

# CITY OF STARKE, FLORIDA

## ORDINANCE NUMBER 2023-05

AN ORDINANCE RELATING TO PROCUREMENT OF GOODS AND SERVICES; PROVIDING DEFINITIONS; ESTABLISHING PROCEDURES FOR THE PROCUREMENT OF GOODS AND SERVICES; ESTABLISHING MONETARY THRESHOLDS FOR THE DETERMINATION OF THE APPLICABLE PROCUREMENT PROCEDURE; ESTABLISHING ALTERNATIVE PROCEDURES FOR SOLICITATIONS FROM VENDORS; PROVIDING FOR THE DEVELOPMENT OF ADMINISTRATIVE PROCEDURES; PROVIDING FOR PROTEST PROCEDURES; PROVIDING DIRECTION FOR THE CODIFICATION OF THIS ORDINANCE; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

**WHEREAS**, Article V, Division 2 of the Code of Ordinances of the City of Starke provides for certain procedures and preferences applicable to the City's procurement of goods and services; and,

**WHEREAS**, the City annually spends significant amounts of City funds on the purchase of personal property, materials, and contractual services and in constructing improvements to real property or to existing structures; and

**WHEREAS**, to ensure public funds are spent in a manner that yields to best value to the City it is prudent to establish and adopt sound procedures for the procurement of goods and services; and

**WHEREAS**, the City Commission desires to reform the provisions of the Code of Ordinances of the City of Starke applicable to the procurement of goods and services; and,

**WHEREAS**, the City Commission, being fully advised of the facts and circumstances, hereby finds and determines the following to be the appropriate procedures for the expenditure of public funds for the acquisition of goods and services:

**NOW THEREFORE, BE IT ORDAINED BY THE PEOPLE OF STARKE, FLORIDA:**

**SECTION 1. CHAPTER 2, ARTICLE V, DIVISION 2 OF THE CODE OF ORDINANCES OF THE CITY OF STARKE IS AMENDED AS FOLLOWS:**

### **Sec. 2-321. - Definitions.**

The following words, terms and phrases, when used in this ~~d~~Division 2 or in Division 3, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City Operations Department means those functions of the executive branch of City government not otherwise assigned by statute, charter, ordinance, or resolution to the executive oversight, administration, and management of either the Chief of Police or the City Clerk.

Commodities means all goods, services, and personal property necessary for the operation of the city government and not used for the construction, maintenance and repair of real

property.

Executive Department means, as the case may be, either

(1) the City of Starke Police Department for which executive oversight, administration, and management of its functions shall be performed by the Chief of Police,

(2) the Office of the City Clerk for which executive oversight, administration, and management of its functions shall be performed by the City Clerk, or

(3) the City Operations Department for which executive oversight, administration, and management of its functions shall be performed by the City Manager.

Executive Officer means

(1) the Chief of Police,

(2) the City Clerk, or

(3) the City Manager as such officer is defined in Chapter 2, Article III, Division 3 of this Code of Ordinances.

*Fixed asset* means any tangible item purchased by the city at a cost of ~~\$3,000.00~~\$5,000.00 or greater.

*Formal competitive bid* means a written solicitation for competitive sealed bids. The term "formal competitive bid" is used when the city is capable of specifically defining the scope of work for which a contractual service is required or when the city is capable of establishing precise specifications defining the actual commodities or contractual services required. The term "invitation to bid" also includes re-advertising for competitive sealed bids.

*Full time employee* means an employee of an employer who is compensated by such employer for an average of 36 hours or more per week for the calendar month immediately preceding the date on which such representation and assessment of employment is made.

*Full-time equivalent (FTE)* means, for the 12-month period preceding the date of the submission of the bid by the responding bidder, the number of total hours for which all employees of such bidder who are residents of the city are compensated (inclusive of paid time off) divided by 1,872.

*Greater local area* means the geographic boundaries of Bradford County.

*Local business* means a business domiciled within the City of Starke city limits that is in compliance with all city licensing requirements and is current on all city taxes. Post office boxes shall not be used for the purpose of establishing domicile. If in business for less than one year, the owner of the business must provide evidence of previous business ownership within the city within the previous three years. A business domiciled outside of the City of Starke city limits shall be considered a local business if it (i) is domiciled in the greater local area, and (ii) employs a minimum of ten full time equivalent (FTE) Starke residents or Starke residents constitute 20 percent of the business's local workforce ("local workforce" defined

as employees residing in the greater local area), whichever is larger.

*Nonlocal business* means any vendor that does not meet the definition of a local business.

*Real property* means all buildings, lands, and interests therein possessed by the city, including mortgages and leases on such properties.

*Request for proposals ("RFP")* means an evaluation based sealed competitive method used to solicit proposals from prospective offerors for goods or services. An RFP is characterized by description of the desired results (scope of work) and the evaluation of proposals based on a predetermined set of evaluation criteria including price; however, price need not be the primary factor. RFPs provide for the negotiation of all terms, including price, prior to contract award and may include a provision for the negotiation of best and final offers from all proposers. RFPs may be a single step or multi-step process.

*Request for qualifications ("RFQ")* means a sealed competitive method for selecting a pool of pre-qualified vendors whereby all vendors are invited to submit statements of qualifications and state their interest in performing a specific job or service. From these statements of qualifications, the city evaluates based on a set of predetermined criteria and determines which vendors shall be selected and pre-qualified for a subsequent invitation to bid or formal quote process.

*Vendor* means a prospective vendor who submits a bid, a proposal, or a quotation for the sale of a commodity or service to the city in response to a competitive solicitation/quote.

**Sec. 2-322. - Statutory authority; purpose.**

This division is adopted pursuant to Laws of Fla. ch. 13426(1927), as amended and supplemented in the Municipal Home Rule Powers Act (F.S. § 166.011 et seq.). The purpose of this division is to regulate bidding requirements for the city.

**Sec. 2-323. - ~~Contracts and purchases requiring purchase orders~~ Purchase Orders Required.**

(a) Except as otherwise set forth in paragraph (c) of this Section 2-323, all purchases made and contracts entered into on behalf of the city in an amount equal to or exceeding \$500 ~~for value less than \$1,000.00~~ shall be made by purchase order. All purchase orders requested must be approved and issued prior to any purchase or contract execution.

(b) The Executive Officer with oversight of the department or program for or by which the expenditure is sought or such Executive Officer's city operations manager, city clerk, or the clerk's designee shall review all purchase order requests prior to submitting such purchase order requests to the City Clerk or the City Clerk's designee for approval of such purchase order requests and issuing issuance of such purchase orders to cover same. Such review and approval by the City Clerk or the City Clerk's designee shall include assess the need for the product or service being purchased, the reasonableness of the price, and the availability of funds to pay the purchase order for the product or

service requested.

(c) Subject to all other provisions of this Division 2, purchases of or payments for the following products and services shall require approval by the Executive Officer with oversight of the department or program for or by which the expenditure is sought or such Executive Officer's designee, and the review and approval of the City Clerk or the City Clerk's designee to assess the need for the product or service being purchased, the reasonableness of the price, and the availability of funds to pay for the product or service, but shall not otherwise require a purchase order:

(1) products and services for which the City has a contract with the vendor where such contract provides a scope of work, detail of service, or specification of product; a firm price or rate; and allocation of liability between the City and the vendor of such product or service;

(2) payments by the City to a City employee for reimbursement of approved travel and expenses incidental to travel;

(3) payments to or at the direction of other governmental entities, programs, or retirement plans;

(4) payments made pursuant to court order;

(5) payments to retirement plans or otherwise pursuant to a City employee's written payroll deduction request;

(6) payments for utility service;

(7) payments in support of employee training and development, including, but not limited to classes, memberships, dues, subscriptions, books, and related publications; and

(8) payments in satisfaction of debt obligations where the original term of repayment of such debt is for a period of three (3) or more years.

**Sec. 2-324. - ~~Contracts and p~~Purchases requiring informal~~not requiring competitive~~ bids.**

Competitive bids are not required for purchases of products or services where the value of the product or service being procured is ten thousand dollars (\$10,000) or less.

~~(a) Except as provided for by law or in section 2-325, all purchases made and contracts entered into on behalf of the city for value between \$1,000.00 and \$15,000.00 shall be made only after informal bids from at least three vendors have been received. Such bids may be received by telephone or any other mode of communication.~~

~~(b) The city operations manager, city clerk, or the clerk's designee shall maintain a list of qualified vendors from whom quotations may be received. The clerk shall promulgate minimum qualification requirements to be met by any vendor desiring placement on the approved vendor list for the city. Such requirements shall be made public and~~

available for inspection and copying.

**Sec. 2-325. - Contracts and purchases requiring ~~formal~~ competitive bids.**

**(a) Informal Bids**

(1) Except as provided for by law or in paragraph (b) of this section 2-325, all purchases made and contracts entered into on behalf of the city, the value of which is greater than ~~for value between \$1,000.00~~10,000.00 and less than or equal to ~~\$15,000.00~~40,000.00 shall be made only after informal bids from at least three vendors have been received. Such bids may be received by telephone or any other mode of communication.

(2) The ~~city operations manager~~, city clerk, or the clerk's designee shall maintain a list of qualified vendors from whom quotations may be received. The clerk shall promulgate minimum qualification requirements to be met by any vendor desiring placement on the approved vendor list for the city. Such requirements shall be made public and available for inspection and copying.

**(b) Formal Bids**

~~(a)~~(1) Competitive formal bids are required for all purchases made and contracts ~~internal~~ entered into on behalf of the city for and purchases of commodities ~~for~~ the value of which is ~~totaling more than \$40,000.00~~15,000.00 or more.

~~(b)~~(2) Competitive formal bids are required for all contracts for construction, maintenance and repair, and the purchase or lease of real property, or renting of materials and equipment therefore, if the contract or purchase price ~~equals or exceeds \$15,000.00~~is more than \$40,000.00.

**Sec. 2-326. - ~~Bidding p~~Development of Administrative Procedures.**

(a) *Procedural rules and requirements.* The city clerk shall establish and submit for approval to the city commission procedural rules and requirements necessary to implement this division. Such procedural rules shall include provisions for the following:

- (1) Adequate notice to vendors of the city's ~~call for bids~~competitive solicitation of goods and services.
- (2) Minimum qualifications of vendors.
- (3) Resolution in the event of a tie.
- (4) Preference for local vendors.
- (5) Procedure if no ~~bids~~submissions are received.
- (6) Reservation of right to reject any and all ~~bids~~submissions received.
- (7) How and the criteria upon which responses to solicitations will be evaluated to determine the respondent with which the city will proceed to procure the good

~~or service. Low bid as winner unless substantial reason exists to reject the low bidder's bid.~~

(8) ~~Process for contesting award of bid~~ the city's determination of the respondent with which the city will proceed to procure the good or service.

(b) *Approval of city attorney.* The city clerk shall provide a copy of the procedural rules proposed and established under subsection (a) to the city attorney for review and recommendation prior to submittal to the commission. The city attorney shall review such rules to ensure compliance with all state laws and shall make recommendations to the commission.

(c) *Commission to approve changes to rules.* The city clerk may from time-to-time submit proposed changes to the rules established pursuant to this section to the commission for approval. Any such proposed changes shall first be submitted to the city attorney for review pursuant to subsection (b) of this section.

(d) *Availability to public.* The city clerk shall make available to the public for inspection and copying this division and the procedural rules adopted and approved by the commission under this division. Copies of this division and the rules adopted under this division may be provided by the city to those requesting same for a reasonable fee. Such fee shall be sufficient to cover the costs of printing same.

(e) *Exemptions from bidding process.* The following purchasing activities shall be exempt from any competitive bidding requirements:

(1) All purchases of services from a utility whose rates are determined and controlled by the state public service commission or other governmental authority;

(2) All supplies, materials, equipment, or services purchased at a price established by the state purchasing agency, or at a price equal to or less than the price established by the state agency;

(3) All supplies, materials, equipment, construction, or services purchased through a state contract;

(4) All supplies, materials, equipment, construction, or services purchased pursuant to, or with the assistance of, the Florida Sheriff's Association;

(5) All supplies, materials, equipment, construction, or services purchased from the general services administration schedule;

(6) All supplies, materials, or services purchased under an annual or other time contract awarded by the city commission; and

(7) Purchases of supplies, materials, equipment and services under contract with federal, state, or municipal governments, or any governmental agency or political subdivision, provided that the vendor extends the same terms and conditions of the contract to the city, and based on the determination by the purchasing

manager and director of administrative services that purchases through these contracts are in the best interests of the city.

**Sec. 2-327. - Procurement policy for community development block grant funds.**

(a) The city clerk shall estimate and submit for approval to the city commission a separate procurement policy for the expenditure of community development block grant funds which meet the requirements of 24 CFR 570, 24 CFR 85.36, and F.A.C. ch. 9B-43.

(b) Such procurement rules and policies shall include provisions for the following:

- (1) Procurement procedures with various threshold amounts.
- (2) Informal bid procedures.
- (3) Sealed bid procedures.
- (4) Procedures for procuring performed services.
- (5) Sole service purchase procedures.
- (6) Emergency purchase procedures.
- (7) Cooperative purchase procedures.
- (8) Bid protests.
- (9) Contract claims.
- (10) Contract administration.
- (11) Insurance requirements.
- (12) Bonds and deposits.
- (13) Authorization to debar and suspend vendors.
- (14) Minority business participation.

(c) The city clerk may from time-to-time submit proposed changes to the rules established pursuant to this section to the city commission for approval.

(d) The policies and procedures set forth in the procurement policy for the expenditure of community development block grant funds shall take precedence over and supersede any conflicting policies set forth in sections 2-321 through 2-326.

**Sec. 2-328. — Alternative Procedure for Competitive Procurement.**

(a) Notwithstanding sections 2-323, 2-324, and 2-325 of this Code, the ~~city commission may adopt a resolution authorizing Executive Officer with oversight of the department or program for or by which the expenditure is sought or such Executive Officer's designee the city manager, or in his absence the city operations director, to may~~ pursue the negotiated acquisition of goods and/or services upon a specific written finding that the

competitive bidding is not in the city's best interest because such goods and/or services cannot be reasonably acquired ~~by that process~~based solely on price alone and factors other than price, such as vendor qualifications and/or vendor creativity in developing a solution to a problem faced by the city should be considered. ~~and that~~ In such case, the Executive Officer with oversight of the department or program for or by which the expenditure is sought or such Executive Officer's designee may procure such goods and/or services by openly soliciting from any and all interested vendors ~~negotiated purchase submissions of proposals and/or qualifications of vendors via a Request for Proposals or a Request for Qualifications.~~will provide the most effective and efficient use of city funds. Such acquisition shall be pursued in accordance with this section.

(b) The city shall advertise any such solicitation pursuant to this section in the newspaper of general circulation in the city at least 14 days prior to the deadline for submission of ~~proposals responses to such solicitation in~~ an announcement that the city is soliciting ~~proposals responses~~ for the ~~authorized~~ acquisition of goods and/or services and shall otherwise give notice to prospective vendors in a manner that will encourage competition.

(c) The city shall provide a ~~request for proposal~~solicitation pursuant to this section to any person desiring one and may charge a reasonable fee for the request. ~~The request for proposal~~Such solicitation shall:

(1) set forth in reasonable detail the nature of the goods and/or services to be acquired and the criteria that will be utilized in evaluating the proposals submitted; ~~The request for proposal shall~~

(2) require the submission of detailed cost information; ~~The request for proposal shall~~

(3) give notice to persons submitting proposals that those persons negotiating on behalf of the city are without authority to bind the city and that the city will only be bound by the terms of a written contract that has been approved in a public meeting of the city commission and executed by the mayor and city clerk and approved by the city attorney in accordance with the charter and ordinances.

The city commission reserves the right to modify or reject any contract for the acquisition of goods and/or services submitted to it for consideration.

(d) The Executive Officer with oversight of the department or program for or by which the expenditure is sought or such Executive Officer's designee~~city manager, or in his absence the city operations director, and no fewer than three persons designated by the city manager, or in his absence the city operations director,~~such Executive Officer or Executive Officer's designee shall open and evaluate the proposals responses to the solicitation and shall rank the proposals such responses in accordance with the qualifications and ability of the vendor and the responsiveness of the vendor to the criteria of the proposal solicitation.



- (e) In accordance with the ranking Executive Officer with oversight of the department or program for or by which the expenditure is sought or such Executive Officer's designee, ~~the city manager, or in his absence the city operations director,~~ shall commence negotiations with up to three vendors submitting the most highly ranked ~~proposals~~ responses in order to achieve a contract that meets or exceeds the needs of the city and provides the cost of the goods and/or services that is fair, competitive, reasonable, and the most efficient use of city funds.
- (f) If the Executive Officer with oversight of the department or program for or by which the expenditure is sought or such Executive Officer's designee ~~city manager, or in his absence the city operations director,~~ is unable to negotiate a contract meeting the established criteria, he may terminate negotiations with any of the selected ~~vendors~~ respondents and undertake negotiations in the same manner by selecting ~~vendors~~ respondents ranked immediately below those previously selected to fill the vacated positions of those ~~vendors~~ respondents for which negotiations have been terminated.
- (g) Upon completion of satisfactory negotiations of a contract Executive Officer with oversight of the department or program for or by which the expenditure is sought or such Executive Officer's designee, ~~the city manager, or in his absence the city operations director,~~ shall submit such contract to the city commission with his ~~a~~ recommendation. If the ~~city manager, or in his absence the city operations director,~~ such Executive Officer or Executive Officer's designee is unable to negotiate a satisfactory contract, ~~he~~ it shall so be reported to the city commission.
- (h) Upon the recommendation of the Executive Officer with oversight of the department or program for or by which the expenditure is sought or such Executive Officer's designee ~~city manager, or in his absence the city operations director,~~ and the certification of sufficiency of funds for the contract by the city clerk, the city commission may approve, approve with modifications, or reject the contract.

**Sec. 2-329. – Protest Procedures.**

(a) Standing. Parties that are not actual bidders, proposers, or responders, including, but not limited to, subcontractors, material and labor suppliers, manufacturers and their representatives, shall not have standing to protest or appeal any determination made pursuant to this section.

(b) Procedure.

- (1) Protest of failure to qualify. Upon notification by the city that a bidder, proposer, or responder is deemed non-responsive and/or non-responsible, the bidder, proposer, or responder who is deemed non-responsive and/or non-responsible may file a protest with the city clerk by close of business on the third business day after notification (excluding the day of notification) or any right to protest is forfeited. It shall be the sole responsibility of such bidder, proposer, or responder to verify the operating hours of the office of the city clerk.

(2) Protest of award of agreement. After a notice of intent to award an agreement is posted, any actual bidder, proposer, or responder who is aggrieved in connection with the pending award of the agreement or any element of the process leading to the award of the agreement may file a protest with the city clerk by close of business on the third business day after posting (excluding the day of posting) or any right to protest is forfeited. It shall be the sole responsibility of such bidder, proposer or responder to verify the operating hours of the office of the city clerk.

(3) Content and filing. The protest shall be in writing, shall identify the name and address of the protester, and shall include a factual summary of, and the basis for, the protest. Filing shall be considered complete when the protest and the protest bond are received by the city clerk. The time stamp clock located in the office of the city clerk office shall govern when the protest was received.

(c) Protest fee. Any bidder, proposer, or respondent filing a protest shall simultaneously provide a protest fee to the city in the form of a cashier's check or payment bond. The protest fee will be based on the estimated contract amount. The estimated contract amount shall be based upon the pending award amount submitted by the recommended bidder/proposer. If no contract amount was submitted, the estimated contract amount shall be the city's estimated contract price, in the city's sole opinion. If the protest is decided in the protester's favor, the entire protest fee shall be returned to the protester. If the protest is not decided in the protester's favor, the protest fee shall be forfeited to the city. The amount of the protest fee shall be as follows:

(1) For term contracts that provide for an annual expenditure amount, the protest fee shall be in the amount of:

- a. \$1,000.00 for pending estimated contract awards in the annual amount of \$100,000.00 or less, or
- b. One percent of the annual amount of the pending award for estimated contract amounts that exceed \$100,000.00 per year, with a maximum deposit of \$10,000.00.

(2) For all other contracts, the protest fee shall be in the amount of:

- a. \$1,000.00 for pending estimated contract awards in the amount of \$250,000.00 or less, or
- b. One percent of the total amount of the pending award for the estimated contract amounts that exceed \$250,000.00, with a maximum deposit of \$10,000.00.

(d) Protest committee. The protest committee shall review all protests. The Executive Officer with oversight of the department or program for or by which the expenditure is sought shall appoint the members of the protest committee. No member of the city commission shall serve on the protest committee. The city attorney or designee shall serve as counsel to the committee. The meeting of the protest committee shall be

opened to the public and all of the actual bidders, responders, or proposers shall be notified of the date, time, and place of the meeting. If the protest committee determines that the protest has merit, such Executive Officer or Executive Officer's designee shall direct that all appropriate steps be taken. If the protest committee denies the protest, the protester may appeal to the city commission. All of the actual bidders, responders, or proposers shall be notified of the determination by the protest committee. The protest committee shall terminate upon the award of the contract, cancellation of the sealed competitive method, or such other time as determined by the city commission.

(e) *Stay of award of agreement or sealed competitive method.* In the event of a timely protest, the Executive Officer with oversight of the department or program for or by which the expenditure is sought shall stay the award of the agreement or the sealed competitive method unless such Executive Officer or Executive Officer's designee determines that the award of the agreement without delay or the continuation of the sealed competitive method is necessary to protect any substantial interest of the city. The continuation of the sealed competitive method or award process under these circumstances shall not preempt or otherwise affect the protest.

(f) *Appeals to city commission.* Any actual bidder, proposer, or responder who is aggrieved by a determination of the protest committee may appeal the determination to the city commission by filing an appeal with the city clerk by close of business on the third business day after the protester has been notified (excluding the day of notification) of the determination by the protest committee. The appeal shall be in writing and shall include a factual summary of, and the basis for, the appeal. Filing of an appeal shall be considered complete when the appeal is received by the city clerk.

(g) *Failure to file protest.* Any actual bidder, proposer, or responder that does not formally protest or appeal in accordance with this section shall not have standing to challenge the award recommendation or the city commission's award.

## SECTION 2. CODIFICATION

It is the intention of the City Commission of the City of Starke that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the City of Starke, Florida. The Sections of this Ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section", "Article" or such other word or phrase in order to accomplish such intention. The correction of typographical errors which do not affect the intent or substance of the ordinance may be authorized by the City Clerk or the City Clerk's designee with the consent of the City Attorney without public hearing, by filing a corrected or re-codified copy of the same with the City.

## SECTION 3. REPEAL OF ORDINANCES IN CONFLICT

All ordinances or parts of ordinances in conflict with this Ordinance are, to the extent they conflict with this Ordinance, repealed.

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BY THE MAYOR OF THE CITY OF STARKE, FLORIDA

C. Scott Roberts, Mayor

ATTEST, BY THE CITY CLERK OF THE CITY OF STARKE:

Jimmy V. Crosby, Jr., City Clerk

APPROVED AS TO FORM AND LEGALITY:

Clay Martin, City Attorney