

RESOLUTION 2018-R-120

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALATKA, FLORIDA, ADOPTING A CDBG ANTI-DISPLACEMENT AND RELOCATION POLICY, A CDBG CITIZEN'S PARTICIPATION PLAN, A CDBG COMPLAINT AND GRIEVANCE PROCEDURES POLICY, AND A CDBG PROCUREMENT POLICY WHICH INCLUDES A MINORITY BUSINESS ENTERPRISE POLICY TO PUT ADMINISTRATIVE PROCEDURES IN PLACE FOR COMMUNITY DEVELOPMENT BLOCK GRANT-FUNDED PROJECTS AS REQUIRED FOR PROGRAM PARTICIPATION

WHEREAS, The Community Development Block Grant Program is a federal program that provides funding for housing and community development activities, which was created by Congress when it passed the Housing and Community Development Act of 1974; and

WHEREAS, The Department of Economic Opportunity administers the State Program in Florida through the Small Cities Community Development Block Grant Program, which awards funds to units of local government in small urban and rural areas; and

WHEREAS, in order to participate, the City of Palatka is required to put certain administrative procedures in place for Community Development Block Grant-funded projects; and

WHEREAS, the City of Palatka City Commission finds it is in the best interest of its citizens to adopt four such policies, which are attached hereto as Exhibits A, B, C and D and incorporated herein by reference.

NOW, THEREFORE, the Palatka City Commission hereby adopts the following CDBG-related policies, which are attached hereto and incorporated here by the following references:

1. Exhibit A. **CDBG ANTI-DISPLACEMENT AND RELOCATION POLICY**
2. Exhibit B **CDBG CITIZEN'S PARTICIPATION PLAN**
3. Exhibit C **CDBG COMPLAINT AND GRIEVANCE PROCEDURES POLICY**
4. Exhibit D **CDBG PROCUREMENT POLICY INCLUDING THE MINORITY BUSINESS ENTERPRISE POLICY**

PASSED AND ADOPTED by the City Commission of the City of Palatka, Florida at a regular meeting on this 13th day of December, 2018.



ATTEST: ,


Betsy J. Deigges
City Clerk

CITY OF PALATKA

BY: 

Its Mayor

APPROVED AS TO FORM AND CORRECTNESS:


CITY ATTORNEY

RESOLUTION NO. _____

**ANTI-DISPLACEMENT
AND RELOCATION
POLICY
THE CITY OF PALATKA**

REFERENCE: TENANT ASSISTANCE, RELOCATION AND
REAL PROPERTY ACQUISITION PLANS.

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**THE CITY OF PALATKA
TENANT ASSISTANCE, RELOCATION & REAL PROPERTY ACQUISITION
PLAN**

1. Displacement Avoidance Policy:

The City of Palatka is committed to a policy to make all reasonable efforts to ensure that activities undertaken through the use of Community Development Block Grant (CDBG) and/or other federal funding will not cause unnecessary displacement or relocation. Such federally funded programs will be administered in such a manner that careful consideration is given during the planning phase with regard to avoiding displacement. The City will also provide information to keep citizens involved in the process regarding pending land use changes, zoning and rezoning actions that threaten the preservation of residential areas. Involuntary displacement shall be reserved as a last resort action necessitated only when no other alternative is available and when the activity is determined necessary in order to carry out a specific goal or objective that is of benefit to the public. In this case, community development and housing programs will be planned in a manner which avoids displacement of households or business.

However, “voluntary” displacement (temporary or permanent) may be necessary in order to achieve a benefit to a household or business (such as rehabilitation or replacement of the building). Such benefits shall be identified and requested by the displaced. Voluntary displacement may also occur when a property owner voluntarily offers his home or business property for sale to the City. In these cases, the seller may be required to waive rights as a condition of the sale of the property, and the Uniform Relocation Act provisions will govern actions of the City and/or its representative. 24 CFR Part 570 is a governing document on displacement and is incorporated by reference. 49 CFR Part 24 provides Uniform Relocation Act information and is incorporated by reference. As pertains to the City’s tenant Assistance, Relocation and Real Property Acquisition Plan, the U.S. Department of Housing and Urban Development Handbook #1378, September 1990, shall be adopted in its entirety.

2. Definitions of “Standard” and “Non-Standard Suitable for Rehabilitation” Dwelling Unit Condition.

In the absence of federal and state provided definitions, the following is provided to establish a frame of reference and context when dealing with matters of displacement and/or relocation as defined in 24 CFR Part 570 and 49 CFR Part 24.

A. Standard Condition

A dwelling unit is considered standard if it has no major defects or only slight defects which are correctible through the course of regular maintenance. It must be in total compliance with applicable City housing and occupancy codes; be structurally sound, watertight and in good repair; be adequate in size with respect to number of rooms and area of living space and contain the following:

1. A safe electrical wiring system adequate for lighting and other normal electrical devises.

2. A separate, well-lighted and ventilated bathroom that provides user privacy and contains a sink, commode, and bathtub or shower stall.
3. An appropriate, sanitary and approved source of hot and cold potable water.
4. An appropriate, sanitary and approved sewage drainage system.
5. A fully useable sink in the kitchen.
6. Adequate space and service connections for a refrigerator.
7. An unobstructed egress to a safe, open area at ground level; and
8. Be free of any barriers which would preclude ingress or egress if the occupant is handicapped.

Failure to meet any of these criteria automatically causes a dwelling to be considered “substandard”.

B. Substandard Condition Suitable for Rehabilitation

A dwelling unit is considered substandard if it does not fully comply with the standard criteria, or has minor defects which require a certain amount of correction but can still provide safe and adequate shelter or has major defects requiring a great deal of correction and will be safe and adequate once repairs are made.

To be suitable for rehabilitation, a trained housing specialist must carefully inspect the dwelling and prepare a work write-up of repairs necessary to bring it up to standard condition. A cost estimate of repairs will be prepared based on the needs identified in the work write-up.

If these costs are equal to or less than 65% of the value of a comparable replacement unit as obtained from more than one licensed contractor, the dwelling will be considered suitable for rehabilitation. If the predicted cost exceeds 65%, the unit will be deemed unsuitable.

This criteria is arbitrary, however, and the City Commission/Board of Adjustments may authorize deviations based on the unique aspects of each dwelling, owner, tenant, etc. on a case by case basis. Each deviation so approved must be thoroughly documented.

Displacement Policy and Procedures

III. Permanent, Involuntary Displacement

The City will provide reasonable relocation assistance to persons (families, individuals, businesses, nonprofit organizations, displaced (moved permanently and involuntarily) as a result of the use of CDBG/federal assistance to acquire or substantially rehabilitate property). Assistance to displaced persons may include:

- a) Payment for actual moving and relocation expenses documented by receipts and/or vouchers from service providers and utility companies. The documents shall be submitted prior to the disbursement of payment.
- b) Advisory services necessary to help in relocating.
- c) Financial assistance sufficient to enable the displaced person to lease and occupy a suitable, decent, safe and sanitary replacement dwelling where the cost of rent and utilities does not exceed 30 percent of the household gross income of a family earning 80 percent of the median income for the jurisdiction.

A. Provisions for One-on-One Replacement

The City will replace all occupied and vacant occupiable low/moderate income dwelling units demolished or converted to use other than a low/moderate income housing as a direct result of activities assisted with funds provided under the Housing and Community Development Act of 1974, as amended, and as described in 24 CFR Part 570. Replacement low/moderate income units may include public housing or existing housing receiving Section 8 project based-assistance.

All replacement housing will be provided within two years of the commencement of the demolition rehabilitation relating to conversion and will meet the following requirements:

- 1. The units will be located within the City.
- 2. The units will meet all applicable City housing, building, and zoning ordinances and will be in standard, or better, condition.
- 3. The units will be designed to remain low/moderate income dwelling units for at least 10 years from the date of initial occupancy (applies to initial tenant only).
- 4. The unit will be sufficient in size and number (functionally equivalent) to house at least the number of occupants who could have been housed in the units that are demolished or converted.

Before obligating or expanding CDBG/federal funds that will directly result in such demolition or conversion, the local government will make public and submit to the Florida Department of Economic Opportunity and/or the U.S. Department of Housing and Urban Development the following information in writing.

- 1. A description of the proposed assisted activity.
- 2. The general location on an area map including approximate number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than low/moderate income dwelling units.

3. A time schedule for commencement and completion of the demolition or conversion.
4. The general location on a service area map and approximate number of dwelling units by size (number of bedrooms) that will be provided as replacement units.
5. Identification of the source of funding at the time of submittal and the time frame, location and source for the replacement units.
6. The basis for concluding that each replacement dwelling unit will be designed to remain a low/moderate income dwelling unit for at least 10 years from the date of initial occupancy.
7. Information demonstrating that any proposed replacement of a unit with a smaller unit is consistent with the housing needs of LMI persons in the jurisdiction.

B. Provisions for Relocation Assistance for Residential Displacement

The City will provide relocation assistance, as described in 24 CFR Part 570, to each low/moderate income household involuntarily displaced by the demolition of housing or by the conversion of a low/moderate income dwelling to another use as a direct result of CDBG/federally assisted activities. Persons that are relocated are entitled to:

1. A choice between actual reasonable moving expenses or a fixed expense and dislocation allowance.
2. Advisory services.
3. Reimbursement for reasonable and necessary security deposits and credit checks.
4. Interim living costs, and
5. Replacement housing assistance which may include a Section 8 housing voucher/certificate and referral to assisted units; cash rental assistance to reduce the rent and utility cost or lump sum payment equal to the present value or rental assistance installments to be used toward purchasing an interest in a housing cooperative or mutual housing association for a period up to 60 months (5 years).

C. Provisions for Non-Residential Relocation

Businesses, non-profit organizations, etc., shall not be relocated unless the move is voluntary, essential to the project from the public view, and the owner waives his/her rights under the Uniform Act except for the following relocation assistance:

1. Actual moving and reasonable re-establishment expenses not less than

\$1,000 nor more than \$20,000 equal to prorated share for a period of interruption of operations of the average annual net earnings. Average annual net earnings before taxes during the two taxable years immediately prior to the taxable year it was displaced.

2. No other benefits will be provided and a signed waiver acknowledging that fact will be required.

IV. Temporary, Voluntary Displacement and Relocation

- A. Persons occupying housing which is to be rehabilitated using CDBG/federal funds must voluntarily agree to inclusion in the program and shall vacate the housing at the direction of the City (or its designated agency), in order to facilitate the safe, timely and economical rehabilitation process.
- B. A moving allowance of \$300 will be provided each family unit so displaced. This allowance will be provided in two payments of \$150 each on move out and move back in.
- C. The City may provide a safe, decent and sanitary housing unit for use as temporary relocation housing. The unit shall be available free of charge to temporarily displaced households for the time period authorized by the City's designated agency, generally for the period of rehabilitation construction. Households who occupy the unit shall have a \$75 refundable deposit withheld from their initial moving allowance payment. This deposit shall be refunded in full immediately after the relocation unit is vacated in a clean and undamaged condition. The deposited refunded shall be denied in full or in part for payment of damages to the owner/lessee due to the occupants (a) failure to properly clean or maintain the unit, (b) physical damage to the unit, (c) loss of keys to the unit, (d) need for any special condition such as fumigation. A \$25 per day penalty may also be assessed for the household's failure to do so by the City's designated agency.
- D. A storage allowance of up to \$150 will be provided each family unit displaced if Storage is necessary and essential to the move.
- E. Insurance cost of up to \$100 for the replacement value of the household property in connection with the move will be provided each family unit displaced if storage is necessary and essential to the move.

V. Permanent, Voluntary Displacement and Relocation

If it is determined by the City that occupants of a dwelling should be permanently relocated, and the occupant's voluntary consent, the government will assist in the relocation to a decent, safe and sanitary dwelling unit. Benefits, if provided, will be limited to increases in monthly housing costs incurred by the occupant in an amount equal to the lesser of 60 times the increase or 30 percent of the person's annual income. 24 CFR Part 570 must be consulted to determine specific limitations.

VI. Tenant Assistance Policy/federal Rental Rehabilitation Program.

- A. It is not the local government's policy to displace families in rental units. Participating landlords will be required to warrant that the proposed rehabilitation will not cause any tenant to be permanently displaced unless the owner will be able to relocate the tenant displaced in accordance with HUD relocation criteria. Rental Rehabilitation funds will not be used to rehabilitate the structures if the rehabilitation will cause the permanent displacement of LMI families.
- B. If it becomes necessary for an owner to temporarily move a tenant from a unit as a direct result of rehabilitation assisted through rental rehabilitation funds, the owners will assure that the tenant is offered a decent, safe and sanitary dwelling unit at an affordable rate as described on the applicable regulations. No tenant will be considered displaced if the owner has offered the tenant a decent, safe, sanitary and affordable unit and the tenant declined the offer.
- C. Should temporary displacement becomes necessary for a LMI family as a result of the rental rehabilitation assistance, the owner will assure that tenants are provided necessary financial assistance, information, counseling, referrals and housing location options regarding Federal Housing Ordinance and other relocation services as needed without regard to race, color, religion, sex, familial status, age, handicap or national origin, so as to enable the family to obtain decent, safe, and sanitary housing at an affordable rate.
- D. The Housing Authority at The City of Palatka shall provide federal preferences to any qualified LMI family subject to relocation. Where Section 8 Housing vouchers are available, such preferences will apply.
- E. Where required compensation to obtain replacement housing shall not exceed \$3,000 threshold. Should such projected compensation to the tenant exceed this threshold, consideration shall be given to not performing the demolition rehabilitation which would cause displacement.

VII. Displacement of Homeowners

When rehabilitation of the dwelling is not feasible or cost effective, demolition of house with CDBG/federal funds may be considered, only as a voluntary action by the homeowner.

Although homeowners have a right to assistance as previously discussed, CDBG/federal funds available for relocation assistance are limited. Therefore, financial assistance shall not exceed that described in accordance with 49 CFR 24.401, and the regulations under U.S. HUD Handbook 1378.

VIII. Appeals/Counseling

- A. If a claim for assistance is denied by the City, the claimant may appeal where applicable to either the State of Florida or U.S. Department of Housing and Urban Development, and their decision shall be final unless a court determines the decision was arbitrary and capricious.
- B. Counseling will be provided to displacements in the area of households finance, fair housing rights, real estate transactions, and locating and evaluating replacement housing options. Counseling shall be provided by the City or its designated agency.

To permanently displaced households to ensure that:

- 1. No person is discriminated against based upon age, race, color, religion, sex, handicap, familial status, national origin, genetics or presence of children in the households
- 2. Displaces receive information concerning the full range of housing opportunities within the local housing market.

DULY PASSED AND ADOPTED by the City Commission of the City of Palatka, Florida at a regular meeting on this ____ day of _____, 2018.

, Mayor
Palatka City Commission

ATTESTED:

THE CITY OF PALATKA, FLORIDA
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
CITIZENS PARTICIPATION PLAN

In keeping with the provisions of the Housing and Community Development Act of 1974 as amended, 24 CFR 570.431 and Department of Economic Opportunity (DEO) Rule 73C-23, the City of Palatka, Florida hereby establishes a Citizen Participation Plan.

I. OVERALL GOAL

The purpose of this plan is to provide the citizens of the City of Palatka with an adequate opportunity for meaningful involvement on a continuing basis and for participation in the planning, development, implementation, and assessment of the City of Palatka's Community Development Block Grant Program.

II. OBJECTIVES

- A. To increase interchange of information between CDBG Staff and the local citizens concerning community development and related concerns.
- B. To heighten public awareness as to the purpose and function of the CDBG Program and the types of assistance available, especially among low/moderate income residents of CDBG target areas.
- C. To increase community participation in program planning and implementation and thereby create local support for CDBG goals.
- D. To allow affected or potentially affected citizens to directly assist in shaping and guiding the program's impact upon their neighborhood as well as the community at large.

III. CONSISTENCY

This Citizen Participation Plan is consistent with the requirements Section 508 of the Housing and Community Development Act of 1987 which amends Section 104(a) of the Housing and Community Development Act of 1974, 24 CFR 570.4312 and DEO Rule 73C-23. This Plan supersedes all other Citizen Participation Plans utilized by the City of Palatka, Florida. This Plan sets forth the procedures for Citizen Participation that shall be utilized during each stage of the Community Development Block Grant process and upon its adoption by the City of Palatka City Commission shall remain in effect until otherwise amended.

IV. OVERVIEW

- A. Citizen participation is a vital element in the preparation of a method by which community involvement will be solicited and maintained throughout the entire Community Development Block Grant process. The City of Palatka, Florida shall strive to ensure such participation by utilizing the public hearing process and by appointing a Citizens Advisory Committee.
- B. It shall be the policy of the City of Palatka that the effectiveness of citizen participation in the planning, development, implementation, and assessment of the Community Development Block Grant process be analyzed during the public

hearings and other called meetings and amendments to the Plan made when necessary.

V. CITIZEN PARTICIPATION TECHNICAL REQUIREMENTS

Since the purpose of this plan is to provide the citizens of the City of Palatka, Florida with an adequate opportunity for meaningful involvement in the planning, implementation, and evaluation of the City's Community Development Block Grant process, it shall be the City's policy to solicit, and respond in a timely manner to, the views and proposals of all citizens, particularly low and moderate income persons, members of minority groups, and residents of blighted areas where the potential exists for the undertaking of CDBG eligible activities. Upon adoption of this Plan, the following technical requirements shall govern this process:

A. Public Hearings

1. To ensure adequate notice of public hearings, all notices shall be printed in the non-legal section of the (local newspaper) no less than five (5) days and no more than twenty (20) days prior to each public hearing held at any stage of the Community Development Block Grant process.
2. When deemed appropriate, the City may also post notices of such hearings in not less than two public places. The posting of notices may only supplement publication of public hearing notices. A news article located in a conspicuous place in the newspaper may be considered as sufficient printed notice to fulfill this requirement. The City may also utilize additional means (personal contact, radio, etc.) to the maximum extent possible to reach target groups identified above when this is necessary. A minimum of two public hearings will be held before the City of Palatka City Commission to provide the greatest access for citizen participation in developing CDBG applications.
3. Because of the size of the City, and the centrality of the City Hall, this requirement will generally be satisfied by holding the hearings at the City of Palatka City Hall.
4. The City of Palatka has a known concentration of non-English speaking residents; therefore the services of a translator will be obtained in the event a significant number of residents of a target area do not speak English and request such services. Notices shall include information concerning the handicapped.

B. Citizens Advisory Task Force

1. The City shall establish a Citizens Advisory Task Force for all CDBG projects other than economic development projects, which shall consist of no less than five (5), not more than eight (8) members appointed by the City of Palatka City Commission in a manner, which will ensure substantial representation of low and moderate income persons and minorities. Committee members shall serve two (2) year terms.

2. The Citizens Advisory Task Force shall serve as a focal point or liaison between the City and its constituents in regard to CDBG project development and implementation. The Committee shall have the following duties and responsibilities:
 - a. Disseminate information concerning eligible activities, proposed projects, and the status of current projects.
 - b. Coordinate various groups which choose to participate in the implementation of community development activities.
 - c. Review written comments assessing the implementation of the CDBG program.
 - d. Monitor the overall implementation of the CDBG program and review program status with administrative personnel on a quarterly basis or more frequently if deemed necessary.
 - e. Monitor the overall implementation of the CDBG program and review program status with administrative personnel on a quarterly basis or more frequently if deemed necessary.
 - f. Monitor the citizen participation process and propose such amendments as may be necessary to this Participation Plan.
3. The Citizen Advisory Task Force shall be a tool through which program progress can be analyzed and proposed amendments discussed, if applicable.

C. Access to Records

1. The City of Palatka shall maintain a complete project file on its Community Development Block Grant program(s) which shall be available for public inspection during regular office hours in the City Clerk's office. This file shall include but not be limited to the following:
 - a. Citizens Participation Plan
 - b. Community Development Plan
 - c. Community Development Block Grant Application
 - d. Program Amendments
 - e. Environmental Review Record
 - f. Financial Status
 - g. Fair Housing Ordinance
 - h. Equal Opportunity Requirements
 - i. Policies and Procedures Governing Beneficiary Eligibility
 - j. Performance Assessment Report
 - k. Written Comments and City's Response
2. Generally, the project file is available for review by any citizen or group; however, in no case will disclosure be made of any program participant's financial status.

D. Technical Assistance

The program staff shall provide technical assistance to citizens' committees and groups and interested persons in the citizen participation process. This technical assistance shall focus on increasing public access to participating in the Community Development Block Grant decision making process through the Citizens Advisory Committee, and ensuring that this participation is meaningful. Technical assistance will also be utilized to foster an understanding of program requirements; i.e., equal opportunity, relocation, environmental policies, beneficiary eligibility, etc.

E. Grievances

1. All grievances regarding individual decisions made as a part of the implementation of the Community Development Block Grant program shall be submitted, in writing to the Program Administrator. If a person feels that his/her complaint has not been sufficiently addressed by the Program Administrator's response, an appeal may be made to the Citizens Advisory Task Force.
2. If a response satisfactory to the aggrieved is not issued by the Committee, an appeal may be made to the City of Palatka City Commission. At any point, the aggrieved may register a written complaint with the Florida Department of Economic Opportunity, 107 East Madison Street, MSC-400 Tallahassee, Florida 32399-6508. All written complaints registered at the local level shall have a written response from the Administrator, Committee, or the City Commission within fifteen (15) days of the lodging of said complaint. A file of all grievances and responses shall be maintained and available for public inspection. In the event the aggrieved has exhausted all appeals without a decision satisfactory to himself/herself, he/she may pursue other legal channels in an attempt to achieve satisfaction.

F. Amendment

The amendment of this Plan shall follow all citizen participation requirements delineated in the Section Post Approval Requirements and applicable technical provisions. Such amendments shall require adoption by the City of Palatka City Commission prior to becoming effective.

G. Authority

No part of this participation Plan shall be construed to restrict the responsibility and authority of the elected officials of the City of Palatka, Florida, in the development and implementation of any Community Development Block Grant program. Rather it is a vehicle through which the elected officials of the City of Palatka can assure citizen input prior to their decision making process.

CITIZEN PARTICIPATION IN EACH STAGE OF THE CDBG PROGRAM

I. Application Stage

The objective of citizen participation at this stage is to provide meaningful community-wide citizen input into the decision making process during the consideration of priorities and of options associated with the development and submission of the application. The following requirements will be met during the application stage and certified to in the body of the application:

- A. Review of the Citizen Participation Plan
- B. Presentation of the City's Community Development Plan.

Title I of the Housing and Community Development Act of 1974, as revised, has as its primary objective, the development of viable urban communities by providing decent housing, suitable living environment, and expanding economic opportunities, principally for persons of low and moderate incomes. Consistent with these objectives, the City of Palatka will develop a Community Development Plan that identifies the community development and housing needs and specifies both short and long term community development objectives to meet the established needs.

C. Public Hearings

A minimum of two (2) public hearings will be held before the City of Palatka City Commission during this stage. The purpose of the first public hearing is to access community needs and problems in an effort to determine the most pressing needs of the community and to solicit citizen input as to the ranking of said needs. The purpose of the second hearing is to present for public comment and review the program of activities that the City has selected for the application as best suited to meet these needs. The City may determine that more than two (2) public hearings during the application stage are desirable and thus hold extra hearings. All such hearings shall be governed by the requirements as set forth herein. The following information will be presented to the public at each public hearing during this stage:

1. The range of activities that may be undertaken with CDBG funds, the kinds of activities previously funded; if any, and the progress made with respect to those activities.
2. An overview of the CDBG program to include analysis of DEO rating process and discussion of applicable grant ceilings.
3. Discussion of the competitive nature of the CDBG process and the likelihood that more applications will be submitted to DEO than can be funded.
4. The process to be followed in soliciting and responding to the views and

proposals of citizens in a timely manner.

5. Discussion of the role of the Citizen Advisory Task Force.

II. POST APPROVAL STAGE

- A. The City shall assure continuing citizen participation throughout the life of the Community Development Block Grant program, particularly when considering amendments to the program. The City shall conduct at least one (1) public hearing, in accordance with the requirements of such hearings, during the grant amendment process.
- B. The involvement of citizens in the amendment process is felt to be essential. To ensure adequate citizen participation during the conduct of the program, the following requirements for amendments will be met:
 1. A minimum of one (1) public hearing will be held prior to the submission of any amendment that involves the reduction of beneficiaries and require formal approval by DEO according to the provisions of this Plan.
 2. Citizens will be involved in amendments not requiring formal DEO approval, budget revisions, and local changes in the CDBG Program. Such changes will be presented for review to the Citizen's Advisory Committee in a meeting of such Committee which shall be open to the public.
 3. The City shall attempt to involve citizens residing in the target area(s) affected by any amendment or revision in the development of such amendment or revision. This shall be accomplished through the dissemination of information on such program changes to the affected residents.

IV. ASSESSMENT OF PERFORMANCE

Citizens of the City of Palatka will be provided opportunities to comment on the implementation of the City's CDBG program and to assess the performance of the City in meeting its community development goals and objectives. Continual community assessment of the effectiveness of the program is considered essential to the success of a CDBG program. In order to ensure this involvement, the City will utilize the following approaches:

1. The Citizen Advisory Task Force, established in accordance with this Plan, will function as the focal point of the evaluation and assessment process. This group will continually provide the City and its staff with feedback on the effectiveness of the program and suggest changes, if applicable.
2. The public hearing process will be used to ensure community-wide participation in the evaluation of the program.

3. Written comments on the program will be received at any time during the life of the program. All written comments will be presented to the Citizen Advisory Task Force for their review and responses by the appropriate party within fifteen (15) days.

VI. CITIZEN COMMENT TO DEO

Persons may comment to DEO at any time concerning the City of Palatka's failure to comply with the citizen participation requirements as set forth in this Plan.

DULY PASSED AND ADOPTED by the City Commission of the City of Palatka, Florida at a regular meeting on this ____ day of _____, 2018.

, Mayor

ATTESTED:

, City Clerk

DRAFT

Resolution No. ____

THE CITY OF PALATKA, FLORIDA

**COMMUNITY DEVELOPMENT
BLOCK GRANT PROGRAM**

COMPLAINT AND GRIEVANCE PROCEDURES

1. All complaints and or grievances, including those involving the handicapped, shall be submitted in writing to the Community Development Administrator.
2. If remedy is not provided, then the complaint or grievance shall elevate to the Citizens Advisory Task Force (CATF).
3. If remedy is not provided, the complaint or grievance shall elevate to the City of Palatka City Commission.
4. It shall be the policy of this locality to respond within fifteen (15) days to all written complaints. It shall further be the policy of this locality to resolve complaints and grievances in a timely manner.
5. Nothing in the policy or procedure is intended to keep anyone aggrieved from appealing decisions to the Florida Department of Economic Opportunity if proper resolution is not received.

DULY PASSED AND ADOPTED by the City Commission of the City of Palatka, Florida at a regular meeting on this ____ day of _____, 2018.

, Mayor

ATTESTED:

, City Clerk

CITY OF PALATKA
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
PURCHASING POLICY
INCLUDING THE
MINORITY BUSINESS ENTERPRISE POLICY

Section 1 PURPOSE

This policy is adopted to assure that commodities and services for the Community Development Block Grant Programs are obtained efficiently and effectively in free and open competition and through the use of sound procurement practices. All City staff and other persons (subgrantees or contractors) with designated responsibility for the administration of CDBG award contracts are responsible for ensuring compliance with all applicable federal and state laws and regulations. These include but are not limited to: OMB Circular A-102, attachment O; 2 CFR Part 200; s. 255.0525 and 287.055 Florida Statutes, Chapter 73C-23 Florida Administrative Code.

Section 2 APPLICATION OF POLICY

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

Section 3 PURCHASING DIRECTOR

The City Manager shall serve as the central purchasing officer (the "Purchasing Officer") of the City of Palatka for all contracts or agreements described in Section 2.

Section 4 PURCHASING AND CONTRACT AWARD PROCEDURES

Section 4.01 PURCHASING CATEGORIES; THRESHOLD AMOUNTS

Except as to Sole Source Purchases (Section 4.06) and Cooperative Purchasing (Section 4.07), all purchases and contract awards are to be made subject to the provisions of the appropriate Section according to the following threshold amounts:

- A. Small Purchases (Section 4.02) \$1.00 to \$750.00
- B. Purchasing Quotes (Section 4.03) \$750.01 to \$5,000.00
- C. Competitive Sealed Bids/Proposals
(Section 4.04 & 4.05) \$5,000.01 and above

Section 4.02 SMALL PURCHASES

The purchase of commodities, equipment and services which cost less than the threshold authorized in Section 4 does not require solicitation of quotes or bids. Small purchases shall be authorized by the Purchasing Officer or his/her designees.

Section 4.03 PURCHASING QUOTES

The purchase of goods and services which cost within the range authorized for purchasing quotes in Section 4 shall require competitive quotations from three or more vendors. The quotations shall be obtained by the Purchasing Division and shall be reviewed and awarded by the Purchasing Officer.

Section 4.04

COMPETITIVE SEALED BIDDING

1. Conditions for Use. All contracts for purchases of a single item, services or aggregate in excess of the established base amount for Competitive Sealed Bids/Proposals in Section 4, where price, not qualifications, is the basis for contract award, shall be awarded by competitive sealed bidding.

2. Invitation to Bid. Under Section 255.0525(2), F.S. and Rule 73-23.00521(2)(a), F.A.C., an invitation to bid for construction projects that are projected to cost more than \$200,000.00 shall be published in at least one daily newspaper of general circulation in Putnam County as well as a nearby federal Office of Management and Budget (OMB) designated metropolitan statistical area (MSA) at least 21 days prior to the established bid opening and at least 5 days prior to any scheduled prebid conference. An invitation to bid for construction projects that are projected to cost more than \$500,000.00 shall be publicly advertised at least once in a newspaper of general circulation in Putnam County at least 30 days prior to the established bid opening and at least 5 days prior to any scheduled prebid conference. Additionally, Notice shall be sent to those vendors and contractors on the City's MBE/WBE solicitation list. Alternatively, the City may substitute the above notice with any solicitation procedure which generates at least three responsible and responsive bids or proposals which can be considered. However, if three responsible and responsive bids or proposals are not received, the procurement will be invalid.

An Invitation to Bid shall be issued and shall include specifications, all contractual terms and conditions, and the place, date, and time for opening or submittal. No later than five working days prior to the date for receipts of bids, a vendor shall make a written request to the City for interpretations or corrections of any ambiguity, inconsistency or error which the vendor may discover.

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

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

 - (2) Approved Equivalents. The City reserves the right to determine acceptance of item(s) as an approved equivalent. Bids which do not comply with stated requirements for equivalents in the bid conditions are subject to rejection. The procedure for acceptance of equivalents shall be included in the general conditions of the bid.
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3. Public Notice. Public Notice shall be by publication in a newspaper of general circulation at least twelve (12) working days prior to bid opening or in accordance with Section 4.04-2 above as appropriate. Notice of the Invitation to Bid shall give date, time, and place set forth for the submittal of proposals and opening bids.

4. Bid Opening. Bids shall be opened publicly. The Purchasing Officer or his/her designee shall open bids in the presence of one or more witnesses at the time and place designated in the Invitation to Bid. The amount of each bid, and other such relevant information as may be deemed appropriate by the Purchasing Officer together with the name of each bidder, and all witnesses shall be recorded. The record (Bid Report) and each bid shall be open to public inspection.
5. Bid Acceptance and Evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this policy. Bids shall be evaluated based on the requirements set forth in the Invitation to Bid, which may include, but not be limited to criteria to determine acceptability such as; inspection, testing, quality, recycled or degradable material content, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measured, such as discounts, transportation costs, and total or life cycle costs. No criteria may be used in bid evaluation that are not set forth in the Invitation to Bid, in regulations, or in this policy.
6. Bid Agenda Item. After evaluation, the Purchasing Officer will prepare a recommendation and shall place the item on the agenda of the City Commission.
7. Correction or Withdrawal of Bids; Cancellation of Awards. Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bids mistakes, shall be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written or telegraphic notice received in the office designated in the Invitation to Bid prior to the time set for bid opening. After bid opening, corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake, of non-judgmental character was made, the nature of the mistake, and the bid price actually intended. After bid opening, no changes in the bid price or other provisions of bids prejudicial to the interest of the City or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw his bid if:
 - (1) the mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
 - (2) the bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids or to cancel awards or contracts based on bid mistakes shall be supported by a written determination made by the Purchasing Officer.
8. Multi-Step Sealed Bidding. When it is considered impractical to initially prepare a purchase description to support an award based on price, an Invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.
9. Award. The contract shall be awarded with reasonable promptness to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation to Bid.
 - (1) Notice of Intended Award. The contract shall be awarded by written notice. Every

procurement of contractual services shall be evidenced by a written agreement. Notice of intended award, including rejection of some or all of bids received, may be given by posting the bid tabulations where the bids were opened, by telephone, by first class mail, or by certified United States mail, return receipt requested, whichever is specified in bid solicitation. A vendor may request, in their bid submittal, a copy of the tabulation sheet to be mailed in a vendor provided, self-addressed envelope for their records.

- (2) Notice of Right to Protest. All notices of decision or intended decisions shall contain the statement: "Failure to file a protest within the time prescribed in Section 4.08 of the CDBG Purchasing Policy of the City of Palatka shall constitute a waiver of Proceedings under that section of this policy".
10. Cancellation of Invitations for Bids. An Invitation for bids or other solicitation may be canceled, or any or all bids may be rejected in whole or in part when it is in the best interests of the City, as determined by the Commission provided such action does not violate CDBG program requirements. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurement of similar items.
11. Disqualification of Vendors. For any specific bid, vendors may be disqualified by the Finance Director or City Clerk for the following reasons:
 - (1) Failure to perform according to bidding provisions.
 - (2) Conviction in a court of law of any criminal offense in connection with the conduct of business.
 - (3) Clear and convincing evidence of a violation of any federal or state anti-trust law based on the submission of bids or proposals, or the awarding of contracts.
 - (4) Clear and convincing evidence that the vendor has attempted to give a City employee a gratuity of any kind for the purpose of influencing a recommendation or decision in connection with any part of the City's purchasing activity.
 - (5) Failure to execute a Public Entity Crimes Statement as required by Florida Statutes Chapter 287.133 (3) (a).
 - (6) Failure to be a responsive bidder according to the bidding procedures and provisions will result in disqualification of a bid.

Section 4.05 COMPETITIVE SEALED PROPOSALS

All contracts for purchases of a single item or services or aggregate in excess of the established base amount for Competitive Sealed Bids/Proposals in Section 4, where qualifications, not price, is the basis for contract award, shall be awarded by competitive sealed proposals. All contracts for the procurement of professional architectural, engineering, landscape architectural, and land surveying services will be awarded according to the provisions of Section 4.051. All other contracts required to be awarded by competitive sealed proposals will be awarded according to the provisions of Section 4.052.

Section 4.051 PROFESSIONAL ARCHITECTURAL, ENGINEERING, LANDSCAPE ARCHITECTURAL, AND LAND SURVEYING SERVICES

1. Public Announcement. It is the policy of the City to publicly announce all requirements for professional architectural, engineering, landscape architectural, and land surveying services and to

negotiate such contracts on the basis of demonstrated competence and qualifications at fair and reasonable prices. In the procurement of such services, the City may require firms to submit a statement of qualifications, performance data and other related information for the performance of professional services.

- (1) Scope of Project Requirements. Prior to submission of the request for proposals for professional services as an agenda item for approval by the Commission, the Purchasing Officer shall submit to the City written project requirements indicating the nature and scope of the professional services needed, including but not limited to the following:
 - (a) the general purpose of the services or study;
 - (b) the objectives of the study or services;
 - (c) estimated period of time needed for the services or the study;
 - (d) the estimated cost of the service or study;
 - (e) whether the proposed study or service would or would not duplicate any prior or existing study or services;
 - (f) list of current contracts or prior services or studies which are related to the proposed study or service;
 - (g) the described qualifications, listed in order of importance, of the person or firm applicable to the scope and nature of the services requested.

- (2) Distribution of Project Requirements. The Purchasing Officer shall distribute the written project requirements as approved by the City Commission to all persons on the mailing list who have indicated an interest in being considered for the performance of such professional services and to any additional persons as the Purchasing Officer or using agency deems desirable. The written project requirements shall include a statement of the relative importance of each of the requirements. The project requirements shall be accompanied by an Invitation to such persons to submit an indication of interest in performing the required services, and by notification of the date and time when such indications of interest are due. This date shall not be less than twelve calendar days from the date of public notice when the Purchasing Officer shall publish in at least one daily newspaper of general circulation in the County where the project is located and in a nearby federal Office of Management and Budget (OMB) designated metropolitan statistical area (MSA). Alternatively, the City may substitute the above notice with any solicitation procedure which generates at least three responsible and responsive bids or proposals which can be considered. However, if three responsible and responsive bids or proposals are not received, the procurement will be invalid.

- (3) Modification Prohibition. After the publicized submission time and date, indications of interest shall not be modified or allowed to be modified in any manner except for correction of clerical errors or other similar minor irregularities as may be allowed by the Selection Committee (defined in Section 4.051B) prior to making its selection of those best qualified to be formally interviewed.

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

2. Selection Committee Membership and Evaluation. Depending on the expected complexity and expense of the professional services to be contracted, the City may determine whether a three member or five-member selection committee will best serve the needs of the Commission.

(1) Three Member Committee Composition. Membership of a three-member selection committee shall be appointed by the City Commission.

(2) Five Member Committee Composition. Membership of a five-member selection committee shall be appointed by the City Commission.

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

(a) prepare an alphabetical list of those persons determined by the Selection Committee to be qualified, interested and available; and

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

(4) Shortlisting. The best qualified respondents shall be based upon the Selection Committee's ability to differentiate qualifications applicable to the scope and nature of the services to be performed.

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

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

(b) current work load;

(c) financial responsibilities;

- (d) ability to observe and advise whether plans and specifications are being compiled with, where applicable;
 - (e) record of professional accomplishments;
 - (f) proximity to the project involved, if applicable;
 - (g) record of performance; and
 - (h) ability to design an approach and work plan to meet the project requirements, where applicable.
- (5) Interview and Commission Approval. After conducting the formal interviews, the Selection Committee shall list those respondents interviewed in order of preference based upon the considerations listed in subsection (4) above. The respondents so listed shall be considered to be the most qualified and shall be listed in order of preference starting at the top of the list. The list of best qualified persons shall be forwarded to the Commission for approval prior to beginning contract negotiations. Negotiation sequence shall be based on the order of preference.
3. Negotiation Staff. Contract negotiations shall be conducted by the Purchasing Officer unless the Commission President directs that negotiations be conducted by a Negotiation Committee.

Negotiation. The Purchasing Officer or the Negotiation Committee shall negotiate a contract with the firm considered to be the most qualified to provide the services at compensation and upon terms which the Purchasing Officer or the Negotiation Committee determines to be fair and reasonable to the City. In making this decision, the Purchasing Officer or the Negotiation Committee shall take into account the estimated value, the scope, the complexity, and the professional nature of the services to be rendered. As a part of the negotiation, the Purchasing Officer or the Negotiation Committee shall conduct a cost analysis, including evaluation of profit, based on a cost breakout by the firm of its proposed price. Should the Purchasing Officer or the Negotiations Committee be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, negotiations with that firm will be formally terminated. The Purchasing Officer or the Negotiation Committee shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the Purchasing Officer or the Negotiation Committee shall formally terminate negotiations, and then shall undertake negotiations with the third most qualified firm. Should the Purchasing Officer or the Negotiation Committee be unable to negotiate a satisfactory contract with any of the selected firms, the Selection Committee shall select additional firms in order of their competence and qualifications, and the Purchasing Officer or Negotiation Committee shall continue negotiations in accordance with this section until an agreement is reached or until a determination has been made not to contract for services.

Section 4.052 OTHER COMPETITIVE SEALED PROPOSALS (non-287.055 services)

1. Conditions for Use. All contracts required by Section 4.05 to be awarded by competitive sealed proposals that are not for the procurement of professional architectural, engineering, landscape architectural, and land surveying services, will be awarded according to the provisions of this section.
2. Consultant's Competitive Negotiation Act. Professional services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered land surveying, as defined under the Consultant's Competitive Negotiation Act (Section 287.055, Florida Statutes), shall be secured under the provisions of Section 4.051.

3. Commission Approval. Proposals anticipated to exceed the threshold established in Section 4 for Competitive Sealed Proposals shall be approved by the City of Palatka prior to solicitation.
4. Public Notice. Adequate public notice of the Request for Proposal shall be given in the same manner as provided in subsection 4.04-3 of this policy for competitive sealed bidding. Notice shall also be sent to those vendors and contractors on the City's MBE/WBE solicitation list.
5. Evaluation Factors. The Request for Proposals shall state the relative importance of criteria outlined in the scope of services, fee proposal, and other evaluation.
6. Proposal Cancellation or Postponement. The Purchasing Officer may, prior to a proposal opening, elect to cancel or postpone the date and/or time for proposal opening or submission.
7. Revisions and Discussions with Responsible Offerors. As provided in the Request for Proposals, and under regulations promulgated by the City Commission of the City of Palatka, discussions may be conducted with responsible offerors who submit proposals determined to be qualified of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submission and prior to award for the purpose of obtaining the best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors. The Purchasing Officer shall prepare a written summary of the proposals and make written recommendation of award to the City Commission. As a part of the recommendation, the Purchasing Officer shall conduct a cost analysis, including evaluation of profit, based on a cost breakout by the firm of its proposed price.

Award. Award shall be made by the City Commission to the lowest responsive and responsible offer or whose proposal is determined in writing to be the most advantageous to the City of Palatka, taking into consideration the evaluation factors set forth in the Request for Proposals. No other factors or criteria shall be used in the evaluation criteria that is not included in the Request for Proposal.

Section 4.06 SOLE SOURCE PURCHASES

Sole Source Certification. The procurement for all professional services and any contract resulting from a non-competitive procurement process must meet the requirements of 2 CFR Part 200 and Section 287.055 of the Florida Statutes. The City's Purchasing Officer must conduct a cost or price analysis of all proposed prices on sole source purchases, analysis shall include a review of profit as a separate element. Sole source purchases must be approved by DEO in writing.

Section 4.07 COOPERATIVE PURCHASING

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

Section 4.08

BID PROTEST

1. Right to Protest. Any actual prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of contract may protest to the City Commission. Protestors shall seek resolution of their complaints initially with the Purchasing Officer and secondly with the City Clerk prior to protesting to the City Commission.

2. Filing a Protest. Any persons who is affected adversely by the decision or intended decision of the City shall file with the Purchasing Officer a notice of protest in writing within 72 hours after the posting of bid tabulation or after receipt of the notice of intended decision; and file a formal written protest within 10 calendar days after he/she filed the notice of protest. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under this Section. A written protest is filed with the City when it is delivered to and received in the office of the Purchasing Officer.
 - (1) The notice of protest shall contain at a minimum: the name of the bidder; the bidders address and phone number; the name of the bidder's representative to whom notices may be sent; the name and bid number of the solicitation; and a brief factual summary of the basis of the protest.
 - (2) The formal written protest shall; identify the protestant and the solicitation involved; include a plain, clear, statement of the grounds on which the protest is based; refer to the statutes, laws, ordinances, or other legal authorities which the protestant deems applicable to such grounds; and specifically request the relief to which the protestant deems himself entitled by application of such authorities to such grounds.
 - (3) The protestant shall mail a copy of the notice of protest and the formal written protest to any person with whom he/she is in dispute.

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

4. Protest Proceedings. If the protest cannot be resolved by mutual agreement, the Purchasing Officer shall conduct or designate another to conduct a protest proceeding pursuant to the following procedures:
 - (1) Protest Proceeding Procedures.
 - (a) The presiding officer shall give reasonable notice to all substantially affected persons or businesses. Otherwise petitions to intervene will be considered on their merits as received.
 - (b) At or prior to the protest proceeding, the protestant may submit any written or physical materials, objects, statements, or affidavits, and arguments which he/she deems relevant to the issues raised.
 - (c) In the proceeding, the protestant, or his/her representative or counsel, may also make an oral presentation of his evidence and arguments. However,

neither direct nor cross examination of witnesses shall be permitted, although the presiding officer may make whatever inquiries he/she deems pertinent to a determination of the protest.

- (d) The judicial rules of evidence shall not apply and the presiding officer shall base his/her decision on such information given in the course of the proceeding upon which reasonable prudent persons rely in the conduct of their affairs.
- (e) Within seven (7) working days of the conclusion of the proceeding, the presiding officer shall render a decision which sets forth the terms and conditions of any settlement reached. Such decision of the presiding officer shall be conclusive as to the recommendation to the City Commission.
- (f) Any party may arrange for the proceedings to be stenographically recorded and shall bear the expense of such recording.

(2) **Intervenor.** The participation of intervenors shall be governed by the terms of the order issued in response to a petition to intervene.

(3) **Time Limits.** The time limits in which protests must be filed as provided herein may be altered by specific provisions in invitation for bids or request for proposal.

(4) **Entitlement to Costs.** In no case will the protesting bidder or offeror be entitled to any costs incurred with the solicitation, including bid preparation costs and attorney's fees.

5. **Stay of Procurement During Protests.** In the event of a timely protest under Subsection A of this Section, the Purchasing Officer shall not proceed further with the solicitation or award of the contract until all administrative remedies have been exhausted or unless the City Commission makes a determination that the award of a contract without delay is necessary to protect the substantial interest of the City.

Section 4.09 CONTRACT CLAIMS

1. **Authority of the Purchasing Officer to Settle Bid Protests and Contract Claims.** The Purchasing Officer is authorized to settle any protest regarding the solicitation or award of a City contract, or any claim arising out of the performance of a City contract, prior to an appeal to the City Commission or the commencement of an action in a court of competent jurisdiction, but may not settle any such protest or claim for consideration of \$1,000.00 or greater in value without prior approval of the City Commission.

2. **Decision of the Purchasing Officer.** All claims by a contractor against the City relating to a contract, except bid protests, shall be submitted in writing to the Purchasing Officer for a decision. The contractor may request a conference with the Purchasing Officer on the claim. Claims include, without limitation, disputes arising under a contract, and those based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission.

3. **Notice to the Contractor of the Purchasing Officer's Decision.** The decision of the Purchasing Officer shall be promptly issued in writing, and shall be immediately mailed or otherwise furnished to the contractor. The decision shall state the reasons for the decision reached, and shall inform the contractor of his appeal rights.

4. Finality of the Purchasing Officer Decision; Contractor's Right to Appeal. The Purchasing Officer's decision shall be final and conclusive unless, within 10 calendar days from the date of receipt of the decision, the contractor files a notice of appeal with the City Commission.
5. Failure to Render Timely Decision. If the Purchasing Officer does not issue a written decision regarding any contract controversy within fourteen calendar days after receipt of a written request for a final decision, or within such longer period as may be agreed upon between the parties, then the aggrieved party may proceed as if an adverse decision had been issued.

Section 4.10 REMEDIES FOR SOLICITATION OR AWARDS IN VIOLATION OF LAW

1. Prior to Bid Opening or Closing Date for Receipt of Proposals. If prior to the bid opening or the closing date for receipt of proposals, the Purchasing Officer after consultation with the City Attorney, determines that solicitation is in violation of federal, state, or local law or ordinance, then the solicitation shall be canceled or revised to comply with applicable law.
2. Prior to Award. If after bid opening or the closing date for receipt of proposals, but prior to the award contract, the Purchasing Officer after consultation with the City Attorney, determines that a solicitation or a proposed award of a contract is in violation of federal, state, or municipal law or ordinance, then the solicitation or proposed award shall be canceled.
3. After Award. If, after award, the Purchasing Officer after consultation with the City Attorney, determine that a solicitation or award of a contract was in violation of applicable law or ordinance, then;
 - (1) if the person awarded the contract has not acted fraudulently or in bad faith:
 - (a) the contract may be terminated and the person awarded the contract shall be compensated for actual costs reasonably incurred under the contract plus a reasonable profit, but excluding attorney's fees, prior to termination; or
 - (2) if the person awarded the contract has acted fraudulently or in bad faith the contract may be declared null and void or voidable, if such action is in the best interest of the City.

Section 5 CONTRACT ADMINISTRATION

Section 5.1 CONTRACT PROVISION

1. Standard Contract Clauses and Their Modification. The City after consultation with the City Attorney, may establish standard contract clauses for use in City contracts. However, the Purchasing Officer may, upon consultation with the City Attorney, vary any such standard contract clauses for any particular contract.
2. Contract Clauses. All City contracts for supplies, services, and construction shall include provisions necessary to define the responsibilities and rights of the parties to the contract. The Purchasing Officer after consultation with the City Attorney, may propose provisions appropriate for supply, service, or construction contracts, addressing among others the following subjects:

- (1) the unilateral right of the City to order, in writing, changes in the work within the scope of the contract;
- (2) the unilateral right of the City to order in writing temporary stopping of the work or delaying performance that does not alter the scope of the contract;
- (3) variations occurring between estimated quantities or work in contract and actual quantities;
- (4) defective pricing;
- (5) time of performance and liquidated damages;
- (6) specified excuses for delay or nonperformance;
- (7) termination of the contract for default;
- (8) termination of the contract in whole or in part for the convenience of the City;
- (9) suspension of work on a construction project ordered by the City;
- (10) site conditions differing from those indicated in the contract, or ordinarily encountered, except that a differing site conditions clause need not be included in a contract
 - (a) when the contract is negotiated;
 - (b) when the contractor provides the site or design; or
 - (c) when the parties have otherwise agreed with respect to the risk of differing site conditions;
- (11) value engineering proposals;
- (12) remedies;
- (13) access to records/retention records;
- (14) environmental compliance; and
- (15) prohibition against contingency fees;
- (16) insurance to be provided by contractor covering employee property damage, liability and other claims, with requirements of certificates of insurance and cancellation clauses;
- (17) bonding requirements as set by the City Commission;
- (18) causes of and authorization for suspension of contract for improper contractor activity.

Section 5.2 PRICE ADJUSTMENTS

1. Method of Price Adjustment. Adjustments in price during the term of a contract shall be computed in one or more of the following ways upon approval by the City:
 - (1) by agreement on a fixed price adjustment before adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
 - (2) by unit prices specified in the correct or subsequently agreed upon;
 - (3) by costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon by the City;
 - (4) in such other manner as the contracting parties may mutually agree; or
 - (5) in the absence of agreement by the parties, by a unilateral determination by the City of the costs attributable to the events or situations under such clauses with adjustment of profit or fee as computed by the City, subject to the provisions of this Section.

2. Costs or Pricing Data Required. A contractor shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provisions of this Section.

Section 5.3 CHANGE ORDERS/CONTRACT AMENDMENTS

Change orders and contract amendments, which provide for the alteration of the provisions of a contract may be approved by an appropriate person based upon the dollar value of the change or amendment. The purchasing categories thresholds designated in Section 4.01 shall govern the appropriate level of approval.

Section 5.4 ASSIGNMENTS OF CONTRACTS

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

Section 5.5 RIGHT TO INSPECT PLANT

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

Section 6 CITY PROCUREMENT RECORDS

1. Contract File. All determinations and other written records pertaining to the solicitation, award, or performance of a contract shall be maintained for the City in a contract file.
2. Retention of Procurement Records. All procurement records shall be retained and disposed of by the City in accordance with records retention guidelines and schedules established by the State of Florida and Federal Guidelines. For CDBG related activities that retention period is six years.

Section 7 SPECIFICATIONS

Section 7.1 MAXIMUM PRACTICABLE COMPETITION

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

Section 7.2 USE OF BRAND NAME OR EQUIVALENT SPECIFICATIONS

1. Use. Brand name or equivalent specifications may be used when the City determines that:
 - (1) no other design, performance, or qualified product list is available;
 - (2) time does not permit the preparation of another form of purchase description, not including a brand name specification;
 - (3) the nature of the product or the nature of the City requirements makes use of a brand name equivalent specifications suitable for the procurement; or
 - (4) use of brand name or equivalent specification is in the City's best interest.
2. Designation of Several Brand Names. Brand names or equivalent specifications shall seek to designate three, or as many different brands as are practicable, as "or equivalent" references and shall further state the substantially equivalent products to those designated may be considered for award.

3. Required Characteristics. The brand name or equivalent specifications shall include a description of the particular design, functional, or performance characteristics required.
4. Nonrestrictive Use of Brand Name or Equivalent Specifications. Where a brand name or equivalent specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.
5. Determination of Equivalents. Any prospective bidder may apply, in writing, for a pre-bid determination of equivalence by the Purchasing Director. If sufficient information is provided by the prospective bidder, the Purchasing Director may determine, in writing and prior to the bid opening time, that the proposed product would be equivalent to the brand name used in the solicitation.
6. Specifications of Equivalents Required for Bid Submittal. Vendors proposing equivalent products must include in their bid submittal the manufacturer's specifications for those products. Brand names and model numbers are used for identification and reference purposes only.

Section 7.3 BRAND NAME SPECIFICATIONS

1. Use of Brand Name Specifications. Since the use of a brand name specification is restrictive of product competition, it may be used only when the Purchasing Director makes a determination that only the identified brand name item will satisfy the City needs.
2. Competition. The Purchasing Director shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 4.10, Sole Source Purchases.

Section 8 ETHICS IN PUBLIC CONTRACTING

Section 8.1 CRIMINAL PENALTIES

To the extent that violations of the ethical standards of conduct set forth in this section constitute violations of the State Criminal Code they shall be punishable as provided therein. Such penalties shall in addition to civil sanctions set forth in this part.

Section 8.2 EMPLOYEE CONFLICT OF INTEREST

1. Participation. It shall be unethical for any City employee, officer, or agent to participate directly or indirectly in a procurement or administration of a contract. A conflict of interest would arise when:
 - (1) the City employee, officer or agent;
 - (2) any member of his immediate family;
 - (3) his or her partner; or
 - (4) an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The officer's employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, or parties to sub-agreements.

Section 8.3 CONTEMPORANEOUS EMPLOYMENT PROHIBITED

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

Section 8.4 USE OF CONFIDENTIAL INFORMATION

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

Section 8.5 GRATUITIES AND KICKBACKS

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

Section 8.6 SANCTIONS

1. Employee Sanctions. Upon violation of the ethical standards by an employee, officer or agent of the City, or other appropriate authority may:
 - (1) impose one or more appropriate disciplinary actions as defined in the City Personnel Rules and regulations, up to and including termination of employment; and;
 - (2) may request investigations and prosecution
2. Non-employee Sanctions. The Commission may impose any one or more of the following sanctions on a non-employee for violation of the ethical standards:
 - (1) written warnings;
 - (2) termination of contracts; or
 - (3) debarment or suspension as provided in Section 11-8.

Section 8.7 RECOVERY OF VALUE TRANSFERRED OR RECEIVED IN BREACH OF ETHICAL STANDARDS

1. General Provisions. The value of anything being transferred or received in breach of the ethical standards of this policy by a City employee or non-employee may be recovered from both the City employee and non-employee.

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

Section 9 FEDERAL POLICY NOTICE

Section 9.1 PATENTS

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

1. Notice to Contractor. The contract shall give notice to the contractor of the applicable grantor agency requirements and regulations concerning reporting of, and rights to, any discovery or inventions arising out of the contract.
2. Notice by Contractor. The contract shall require the contractor to include a similar provision in all subcontracts involving research and development, experimental, or demonstration work.

Section 9.2 NOTICE OF FEDERAL PUBLIC POLICY REQUIREMENTS

1. Applicability. If the contract is being funded in whole or in part by assistance from any federal agency, the contract is subject to one or more federal public policy requirements such as:
 - (1) equal employment opportunity;
 - (2) Copeland “anti-kickback” Act;
 - (3) Davis Bacon Act;
 - (4) Contract Work Hours and Safety Act;
 - (5) Americans with Disabilities Act; and
 - (6) Other requirements set forth in any contract.
2. Notice. The Purchasing Director shall include in the contract all appropriate provisions giving the contractor notice of these requirements. Where applicable, the Purchasing Director shall include in the contract provisions the requirement that the contractor give similar notice to all of its subcontractors.

Section 10 PAYMENT TO VENDORS

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

Section 11 MINORITY BUSINESS ENTERPRISE PARTICIPATION PROGRAM

1. Purpose and Scope. The purpose of the Minority Business Enterprise Program is to enhance the participation of qualified minority and women-owned businesses in providing goods and services and construction contracts required by the City Commission. This program describes procedures to accomplish this purpose and to monitor and evaluate progress. All Department and Divisions under the jurisdiction of the City Commission are responsible for implementing this program.

2. Policy Statement.

- (1) It is the policy goal of the City that two percent (2%) of the Commission approved procurement as contained with both operating and capital improvement budgets (exclusive of in-house services and construction) shall be identified and let through the competitive bid process to minority and women businesses and persons. The program is based on an in-depth evaluation of all actual as well as projected procurement (Capital Improvement Projects, equipment, commodities and services) and on the market place. Procurement identified to establish a base for this program are not limited to those items only. This evaluation is the main factor in building a realistic program with attainable targets.
- (2) All departments and divisions under the jurisdiction of the City Commission are responsible for implementing this program and for making every reasonable effort to utilize MBEs and WBE's when opportunities are available. The Purchasing Officer will take the lead role in this process by taking active steps to encourage minority or women owned businesses.
- (3) Regarding the implementation of this policy, it is the Commission's intent to foster economic development in the City's area by establishing its MBE goals based on availability of minority and women-owned businesses located within the City. This is no way intended to limit or restrict competition. Rather, availability of area companies will be used to guide MBE goals. Such geographical preferences may be adjusted, amended or repealed by the City Commission, with or without a public hearing, as deemed necessary.

3. Definition. Minority Business Enterprise (MBE) as used herein, means a business that is owned and controlled at least 51% by one or more minority persons (MBE) or by one or more women (WBE) and whose management and daily operations are controlled by one or more such persons.

4. Administrative Responsibilities. The Purchasing Officer is responsible for the coordination of the Minority Business Enterprise Program and registration.

(1) Capital Improvement Projects

(a) REVIEW

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

(b) PRE-BID ACTIVITY

(1) Language regarding the Minority Business Enterprise Program will be inserted into bid specifications to assure that prospective bidders are aware of a requirement to make good faith efforts to utilize MBE/WBEs.

- (2) Registered MBE/WBEs, the Minority Contractors Association and other organizations for minority and women owned businesses will be notified in writing regarding pre-bid conferences where information on project scope and specifications will be presented, along with other types of technical assistance.
- (3) Upon request available plans and specification will be provided to MBE/WBE associations along with any special instructions on how to pursue bids.
- (4) Majority (prime) contractors on a bid list will be sent a letter outlining the Minority Business Enterprise Program procedures, the supportive documentation required for submittal with their bid, and a list of MBE/WBE contractors on the bid list.
- (5) Prior to award the Prime Contractor must provide documentation on attempts to solicit participation from MBE/WBE firms.
- (6) The Prime Contractor attempts to utilize MBE/WBE firms during the project must be documented as part of the Prime's contract award responsibilities under this program. Documentation to include but not limited to requests for bids, bids received and justification for not utilizing MBE/WBE firms when bid amounts received are comparable.

Failure to keep these commitments will be deemed noncompliance with the contract and may result in a breach of contract.

(2) Contractor Responsibilities

- (a) Contractors must indicate all MBE/WBEs, contacted for quotes regarding a particular scope of work and submit a completed "Intent to Perform" sheet containing information and documentation obtained from each MBE/WBEs.
- (b) A contractor who determines that a MBE/WBEs, names in the bid submittal, is unavailable or cannot perform, will request approval from the Purchasing Officer to name an acceptable alternate. Such requests will be approved when adequate documentation of cause for the change is presented by the contractor.
- (c) A contractor's MBE/WBE plan will utilize MBE/WBEs to perform commercially useful functions in the work bid. A MBE/WBE is performing a commercially useful function when it is responsible for the management and performance of a distinct element of the total work.
- (d) Contractors are required to make good faith efforts to obtain MBE/WBE participation when so stipulated by bid specifications and/or contracts. If these efforts are unsuccessful, the contractor will submit a non-availability or refusal to participate and will request waiver of MBE/WBE participation.
- (e) The contractor who is the successful bidder will attend pre-construction conferences with appropriate City representatives to review the project scope and the MBE/WBE utilization plan.

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

5. Joint Venture Responsibilities

Definition of Joint Venture - A business arrangement in which two or more parties agree to pool their resources for the purpose of accomplishing a specific task. All parties agree to share in the profit and losses of the enterprise.

- (1) All joint ventures between minority and non-minority contractors must meet the “joint venture” definition included in the policy.
- (2) The use by MBE/WBEs or prime contractors of “minority fronts” or other fraudulent practices which subvert the true meaning and spirit of the Minority Business Enterprise Program, will not be tolerated and may result in termination of participation.
- (3) A joint venture consisting of minority and non-minority business enterprise will be credited with MBE/WBE participation on the basis of the percentages of the dollar amount of the work to be performed by the MBE/WBEs.
- (4) Contracts subject to this policy shall contain provisions stating that liquidated damages may be assessed against the general contractor and/or the MBE/WBE specifications in the contract(s). Such liquidated damage provisions shall be in a form approved by the Commission.

6. Fulfilling MBE/WBE Participation Requirements

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

7. Payment

- (1) Payment will be expedited by the City Commission within thirty (30) days upon completion and acceptance of the project. Special consideration may be given to hardship cases upon notification by MBEs/WBEs.
- (2) The City will provide work progress payments to all business at the completion and subsequent acceptance by Commission representatives within various stages of a particular project.

8. Bid List

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

- (1) The Commission may remove firms from the bid list for the following reasons:

- (a) failure to perform according to contract provisions;
 - (b) conviction in a court of law of any criminal offense in connection with the conduct of business.
 - (c) clear and convincing evidence of a violation of any federal or state anti-trust law based on the submission of bids or proposals or the awarding of contracts.
 - (d) clear and convincing evidence that a vendor has attempted to give a Commission employee, officer or agent a gratuity of any kind for the purpose of influencing recommendation or decision in connection with any part of the City Commission purchasing activity;
 - (e) violation of circumvention of the Minority Business Enterprise Program; or
 - (f) other reasons deemed appropriate by the City Commission
- (2) This policy is consistent with the City's Purchasing Policy. Wherever conflicts may exist, the provision in this Purchasing Policy will prevail.

9. Reporting.

The Purchasing Officer or appropriate person will report, at least annually, to the Commission on the Status of the Minority Business Enterprise Program. Records will be maintained reflecting participation of local minority and women owned businesses and shall be reported.

10. Severability Clause.

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

DULY PASSED AND ADOPTED by the City Commission of the City of Palatka, Florida at a regular meeting on this _____ day of _____, 2018.

(SEAL)

City of Palatka

ATTESTED:

By: _____
 _____, City Clerk

By: _____
 _____, Mayor

Approved as to form:

By: _____
 _____, City Attorney