
- With approval of the Purchasing Coordinator, Departments and/or contracted engineers will send the bid package to a minimum of three sources and allow contractors sufficient time to respond based on the complexity of the request.
- At least three informal quotes/bids should be received by written submission or proper documentation should be provided by the Department justifying why less were received.
  - (e.g., sent out three requests, only received two responses)
- Departments will be responsible for sending the contract to legal for review. **Contracts must be in writing and include applicable UG contract provisions and awarded on a firm fixed-price basis.**
- Departments shall submit a requisition for purchase and attach all documentation for the Purchasing Coordinator to review. (quotes/bids, justification of less than, executed contracts, etc.)

- The Purchasing Coordinator will advise of any changes or approve the requisition to the next level.
- Approval of the Finance Officer, Deputy Finance Officer, City Manager, or designees where applicable, will be required.

#### 4.6 Federal Formal Bidding “Sealed Bid”

Purchase and service (except for A/E professional services) contracts costing \$90,000 and above shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures ([G.S. 143-129](#)). Construction and repair contracts costing \$250,000 up to \$500,000 shall be procured using the Uniform Guidance “sealed bid” procedure ([2 C.F.R. § 200.320\(c\)](#)). Construction and repair contracts costing \$500,000 and above shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure ([2 C.F.R. § 200.320\(c\)](#)) and state formal bidding procedures ([G.S. 143-129](#)).

- Cost or price analysis is required prior to soliciting bids. Cost or price analysis may be provided by a project designer or engineer, where applicable.
- Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under [2 C.F.R. § 200.321](#).
- Complete specifications or purchase description must be made available to all bidders.
- The bid must be formally advertised in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for “sound documented reasons.”
- Contracts must be in writing and include applicable UG contract provisions.
- Construction and Repair contracts require a 5% bid bond is required of all bidders. Performance and payment bonds of 100% of the contract price is required of the winning bidder.
- Open bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed.
- **A minimum of two bids must be received in order to open all bids** for purchase and service contracts over \$90,000 and construction and repair contracts up to \$500,000.
- **A minimum of three bids must be received in order to open all bids** for construction and repair contracts over \$500,000.
- Award the contract to the lowest responsive, responsible bidder on a fixed-price basis. Governing board approval is required for purchase contracts over \$90,000 unless the governing board has delegated award authority to an individual official or employee. Governing board approval is required for construction and repair contracts over \$500,000 and cannot be delegated Any and all bids may be rejected only for “sound documented reasons.”

*Note Regarding Service Contracts costing \$90,000 up to \$250,000: Local government service contracts are not subject to state competitive bidding requirements. If a local government does not require competitive proposals (RFPs) for service contracts under its local policy, it may choose to follow the UG small purchase procedure for service contracts costing \$10,000 up to \$250,000, and then follow the UG sealed bid or competitive proposal method for service contracts costing \$250,000 or more. If the local policy regarding service contracts is more restrictive, the local policy should be followed.*

#### **4.6.1 Purchase and Service Contracts (\$90,000 and above)**

Procurement of Information Technology goods must first be reviewed and approved by the Information Systems Director prior to following the procedures noted below.

##### **Procedures**

- Departments shall prepare sufficient specifications **and cost or price analysis** prior to submitting to the Purchasing Coordinator for review who will advise on any changes/updates necessary.
- Departments shall take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under [2 C.F.R. § 200.321](#)
- The Purchasing Coordinator will assist Departments with compiling together the bid package and scheduling the bid opening date.
- The Purchasing Coordinator shall assist Departments with advertising requirements (seven full days)
- **At least two sealed bids are required.** If two are not received, the package must be rebid.
- After the bids have been received, opened, and evaluated, Departments shall recommend the lowest cost, responsive, responsible bid to council for approval.
- The contract shall be sent to legal for review. **Contracts must be in writing and include applicable UG contract provisions and awarded on a firm fixed-price basis.**
- Departments shall submit a requisition for purchase and attach all documentation for the Purchasing Coordinator to review. (winning bid, council meeting minutes, etc.)
- Purchasing Coordinator will advise of any changes or approve the requisition to the next level.
- Approval of the Finance Officer, Deputy Finance Officer, City Manager, or designees where applicable, will be required.

#### **4.6.2 Construction and Repair Contracts (\$250,000 up to \$500,000)**

##### **Procedures**

- Departments and contracted engineers, where applicable, will prepare sufficient specification/scope of work (**including cost or price analysis**) and submit to the Purchasing Coordinator for review.
- The Purchasing Coordinator will ensure all state, federal, and local requirements have been met, such as:
  - Contractor licensing (over \$30,000)
  - E-verify
  - Non-Collusion Affidavit

- Performance and Payment Bonds (100% of the winning bidder)
- HUB participation (City goal of 10%)
- Affirmative steps to solicit price quote from M/WBE vendors
- Large Building construction contract requirements (engineered specs, separate specs, appropriate construction methods, and dispute resolutions)
- Bid bond deposit (5%) of all bidders
- The Purchasing Coordinator shall work with the Department to schedule the advertisement and public bid opening dates (seven full days).
- **At least two sealed bids are required.** If two are not received, the package must be rebid.
- Departments shall provide the Purchasing Coordinator copies of all documentation and their recommendation for the winning bid.
- The contract shall be designed by the engineer and sent to legal for review. **Contracts must be in writing and include applicable UG contract provisions and awarded on a firm fixed-price basis.**
- Departments shall submit a requisition for purchase and attach all documentation for the Purchasing Coordinator to review. (winning bid, executed contract, etc.)
- Purchasing Coordinator will advise of any changes or approve the requisition to the next level.
- Approval of the Finance Officer, Deputy Finance Officer, City Manager, or designees where applicable, will be required.

#### 4.6.3 Construction and Repair Contracts (\$500,000 and above)

##### Procedures

- Departments and contracted engineers, where applicable, will prepare sufficient specification/scope of work (**including cost or price analysis**) and submit to the Purchasing Coordinator for review.
- The Purchasing Coordinator will ensure all state, federal, and local requirements have been met, such as:
  - Contractor licensing (over \$30,000)
  - E-verify
  - Non-Collusion Affidavit
  - Performance and Payment Bonds (100% of the winning bidder)
  - HUB participation (City goal of 10%)
  - Affirmative steps to solicit price quote from M/WBE vendors
  - Large Building construction contract requirements (engineered specs, separate specs, appropriate construction methods, and dispute resolutions)
  - Bid bond deposit (5%) of all bidders
- The Purchasing Coordinator shall work with the Department to schedule the advertisement and public bid opening dates (seven full days).
- **At least three sealed bids are required.** If three are not received, the package must be rebid.
- After the bids have been received, opened, and evaluated, Departments shall recommend the lowest cost, responsive, responsible bid to council for approval.
- Departments shall provide the Purchasing Coordinator copies of all documentation and their recommendation for the winning bid.

- The contract shall be designed by the engineer and sent to legal for review. **Contracts must be in writing and include applicable UG contract provisions and awarded on a firm fixed-price basis.**
- Departments shall submit a requisition for purchase and attach all documentation for the Purchasing Coordinator to review. (winning bid, executed contract, council meeting minutes, etc.)
- Purchasing Coordinator will advise of any changes or approve the requisition to the next level.
- Approval of the Finance Officer, Deputy Finance Officer, City Manager, or designees where applicable, will be required.

## **4.7 Federal “Competitive Proposal”**

### **4.7.1 Service Contracts (\$250,000 and above)**

Service Contracts (except for A/E professional services) costing \$250,000 and above may be procured using the Uniform Guidance “competitive proposal” procedure ([2 C.F.R. § 200.320\(d\)](#)) when the “sealed bid” procedure is not appropriate for the particular type of service being sought. Before using the competitive proposal procedure, confirm with the federal grantor agency. The procedures are as follows:

- Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under [2 C.F.R. § 200.321](#).
- A Request for Proposals (RFP) must be publicly advertised. Formal advertisement in a newspaper is not required so long as the method of advertisement will solicit proposals from an “adequate number” of qualified firms.
- Identify evaluation criteria and relative importance of each criteria (criteria weight) in the RFP.
- Consider all responses to the publicized RFP to the maximum extent practical.
- Must have a written method for conducting technical evaluations of proposals and selecting the winning firm.
- Award the contract to the responsible firm with most advantageous proposal taking into account price and other factors identified in the RFP. Governing board approval is not required.
- Award the contract on a fixed-price or cost-reimbursement basis.

### **4.7.2 Professional Services (Less Than \$250,000)**

Contracts for Architectural and Engineering Services costing under \$250,000 shall be procured using the state “Mini-Brooks Act” requirements ([G.S. 143-64.31](#)) as follows:

- Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided for under [2 C.F.R. § 200.321](#).
- Issue a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
- Evaluate the qualifications of respondents based on the evaluation criteria developed by the Purchasing Coordinator and/or Requesting Department.
- Rank respondents based on qualifications and select the best qualified firm. Price cannot be a factor in the evaluation. Preference may be given to in-state (but not local) firms.



- Negotiate fair and reasonable compensation with the best qualified firm. If negotiations are not successful, repeat negotiations with the second-best qualified firm.
- Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated.
- Governing board approval is required for contracts greater than \$50,000. City Manager approval is required for contracts less than \$50,000.

#### **4.7.3 Professional Services (\$250,000 and above)**

Contracts for Architectural and Engineering Services costing \$250,000 or more shall be procured using the Uniform Guidance “competitive proposal” procedure ([2 C.F.R. § 200.320\(d\)\(5\)](#)) as follows:

- Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under [2 C.F.R. § 200.321](#).
- Publically advertise a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
- Identify the evaluation criteria and relative importance of each criteria (the criteria weight) in the RFQ.
- Proposals must be solicited from an “adequate number of qualified sources” (an individual federal grantor agency may issue guidance interpreting “adequate number”).
- Must have a written method for conducting technical evaluations of proposals and selecting the best qualified firm.
- Consider all responses to the publicized RFQ to the maximum extent practical.
- Evaluate qualifications of respondents to rank respondents and select the most qualified firm. Preference may be given to in-state (but not local) firms provided that granting the preference leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project.
- Price cannot be a factor in the initial selection of the most qualified firm.
- Once the most qualified firm is selected, negotiate fair and reasonable compensation. If negotiations are not successful, repeat negotiations with the second-best qualified firm.
- Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated.
- Governing board approval is required.

#### **4.8 HUD Regulations and Public Housing**

In addition to the procedures noted above for federal procurement methods, Public Housing is responsible for following all HUD regulations that include the ACC, HUD Handbook requirements, and 24 CFR. Additionally, Capital Funds must follow the guidance and regulations set forth in the Capital Fund Guidebook. In instances where HUD guidance is more restrictive than the Uniform Guidance procedures noted above, HUD requirements should be followed unless given written approval from the Local Field Office.

#### 4.8.1 HUD Clips

Detailed explanations of the procurement policies and procedures for Public Housing are identified in the following publications:

- Code of Federal Regulations 24 CFR 85.36
- HUD Handbook 7460.8, Rev 2, Procurement
- Capital Funds Guidebook, PID-2016

In addition, information concerning Public Housing procurement policies and procedures can be obtained from [https://www.hud.gov/program\\_offices/administration/hudclips](https://www.hud.gov/program_offices/administration/hudclips).

#### 4.9 Exceptions to Non-Federal Bidding Requirements

Non-competitive contracts are allowed *only* under the following conditions and with the written approval of the federal agency or state pass-through agency that awarded the federal funds:

##### Sole Source.

A contract may be awarded without competitive bidding when the item is available from only one source. The Purchasing Department and/or Requesting Department shall document the justification for and lack of available competition for the item. A sole source contract must be approved by the governing board.

##### Public Exigency

A contract may be awarded without competitive bidding when there is a public exigency. A public exigency exists when there is an imminent or actual threat to public health, safety, and welfare, and the need for the item will not permit the delay resulting from a competitive bidding. See section 5.7.

##### Inadequate Competition

A contract may be awarded without competitive bidding when competition is determined to be inadequate after attempts to solicit bids from a number of sources as required under this Policy does not result in a qualified winning bidder.

##### Federal Contract

A contract may be awarded without competitive bidding when the purchase is made from a federal contract available on the U.S. General Services Administration schedules of contracts.

##### Awarding Agency Approval

A contract may be awarded without competitive bidding with the express written authorization of the federal agency or state pass-through agency that awarded the federal funds so long as awarding the contract without competition is consistent with state law.

## **Section 5 – Special Procurement Procedures**

### **5.1 Change Orders**

#### **5.1.1 Purchase Orders**

In order to change, modify, or cancel an existing Purchase Order, a Change Order request in writing, must be completed and provided by the requesting department with the Department Manager's or designee approval. All pertinent information needed to make changes should be completed. The Change Order is to be forwarded to the Purchasing Division for updates to the Purchase Order and subsequent submittal of the revised order to the requesting Department and Vendor where applicable.

In the event that the price of any item or services increases, the Seller must receive prior authorization from the City before incurring additional cost. If prior authorization is not received for the additional costs, then the City of Albemarle will only be responsible for the cost the City of Albemarle approved in the quote. The seller will remain responsible for all costs not previously authorized by the City of Albemarle.

Verbal authority to increase a Purchase Order is not allowed. Department Managers do not have the authority to advise a vendor to proceed without the authorization of a new updated Purchase Order issued by the Finance Department.

If the change order does not increase the Purchase Order over \$2,500, the Department Manager may approve the update in writing to the Finance Department.

If the change order total is over \$2,500, or if the Purchase Order is already over \$2,500, the City Manager must approve the increase in writing.

#### **Purchase Order Change Orders are Not Allowed For:**

- Requests that would alter the procurement procedures that were used in the original process (e.g. from informal to formal).
- After the scope of services has been rendered or materials have been received.
- The change would transfer the order from one vendor to another.
- The change would place the order over the amount budgeted for that
- Purchase without proper approval.
- That would increase a Blanket Purchase Order.
- Adding new items or services to the Purchase Order.

The Department Manager, Finance Director, and the City Manager where applicable, must approve Change Orders for purchases and/or contracts for capital projects / outlay that exceed originally allocated funds.

#### **5.1.2 Construction and Repair Contracts**

Change Orders are used for construction and repair contracts to make additions, deletions, or revisions of materials.

Contracts can be amended for the following reasons:

- Changes in dates of the agreement
- Change in scope of work/services
- Change in compensation

Change Orders must be in writing and apply to all construction contracts to include both informal and formal construction projects.

The contractor, architect, engineer, or the City may initiate a Change Order.

The contract must provide a detailed breakdown of the proposed price increase, or decrease, to demonstrate there are no omissions or unwarranted extras built into the changed price.

If additional funding is required, the Pre-Audit Statement shall appear on the Change Order.

Change Order approvals are as follows:

- The City Manager is authorized to execute change orders to contracts that are minor changes which will not affect an increase in price. The City Manager may delegate approval of Change Orders to the Project Manager for construction contracts that do not increase the contract cost.
- The City Manager is authorized to execute change orders on construction projects in amounts up to \$20,000 providing that sufficient funds are available to cover any increase cost of the contract. All parties must agree upon such change.
- All Change Orders \$20,001 and above require City Council Approval. In addition, any change orders in which funds are not available within the project's budget require City Council approval.

Distribution of the final approval Change Order will be as follows:

- Finance Department (original copy)
- Purchasing Division (original copy)
- Architect/Engineer (if applicable, original copy)
- Contractor (original copy)

## **5.2 Petty Cash Expenditures**

A Petty Cash fund has been established for the purchase of expendable items up to **\$50**. When expenditures are made, receipts are submitted to the petty cash custodian who prepares vouchers for reimbursement

## **5.3 Procurement Card (P-Card)**

The Procurement Card and the Credit Card do not replace the Purchase Order System. Purchase Orders will continue to be issued for single item transaction costs of **\$1,000.00** or more, and transactions that require bidding and capital items; and shall not be used to circumvent the spirit of the City of Albemarle's Purchasing or Travel Policy and Procedures.

The User's Procurement Card Credit Limit will be encumbered at the beginning of the fiscal year for one month to be carried forward to June 30.

The procurement card program was established to provide a rapid turnaround of requests for the purchase of low-dollar-value goods and services and to reduce the handling costs associated with the process, rather than making multiple small payments to many vendors, the City writes one check to the bankcard issuer; allowing authorized employee cardholders to initiate transactions in person, by telephone, or the Internet within the parameters established on each employee's card.

Authorized employees must reconcile the online monthly bank statement and submit the statement along with the accompanying receipts for all procurement card purchases to the Department Manager for their approval at the end of the month. Orders that do not generate receipts shall be evidenced by a catalog page and supplemented by any documentation that becomes available once the transaction is complete. The approved packet must be submitted to Accounts Payable for payment.

Undocumented transactions (transactions turned in to be paid without a receipt) are not allowed and will be considered personal transactions. If the employee does not have documentation of a transaction listed on the monthly statement, he/she shall attach an explanation that includes a description of the item(s) purchased, date of purchase, vendor's name, and reason for the lack of documentation. The Finance Director may request additional information or may disallow the transaction and the employee will be personally responsible for the transaction amount.

Specific controls unique to the cardholder are encoded to the procurement card as specified by the Department Manager. Additional updates to the procurement card can be requested by completing a procurement card maintenance form, signed by the Department Manager, and then submitted to the Finance Department for processing.

Prior to issuance of the Procurement Card, the new cardholder must attend an educational training session with a procurement card administrator. Information pertaining to the policies and procedures, reconciling the monthly statement, and consequences for improper use will be discussed. The Cardholder's Agreement must be read and signed to acknowledge that the rules are understood.

***The procurement card is unique to the cardholder, and is embossed with the employee's name and Department. No other person is authorized to use the card.***

Use of the procurement card shall be limited to the following conditions:

- Payment for a purchase will not be split into multiple transactions to stay within the single purchase limit.
- All items purchased over the counter must be immediately available at the time of the procurement card use. No back ordering of merchandise is allowed.

The procurement card shall not be used for the following:

- Personal purchase or identification
- A single purchase of goods or services that exceeds the purchase limit
- Cash advances

Procurement card statements are subject to both randomly applied and risk-based reviews by designated Finance staff.

Sales Tax should be charged where applicable.

## **5.4 Blanket Purchase Orders**

A Blanket Purchase Order may be issued to selected vendors for the procurement of large volume items or annual services. Blanket Purchases should not be used for items normally carried in stock.

Requests for Blanket Purchase Orders must, in addition to the required information, indicate the items covered by the Blanket Purchase Order and a Not-to-Exceed amount. The issued Purchase Order will instruct the vendor that unauthorized purchases will not be allowed. The Department Manager is to provide a list of authorized employees who are permitted to execute a purchase under the Blanket Purchase Order. It is the responsibility of the individual authorized to purchase under a Blanket Purchase Order to ensure adequate funds are available for purchases. Any purchase exceeding the funds available under a Blanket Purchase Order will be classified as an unauthorized purchase.

The vendor's packing slip or invoice must indicate the Purchase Order number and be signed by an authorized City employee and include the appropriate general ledger account number. Departments will forward the packing slip or invoice immediately to Accounts Payable for payment.

Blanket Purchase Orders are only valid for the current fiscal year for which they are entered.

## **5.5 Grants**

When using Federal or State grant funds, applicable State statutes, Federal rules, and local policies must be followed. An exception to Competitive procurement requires that authorization be obtained from the Awarding Agency.

- Grant Applications without a Match or Match less than \$20,000 can be approved by the City Manager, Department Manager, or Designee.
- Grant Applications with a Match of \$20,000 or more are approved by City Council.
- Grant Awards and Grant Agreements can be approved by the City Manager, Assistant Manager, or Designee.

## **5.6 Environmental Purchasing**

### Purpose

The City of Albemarle supports the purchase of recycled and environmentally preferred products in order to minimize environmental impacts relating to the work of City employees and the Citizens of the City. In addition, to recycle all materials that would otherwise become solid waste and return them to the economic mainstream in the form of raw material for new, reused, or reconstituted materials.

To recycle as many items as possible to conserve energy consumption and cost. Items to be recycled instead of discarded include but are not limited to scrap metals, pallets, aluminum cans, plastics, white and mixed paper, toner cartridges, batteries, cardboard, etc.

## Procedure

- The City will evaluate and procure recycled products whenever economically feasible.
- Research information about environmentally preferred and or recycled products.
- Develop specifications used in bidding to include recycled materials or environmental alternatives where feasible.
- Practice waste prevention whenever possible by recycling paper, toner cartridges, batteries, cardboard, etc.
- Reclaim and sell all scrap metals, computers, and other products that do not sell as surplus.

### 5.7 Emergency Purchases (G.S. 143-129(e)(2))

The North Carolina Supreme Court has interpreted the emergency exception to the bid statutes very narrowly, and the situations in which it may legitimately be used are rare. The requirements for evoking the emergency exemption are as follows:

- The emergency must be present, immediate and existing;
- The harm must be one that cannot be averted through temporary measures; and
- The emergency cannot be self-created due to failure to take precautions.

Bidding is not required in cases of special emergency involving the health and safety of the people or the City's property. This exception applies to both purchases and construction or repair contracts. The exception will be available legitimately only in rare circumstances. The emergency must be present, immediate, and existing and cannot be a situation that is merely anticipated to arise in the future. If the condition can be foreseen in time to take action to prevent harm to the public (or if the required bidding procedure can be completed before any harm would occur), the emergency exception cannot be invoked.

If harm to the public can be averted through temporary measures while proper bidding is being conducted, the emergency exception cannot be used to avoid bidding.

Failure to take proper precautions to prevent the need for an expedited contract or purchase will not be accepted as justification for exemption from the bidding requirements.

If reimbursement is expected from federal or state aid sources, emergency contracts for goods or services should be structured to comply with the requirements of those agencies as these agencies will require competition for emergency contracts that are not otherwise subject to bidding under state law.

Where an emergency does exist, the City Council should adopt a resolution settling out the facts constituting the emergency (either before or as soon as possible after the purchase).

In case of a declared approved emergency, the Department Manager may purchase directly, from any vendor, supplies or services whose immediate procurement is essential to prevent delays in work that may affect the life, health, and safety of the City of Albemarle employees or citizens.

The user department shall exercise good judgment and use established vendors when making approved emergency purchases. Always obtain the best possible price and limit purchases to those items

emergency related. Emergency orders are always costly, as vendors usually charge top prices if supplies or services must be obtained on an emergency basis. **Not anticipating needs does not constitute an emergency.**

The Procurement Card may also be utilized by authorized Employees for emergency purchases.

During business hours, the following procedure should be used for emergency purchases:

- Contact the Purchasing Coordinator at 704-984-9444 for assistance and give all pertinent information requested to obtain an immediate Purchase Order.
- The information needed will include vendor name, item(s) to be purchased, quantities, expenditure account to which the item(s) will be charged, and the reason for the emergency purchase.
- After approval from the Finance Director regarding the Pre-Audit, verifying available funds, a Purchase Order will be issued for the expenditure.

After business hours, the following procedures should be used for emergency purchases:

- The emergency purchase must be authorized by the Department Manager or their designee.
- The packing slip or invoice received should be coded with the amount to be charged, the account number(s), signed, and submitted to Accounts Payable with a brief explanation of the nature of the emergency attached the morning of the next business day.

Procurement Card expenditures for emergency purchases are subject to reconciliation with the Employee's Monthly Online Bank Statement.

Emergency purchases, although sometimes necessary, are costly in both time and money. The use of emergency procedures should be limited and will be monitored for abuse.



## **Section 6 – Delivery and Performance**

### **6.1 Central Warehouse Supplies**

An effort is made to keep in stock those items most commonly used by all Departments at the City of Albemarle, Service Center, 704 Arlington Avenue, Albemarle NC 28001. Supplies include but are not limited to standardized printed forms bearing the City's Logo such as window and plain envelopes and copy paper. An Inventory List of the commodities available can be obtained by contacting the Warehouse at 704-984-9683. Department representatives may pick up the items from the Warehouse between the hours of **8:00 a.m. to 3:00 p.m.**

If a Department has a recurring need for a particular item that is not stocked in the Warehouse, the request may be coordinated with the Warehouse Supervisor who shall be responsible for maintaining the supply and notification of restocking requirements when applicable.

The Request to Stock request should provide the following information:

- A thorough description of the item requested. When possible, provide catalog data, drawings, or pictures.
- Recommended initial order quantity. The quantity expected to be consumed in a 90-day period.
- Recommended minimum stocking quantity. The critical minimum quantity point that if stock was lower than this quantity, your performance would be compromised.
- Adjusted minimum/maximum numbers for current item. If the item requested will be used in addition to a current item, advise with the new stocking quantities of the current item.

### **6.2 Receipt, Inspection, Testing and Acceptance of Goods**

The ordering Department is responsible for the receipt, inspection, and acceptance of all goods and services; and ensuring that sufficient data is provided to ascertain the date, quantity, description, and condition of the items received. Copies of the receiving report should be maintained by the ordering Department. For construction projects, the engineer overseeing the project will issue a report certifying that construction has been completed and approved.

If goods and materials are to be delivered to the City of Albemarle – Warehouse, it must be noted on the Purchase Order that the Delivery needs to occur between the **Hours of 8:00 a.m. to 3:00 p.m.**

When the ordered goods and services are received, inspected, and accepted, the ordering Department should sign and date the Department / Receiving Copy of the Purchase Order, attach the Vendor's Invoice, and submit to Accounts Payable for payment.

#### **6.2.1 Partial Shipments**

If the vendor cannot complete the order in one shipment, it may be necessary to partial ship the goods or services. Partial Shipment information should be logged online using the Munis Purchase Order Receiving Module. Repeat this step for each subsequent partial delivery until the order is completed. When the last item has been received, sign and date the original Department / Receiving copy of the

Purchase Order, attach the applicable original invoice(s), then forward to Accounts Payable for payment.

When the ordering Department receives a partial delivery of an order and finds that the balance of the order is not needed, the Department shall notify the purchasing office in writing and request cancellation of the remaining balance, provided the complete order has not yet been shipped and the vendor is in agreement.

### **6.2.2 Non-Performance**

If the vendor fails to meet the requirement(s) of the specification or terms and conditions of the contract or Purchase Order, the vendor can be cited for non-performance. The seriousness of non-performance will be evaluated based upon the circumstances of each violation.

### **6.2.3 Inspection and Testing**

Life and safety, as well as successful operation of expensive equipment and supplies, may depend upon how well a purchased item meets its design and performance specifications.

Goods and materials should be checked at the time of receipt for damage or defects. The inspection should include assuring goods comply with the specifications. If damage is found or the goods fail to comply with the specifications, the item(s) may be subject to rejection as outlined below:

### **6.2.4 Rejection**

In order to protect the City's right in the event the goods are rejected, the Department Manager or designee shall contact the vendor immediately. The ordering Department is responsible for coordinating the return of goods to the vendor and negotiating credit or cancellation of the invoice. Reasons for the rejection must be documented and communicated to the vendor, and attached to the purchase order in a timely manner.

If the order is not to be replaced by the vendor, the Department should submit a written request to the purchasing office to cancel the purchase order.

### **6.2.5 Damaged Goods**

One of the major reasons for immediately inspecting the goods or materials upon receipt is to detect any visible damage. When it is apparent that the extent of the damage causes the goods to be worthless, they will not be accepted. If the damage is not apparent until after the goods have been accepted, the Department Manager or designee will notify the vendor of the reason for the rejection. It is necessary that all damage, including evidence of concealed damage, shall be documented by memo and attached to the Purchase Order.

### **6.2.6 Latent Defects**

Latent defects may be the result of damage in transit or failure of the manufacturer to conform to the specifications. Consequently, it is often difficult to fix responsibility for the defective material. If

specific liability for the defect cannot be determined between the carrier, the vendor, or the manufacturer, the City may file a claim against all parties.

### **6.3 Payment of Vendor Invoices**

When possible, all material will be received F.O.B. City of Albemarle. When all items are delivered and inspected, the Department / Receiving Copy should be prepared and submitted to Accounts Payable with a copy of the Vendor Invoice(s) for processing.

## **Section 7 – Delegation of Authority for Contracts**

Delegation of Award, Approval, and Signature Authority, in the order listed, for Contracts is set forth below for designated City Staff:

Designee:

- Where the Mayor’s Signature is required the Designee may be the Mayor Pro-Tem, another Councilmember, or City Manager
- Where the City Manager’s Signature is required the Designee may be the Assistant City Manager, Department Manager, Assistant Department Manager, or Chief Purchasing Official
- Where the Department Manager’s Signature is required the Designee may be the Assistant Department Manager, Staff Member in a Supervisory role and working closely with the project or process, or the Chief Purchasing Official

EXAMPLE:

Grant Applications without a Match or Match less than \$20,000

Who Decides to Accept the Grant Award:

- The City Manager has the PRIMARY CONTRACT AWARD AUTHORITY
  - If the City Manager is not available, then the Award Authority goes to the Department Manager.
  - If neither the City Manager nor the Department Manager is available to accept the Grant Award then the Designee may be the Assistant City Manager, Assistant Department Manager, or Chief Purchasing Official (As delegated by the City Manager)

Who Signs the Grant Award:

- The City Manager has the PRIMARY CONTRACT SIGNATURE AUTHORITY to Sign the Grant Award
  - If the City Manager is not available, then the Signature Authority goes to the Assistant City Manager.
  - If neither the City Manager nor the Assistant City Manager is available then the Signature Authority Designee may be the Department Manager, Assistant Department Manager, or Chief Purchasing Official (As delegated by the City Manager)

## DELEGATION OF AUTHORITY FOR CONTRACTS

<b>THRESHOLD (Total Contract Value)</b>	<b>CONTRACT TYPE</b>	<b>PRIMARY CONTRACT AWARD AUTHORITY (Who Decides Award)</b>	<b>PRIMARY CONTRACT SIGNATURE AUTHORITY (Who Signs the Contract)</b>
<sup>1</sup> \$2,500 or more	Purchase Orders or other payment obligations not associated with a written City Contract	City Manager Assistant City Manager Department Manager or Designee	City Manager or Designee
<b>\$500,000 or more G.S. 143-129</b>	Formally Bid Contracts and Formally Bid Construction and Repair Contracts	City Council	Mayor or Designee
<b>\$0- to \$499,999</b>	Informal Construction and Repair Contracts	Department Manager City Manager or Designee	City Manager or Designee
<b>Change Orders - up to \$20,000</b>	Construction and Repair Contracts	City Manager or Designee	City Manager or Designee
<b>Change Orders – \$20,001 or more</b>	Construction and Repair Contracts	City Council	Mayor or Designee
<b>Change Orders – less than \$2,500</b>	Purchase Contracts	Department Manager or Designee	Department Manager or Designee
<sup>1</sup> <b>Change Orders – \$2,500 or more</b>	Purchase Contracts	City Manager Assistant City Manager or Designee	City Manager or Designee
<b>\$0- to \$89,999</b>	Informal Purchase Contracts for the purchase of apparatus, supplies, materials, and equipment	Department Manager or Designee	City Manager or Designee
<b>\$90,000 or more G.S. 143-129(a)</b>	Formally Bid Contracts for the purchase of apparatus, supplies, materials, and equipment	City Council or Designee: City Manager or Chief Purchasing Official	Mayor or Designee: City Manager or Chief Purchasing Official
<b>Service Contracts and Amendments</b>	Service Contract	Department Manager City Manager or Designee	City Manager or Designee

<b><sup>2</sup>Information Technology Contracts \$-0- to \$89,999 for Goods or purchases made directly through State Office of Information Technology or under an optional request for proposal (RFP) procedure</b>		Department Manager City Manager or Designee	City Manager or Designee
<b><sup>2</sup>Information Technology Contracts for Goods \$90,000+ or purchases made directly through State Office of Information Technology or under an optional request for proposal (RFP) procedure</b>		City Council (Except if purchased from a State or Federal contract or approved cooperative agreement)	Mayor or Designee
<b>Exceptions to Bidding: Applies to Purchase Contracts in the Formal and Informal Bidding ranges. (G.S. 143-129(e)(1-5, 7-12))</b>		Department Manager City Manager or Designee	City Manager or Designee
<b>Sole-Source Contracts (G.S. 143-129(e)(6))</b>	Exception to Bidding: Applies to Purchase Contracts only in the Formal and Informal Bidding ranges.	City Council	Mayor or Designee
<b>Previously Bid or “Piggybacking” Contracts (G.S. 143-129(e)(g))</b>	Exception to Bidding: Applies to Purchase Contracts only in the Formal and Informal Bidding ranges.	City Council	Mayor or Designee
<b>Force Account Work (G.S. 143-135)</b>	Exception to Bidding: Construction or Repair Contracts only in the Formal and Informal Bidding Ranges.	City Council	Mayor or Designee
<b>Architect, Engineer, Surveyor, or Construction-Manager-at-Risk Contracts Less than \$50,000</b>		City Manager or Designee	City Manager or Designee
<b>Architect, Engineer, Surveyor, or Construction-Manager-at-Risk Contracts \$50,000 or more</b>		City Council	Mayor or Designee

<b><sup>3</sup>Lease Agreements – Less than one year <u>and</u> Leases not involving Real Property</b>		City Manager or Designee	City Manager or Designee
<b><sup>3</sup>Lease Agreements - Over one year and Leases involving Real Property</b>		City Council	Mayor or Designee
<b>Grant Applications without a Match or Match less than \$20,000</b>		City Manager Department Manager or Designee	City Manager Assistant City Manager or Designee
<b>Grant Applications with a Match of \$20,000 or more</b>		City Council	Mayor or Designee
<b>Grant Awards, and Grant Agreements</b>		City Manager Assistant City Manager or Designee	City Manager Assistant City Manager Mayor or Designee
<b><sup>4</sup>Settlement and Release Agreements (up to \$20,000)</b>		City Manager or Designee	City Manager or Designee
<b><sup>4</sup>Settlement and Release Agreements (over \$20,000)</b>		City Council	Mayor or Designee
<b><sup>5</sup>Agreements without a Financial Commitment</b>		City Manager Department Manager or Designee	City Manager Department Manager or Designee

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<sup>1</sup>Additional Procurement Review prior to Contract Signature by City Manager or Assistant City Manager

<sup>2</sup>Additional Procurement Review prior to Contract Signature by Information Systems Director

<sup>3</sup>A Copy of All signed and finalized Leases and Contracts are to be forwarded to Finance

<sup>4</sup>These agreements involve the release of a Vendor from liability in exchange for payment of an outstanding obligation or to resolve a dispute.

<sup>5</sup>Contractual arrangement without financial commitment from the City of Albemarle.

## **Section 8 - Definitions**

The following words, terms, and phrases when used, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alternative contracting method*

Local governments can seek authority to modify bidding requirements for particular projects, specifically design-build projects for building construction.

*Appropriation*

An authorization granted by City Council to make expenditures and to incur obligations for specific purposes.

*Appropriation Account*

A budgetary account set up to record specific authorizations to spend. The account is credited with original and any supplemental appropriations and is charged with expenditures and encumbrances.

*Bid*

A quotation specifically given from a prospective purchaser upon request, usually in competition with other vendors.

*Budget Document*

The instrument used by the budget-making authority to present a comprehensive financial program to the appropriating body.

*Construction*

Is the act, art, or business of moving, demolishing, installing, interior up fit, or building a structure, facility, or system according to a plan or by a definite process. Construction consists of the application of any of these techniques to physical plant facilities such as structures, utilities: electric, water and sewer, excavations, landscaping, site improvements, drainage systems, roads, and addition, deletions, or modifications of such facilities.

*Construction Management-at-Risk*

Services provided by a construction manager, which may include preparation and coordination of bid packages, scheduling, cost control, value engineering, evaluation, preconstruction services and construction administration.

*Contract*

A legal binding agreement between the City of Albemarle and one or more contractors or another governmental agency, company, corporation, individual, or group of individuals obligating the City



to pay money for services or products rendered in accordance with specific terms and conditions.

*Contractor*

A contractor is the entity that performs the service defined in the contract. Sometimes, the service may be performed by a subcontractor, subject to the approval of the City. In other cases, subcontracting is not permitted under the contract. Contractors are usually for-profit companies but may also include other types of entities.

*Department Manager / Director*

The highest level of supervision and coordination within a Department area.

*Dual Bidding*

Bids may be received to erect, construct, alter or repair a building under both the single-prime and separate-prime contracting methods, and the contract shall be awarded to the lowest responsible bidder under the single-prime or the lowest responsible bidder under the separate-prime method.

*Electronic Auction*

An auction of surplus property conducted on an internet site.

*Emergency Purchase*

Immediate procurement is essential to prevent delays in work that may affect the life, health, safety, and/or convenience of the City of Albemarle employees or citizens.

*Fiscal Year*

A 12-month period of time to which the annual budget applies, at the end of which the City determines its financial position and the results of its operations.

*Force Account*

Work performed by City employees that would ordinarily be performed by outside contractors.

*Information Technology*

Electronic data-processing goods and services and telecommunications goods and services, microprocessors, software, information processing, office systems, and related services and consulting or other services for the design or redesign of information technology supporting business processes.

*Maintenance*

Maintenance work is done to preserve functionality and to prevent unexpected asset downtime and is generally performed on a routine basis.

*Minority Business*

A business in which at least 51 percent is

owned and the management and daily business operations are controlled by one or more minority persons from the following categories: American Indian, Asian American, Black, African American, Female, Disabled, or Socially and Economically disadvantaged individuals.

*Pay Request*

A document which evidences the propriety of transactions and indicates the accounts against which they are to be recorded.

*Petty Cash*

A sum of money set aside for the purpose of making change or paying small obligations for which the issuance of a formal request and check would be too expensive and time-consuming or where the use of a procurement card is not feasible.

*Pre-Audit*

An examination by the Finance Director or the Deputy Finance Director to determine that funds have been properly appropriated or budgeted to meet contractual obligations, and that a sufficient balance remains in the budget to pay the sums obligated by the transaction.

*Purchase Order*

A purchase order is a document issued by the City to a provider of products or services, indicating what goods or services is ordered, how much is needed, and what it will cost. A purchase order is a legal offer to buy products or services. Once the seller accepts a purchase order, a contract exists between the City and seller. The Purchase Order is the preferred form of Contract.

*Repairs*

Repairs restore functionality and are done after downtime to minimize losses.

*Quote*

A solicitation document normally used for smaller, non-advertised competitive procurement Informal Quotes must be received by written submission.

*(RFP) Request for Proposals*

A solicitation document used for competitive procurements over \$30,000. Normally used for larger, advertised and non-advertised competitive procurements for equipment or services asking the responder to propose a method of reaching the result.

*Separate-Prime*

Bids for building projects are received for each

subdivision of work:

- 1) Heating, ventilating and air conditioning
- 2) Plumbing
- 3) Electrical
- 4) General

*Service Contract*

An agreement in which an independent contractor with specialized knowledge or experience performs a service. Services might include maintenance of buildings or equipment, auditing, employee training, food services.

*Single-Prime*

Bids for building projects are received from one contractor. The single-prime contractor performs all the work or contracts with subcontractors for heating, ventilating and air conditioning, plumbing, and electrical.

*Tie-Bid*

A tie-bid is one in which all things are equal in price, quality and content. To break a tie-bid, the following procedure(s) will be used in order to determine the winning bid:

1. NC Reciprocal Preference Law if all tied bidders are out-of-State. [G.S. 143-59](#)
2. North Carolina company selected over an out-of-state company
3. Best delivery, payment terms, or resources
4. If all still equal, then Coin-Flip with witnesses

*Unencumbered Balance*

That portion of an appropriation which has not been expended or obligated through issuance of a purchase order.

*Vendor*

One who sells a commodity or provides a service.

## **Purchasing Policy Update Log**

Purchasing Policy was Originally Approved by City Council Effective April 1, 2019

Update Approved by City Council January 19, 2021

Update Approved by City Council September 19, 2022