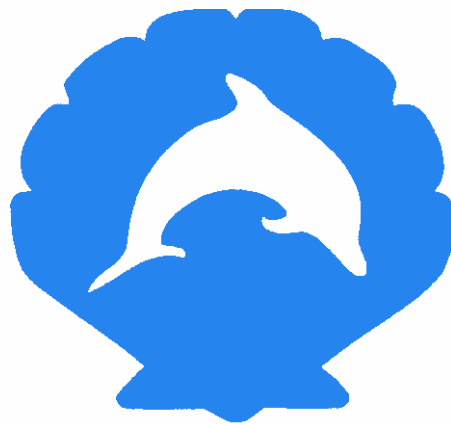


**SARASOTA BAY ESTUARY PROGRAM**  
**OPERATING PROCEDURES MANUAL**



**SARASOTA BAY**  
**ESTUARY PROGRAM**  
*Restoring Our Bays*

**Revised: June 2019**

# OPERATING PROCEDURES MANUAL

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## **INTRODUCTION**

This Operating Procedures Manual provides a guide to the fiscal and procurement procedures of the Sarasota Bay Estuary Program (SBEP). The objectives of the financial management and procurement system are to provide the Policy Board with reasonable assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with generally accepted accounting principles and the Code of Federal Regulations (40 CFR 31).

The Sarasota Bay Program was named in the Water Quality Act of 1987 as an estuary of national significance. The Act authorizes the Administrator of the Environmental Protection Agency to aid coastal communities in developing Comprehensive Conservation and Management Plans (CCMPs) to clean up and restore estuaries of national significance that are threatened by pollution, development or overuse.

Sarasota Bay was formally designated as a National Estuary Program on June 26, 1989, with the signing of an agreement to develop a CCMP. The Conference Agreement represented the commitments of Management Conference participants for the work to be accomplished over the five-year term of the Program and provided an overview and schedule for work leading to the final CCMP.

In February 1995, the NEP Policy Committee approved *The Voyage to Paradise Reclaimed*, the Comprehensive Conservation and Management Plan for Sarasota Bay. The CCMP was subsequently signed by the Governor and EPA Administrator Browner in November 1995. Since then, program partners have been engaged in implementing the actions identified in the CCMP. A formal Interlocal Agreement was entered into. In July 2004, the Interlocal was subsequently signed by the local governments and non-federal agencies. The core of the Agreement is a voluntary commitment by the signatories to achieve the goals adopted in the CCMP through detailed action plans prepared by each participant.

Preparation of this Operating Procedures Manual is authorized under Section 5.3(f) of the Interlocal Agreement.

## **I. Management Structure**

A seven-member Policy Board was established through the Interlocal Agreement to provide overall direction to the SBEP and make policy decisions on the program budgets and expenditures. Serving on the Policy Board are representatives from the Department of Environmental Protection, the Governing Board or Manasota Basin Board of the Southwest Florida Water Management District, the mayors of Sarasota, Bradenton and the Town of Longboat Key, or their designees, and elected commissioners from the counties of Sarasota and Manatee. The EPA (Environmental Protection Agency) participates on the Policy Board as a non-voting member.

In accordance with the Interlocal Agreement, the Policy Board has primary authority over the administration of the SBEP.

A twelve-member Management Board provides more direct oversight of the Program and makes recommendations to the Policy Board on programmatic priorities and matters of budget and spending. A Technical Advisory Committee (TAC) of more than 50 members serves as the scientific voice of the SBEP, and a 25-member Community Advisory Committee (CAC) advises the SBEP on its public outreach strategy and specific projects to implement that strategy.

This Manual proscribes the expected flow of procurement and accounting documentation and establishes a uniform and systematic accumulation of information and statistical data necessary to fulfill the procurement, financial and accounting requirements of SBEP. An annual report outlining the status of projects and accomplishments shall be prepared as part of the Annual Work Plan. Budget reports shall be provided to the Management and Policy Boards at the regular Management Board meetings and Policy Board meetings.

## **II. Annual Budget**

Operations of the Sarasota Bay Estuary Program are funded primarily through contributions from the EPA, participating local governments and Manasota Basin Board of the Water Management District. The Interlocal Agreement establishes the funding targets and requires that the Policy Board develop and approve an Annual Work Plan and budget, with due public notice. The SBEP shall maintain one year of operating reserves as a fund balance.

The SBEP Executive Director has the authority to apply for and accept grant and cooperative agreement funds if there is no match required or if the local match is no more than \$10,000. Notification of any cooperative agreement of federal assistance applications shall be presented to the Policy Board at its next quarterly meeting.

The SBEP Policy Board hereby grants the authority to the SBEP Executive Director to transfer up to \$15,000 between all project budgets in the approved Annual Work Plan annually. The Policy Board shall be advised of any budget amendments at the next quarterly meeting. Any budget changes to an approved project in excess of \$15,000 shall require the approval of the Policy Board. The Policy Board also allows up to \$15,000 to be transferred by the SBEP Executive Director between business expense line items annually.

The Code of Federal Regulations (40 CFR 31.30) permits grantees and subgrantees to revise budgets within the approved direct cost category to meet unanticipated requirements, and to make limited program changes to the approved project. Therefore, the SBEP Executive Director is authorized to approve transfers up to \$15,000 per Annual Work Plan for revisions between line items within the approved operating budget to meet unanticipated requirements. The SBEP Policy Board shall be notified of budget transfers at its next quarterly meeting.

Additional work tasks under a budgeted amount of \$15,000, which fall into projects previously approved in the Annual Work Plan, may be contracted for in accordance with purchase order procedures as outlined in the Operating Procedures Manual without further approval of the Management and Policy Boards. Budget changes for projects shall require the written approval of the EPA if any of the following occur:

- The revision would result in the need for additional funding
- Cumulative transfers among direct cost categories or among separately budgeted programs, projects, functions, or activities, which exceed or are expected to exceed 10 percent of the current total approved budget, whenever the EPA's share exceeds \$100,000

The SBEP shall obtain prior written approval of the EPA whenever any of the following programmatic changes are anticipated:

- Revision of the scope of work or objectives of the project
- Need for extension of the period of availability of funds
- Changes in key persons in cases where specified in an application of assistance award
- Obtaining the services of a third party to perform activities which are central to the purposes of the award (not including procurement of equipment, supplies, and general support services)

Requests to the EPA for prior approval of any budget revision will be in the same budget form used by the grantee in its application and shall be accompanied by a narrative justification for the proposed revision. Requests for prior approval under applicable federal cost principles (40 CFR 31.22) may be made by letter. A request by a contractor or subgrantee for prior

approval shall be addressed in writing to the SBEP. In turn, SBEP shall review and approve or disapprove the request in writing. SBEP shall not approve any budget or project revision which is inconsistent with the purpose of terms and conditions of the federal grant to SBEP. If the requested revision would result in a change to the SBEP-approved project which requires EPA prior approval, the SBEP shall obtain EPA approval before approving the contractor or subgrantee's request (40 CFR 31.30 (3)).

#### **A. Budget Categories**

SBEP uses the following budget categories:

Salaries	This item represents the base salaries for all full-time and part-time employees, temporary services and allocations of accrued holidays, vacations and sick leave.
Fringe Benefits	This item represents the cost of FICA taxes, workers compensation, health and life insurance. This cost also includes the contributions made on behalf of the employees to the Florida Retirement System.
Travel/Conferences	This item includes estimated amount needed to accommodate travel requirements associated with work of the SBEP, including mileage, car allowance, per diem, air travel and other associated travel costs. Registration fees for conferences, seminars and workshops are also included in this category.
Office Equipment	This item represents purchases of equipment, furniture, etc. costing in excess of \$500.00 with an expected useful life of at least one year.
Office Supplies	This item represents an estimate of costs needed to provide for normal items, such as paper, pens, note pads, folders, copier and computer supplies, and purchase of software.
Lease	This item represents the annual rental cost of the SBEP office facilities.
Postage	This item represents an estimate of money needed to support the postage demands of the SBEP mailing programs. It includes routine and mass mailing postage and courier services.

Telecommunications	This item represents an estimated annual cost for telephone and related services. The costs include local service, long distance carrier charges, cellular and internet accounts.
Equipment Lease	This item represents the cost of leasing the copy machine, postage meter and other equipment.
Maintenance/Repair	This item represents the cost of upkeep and/or repair of property or equipment.
Printing	This item includes printing labor costs and all materials necessary to produce meeting notices, special reports and other printed or reproduced materials required by various contracts as well as SBEP publications.
Legal Notices	This item represents the costs associated with publicizing bids, meetings, etc.
Subscriptions/Dues	This item represents books, professional magazines, and annual dues of various professional organizations.
General Liability	This item represents the insurance premiums for liability, automobile and property coverage for SBEP.
Contract Procurement	This item represents the cost of professional services to assist the SBEP Procurement in areas where bidding services are required.
Legal Services	This item represents the cost of retaining legal counsel for in-house legal services.
Payroll Services	This item represents costs associated with a contractual payroll system.
Accounting/Auditing	This item represents fees associated with an independent CPA reviewing the finances accordingly.
Computer Support	This item refers to expenses necessary for supporting the staff computer needs, both for hardware and software.
In-Kind Contributions	The value of contributed services used to meet cost-sharing or grant matching requirements.



Contingency	Unexpected expenditures deemed necessary, which are unbudgeted elsewhere.
Operations/Provision	Non-federal funds used for activities and functions including board meetings, internal meetings, and other associated affiliated groups.
Events	Costs associated with workshops and outreach activities to disseminate program information, offer education, or discuss science and/or policy.

### **B. Travel Budget**

The annual travel budget for SBEP professional staff, SBEP Board directors and advisory committee members shall include appropriate program-related intra-and inter-state conferences, workshops and seminars. Travel requests must be approved by the SBEP Executive Director and processed in accordance with Section 112.061, Florida Statutes. Each year's Annual Work Plan shall include a report on the use of travel funds provided by EPA. Complete instructions to employees on travel requests and reimbursement of expenses are provided in the SBEP Personnel Policy, Rules and Procedures Manual.

### **III. Procurement Procedures**

Federal funds, combined with non-federal matching funds from participating local governments and the SWFWMD (Southwest Florida Water Management District) Manasota Basin Board constitute the principal funding sources for the SBEP. The major budget objective of the SBEP is to utilize the available federal funding each year together with an amount of non-federal matching funds sufficient to implement the approved Annual Work Plan.

Costs for major projects included in each year's Annual Work Plan are established through discussions with the Management and Policy Boards and with the advice of the Technical and Citizen Advisory Committees where appropriate. The process is initiated by SBEP staff which recommends specific projects, associated work scopes, and estimated project costs as part of the coming year's work plan. Selection of projects and associated work scopes are based on the work necessary during the coming year to meet the Program's responsibilities under the Interlocal Agreement. The TAC and CAC are called on where necessary to advise staff and the Management Board on what adjustments, if any, are necessary to project work scopes and costs. Projects and estimated costs are then included in the work plan for review by the Management Board which may adjust project work scopes and funding. The Management Board's recommendations are provided to the Policy Board for final review and approval and further adjustment as deemed appropriate by the Policy Board.

The process is designed to take advantage of the considerable knowledge and experience of professionals and policy makers serving on the various boards and advisory committees.

SBEP has been requested by EPA Region 4 to specify in each Request for Proposal (RFP) the amount of federal funding supporting the particular project. To comply with the intent of that requirement and still allow for some competitiveness in pricing of projects, a narrow range of the expected cost of the work is specified in the RFP. Respondents to RFPs typically bid within that price range, so the selection process is reduced to a matter of selecting the best qualified consultant with the most effective approach to accomplishing the work.

Contracts are written on a cost-reimbursement basis with a not-to-exceed amount. This provides a convenient basis for invoicing work accomplished by the contractor and tracking the level of effort being expended on a particular task. The not-to-exceed amount specified in a particular contract is the price offered in a contractor's proposal and includes the contractor's profit. Contract negotiations center on obtaining the best possible product(s) within the budget allocated for a particular project.

#### **A. Approval of Purchases**

In addition to initial approval in the Annual Work Plan, the following internal accounting controls are observed. All purchases must be approved by the SBEP Finance Director. Additional approval is required as follows:

1. The SBEP Executive Director shall approve expenditures over \$500, unless specified differently, as set forth in Cash Disbursements.
2. Service contracts under \$15,000 shall be approved by the SBEP Executive Director.
3. Services over \$15,000 shall be approved by the SBEP Policy Board or the SBEP Management Board as so designated by the Policy Board.
4. The SBEP Executive Director will review contract work plans, field trip requests, grant requests and project printing planned expenditures for final approval.

#### **B. Selection of Contractors**

In order to keep the SBEP staff a small yet effective working unit, specialized technical services and other specialized needs will be obtained through qualified consultants and agencies in the public sector. It is the intent of SBEP to select the best-qualified firms and agencies to provide the services necessary to meet SBEP's responsibilities under the Interlocal Agreement. Positive efforts will be made by SBEP to comply with EPA guidelines by soliciting business or other organizations owned or controlled by socially and economically disadvantaged individuals, women and historically black colleges and universities. Whenever possible, SBEP will endeavor to the fullest extent practicable to negotiate a "FAIR Share" percentage of no less than 10.3 percent of the

federal funds for prime contracts, subcontracts, supplies, etc. to organizations owned or controlled by minorities. SBEP fully supports the utilization of minority business enterprises as defined in the Florida Small and Minority Business and Assistance Act.

All procurement procedures shall be conducted in accordance with the code of Federal Regulations (40 CFR 31.36) and as applicable Chapter 287, Florida Statutes and Chapter 60A-I, Florida Administrative Code, to the extent that the Florida Statutes are not in conflict with applicable Federal laws and standards.

The following purchasing categories have been created in Chapter 287.017, F.S.

A	Category One:	\$ 20,000
B	Category Two:	35,000
C	Category Three:	65,000
D	Category Four:	195,000
E	Category Five:	325,000

Pursuant to Chapter 287 F.S., the following contractual services shall be excluded from the bidding process: services provided by governmental agencies (including state universities), artistic services, auditing services, educational events offered to the public. However, a detailed scope of work and any other appropriate documentation deemed necessary by EPA will be provided.

Regardless of whether a purchase order or written agreement is used, the document must contain clear and specific language regarding services/deliverables that must be rendered and accepted prior to payments being made.

### **C. Request for Proposal**

The SBEP has formally adopted the City of Sarasota's Purchasing Ordinance (Ordinance 12-5009, see attached addendum) with the exception of sections 2-362(b) and 2-368, which shall be modified to provide a uniform local vendor preference for all vendors located in Sarasota and Manatee Counties.

### **D. Contract Agreements**

Contract agreements are normally generated as a result of professional service assistance required by SBEP. Contingent upon the recommendation of the Management Board, the Policy Board approves contractor short-lists and authorizes staff to negotiate with top-ranked firms. Contracts shall be approved as to form and content by SBEP Executive Director, SBEP Project Manager and legal counsel (as required), then signed by the SBEP Executive Director. Contracts shall first be presented for signature to the contractor.

Two original contracts shall be executed. One original is retained in the contract files, one original is mailed to the consultant; and one copy is mailed to the Environmental Protection Agency (EPA) Project Officer. All contract documents and data including draft, interim, and final reports developed, created or written by the Contractor shall be produced on recycled paper.

#### **E. Intergovernmental Agreements**

The procurement procedures set forth in 40 CFR 31.36 encourage grantees and subgrantees to enter into state and local intergovernmental agreements for the procurement or use of common goods and services to foster greater economy and efficiency. In conjunction with the Florida Statutes Section 163.01, known as the Florida Interlocal Cooperation Act of 1969, public entities may interact with each other on a basis of mutual advantage by entering into an intergovernmental agreement. Requirements and procedures for processing intergovernmental agreements are the same as outlined for contracts.

### **IV. Expenditures**

#### **A. Credit Cards**

Credit cards shall be used, when practical, to purchase goods and services for SBEP use. A corporate credit card account will be established and used, when appropriate, for purchases. The SBEP Finance Director will receive statements and process them on a monthly basis.

#### **B. Expenditures for Program- Related Social Activities**

There are sometimes associated activities at commonly related programs that would be appropriate for SBEP to attend. The SBEP Executive Director has authority to reimburse such activities to a threshold of \$200 per person, per event, with an annual budget of \$1000. Examples of such community functions would include activities sponsored by GWIZ, the Florida House, Sarasota Sportsmen's Association, the Tampa Bay Regional Planning Council, etc.

#### **C. Cash Disbursements**

Small purchases under \$500, single payments, and certain routine purchases such as utilities, postage, office supplies, telephone, etc. do not require the use of a purchase order. The SBEP Finance Director shall account for routine bills and purchases. Checks are issued twice a month or more often, depending on need.

The SBEP Finance Director receives all bank statements for reconciliation. All bank reconciliations are reviewed by the accountant.

## **D. Cash Receipts**

The objective is to ensure that all cash and checks are accurately received, recorded, and promptly deposited. The following policies regarding the handling of cash receipts and shall be adhered to: SBEP Finance Director is responsible for all cash, checks and wire transfers received. All checks will be endorsed by rubber stamp "for deposit only Sarasota Bay Estuary Program," before deposit.

## **V. Human Resources**

When a person is hired, the SBEP Secretary immediately prepares a personnel folder. This folder should contain the following documents:

- ✓ Completed Application
- ✓ Resume
- ✓ Copy of Social Security or Passport
- ✓ Driver's License
- ✓ W-4
- ✓ Personnel Policy, Rules and Procedures Manual (Employee Handbook)

Salary ranges are based on position of market status. Ranges are addressed more thoroughly in the Personnel Policy, Rules and Procedures Manual. Subject to annual appropriations, the Executive Director has the authority to determine compensation within the proposed salary levels. Cost of living adjustments to those ranges will be market based.

All employees are eligible for participation in the Florida State Retirement system. The SBEP Executive Director will receive Senior Management service designation in the Florida State Retirement system. All other employees will be considered general employees.

Non-exempt employees working in excess of the normal workweek must receive prior approval before working overtime hours. All time must be reported to the nearest quarter of an hour.

Full-time and part-time employees accumulate sick and vacation leave as addressed in the SBEP Personnel Policy, Rules and Procedures Manual. The employee must complete a request for leave form for sick and annual leave taken.

Payroll checks are issued bi-weekly, with a corresponding journal entry made. These are reviewed with the monthly financial reports by the accountant.

An employee terminating employment, in accordance with the established SBEP Personnel Policy, Rules and Procedures Manual, is entitled to a final check that includes pay for accumulated vacation and sick leave if applicable.

**BYLAWS OF  
SARASOTA BAY ESTUARY PROGRAM**

**ARTICLE ONE - OFFICE**

The SBEP shall maintain its principal office in the State of Florida at such place as may be fixed from time to time by the Policy Board.

**ARTICLE TWO - BOARDS**

- 2.1 Powers and Responsibilities of the Policy Board. All SBEP powers shall be exercised by or under the authority of, and the business and affairs of the SBEP shall be managed under the direction of the Policy Board. The Policy Board may delegate specified duties and responsibilities to the Executive Director and the Management Board and may establish administrative policies including but not limited to those dealing with the general operations and personnel of the SBEP.
- 2.2 Power and Responsibility of the Management Board. The members of the Management Board shall serve as advisors to the Policy Board on all matters to be considered at meetings of the Policy Board, oversee the efficient and fiscally responsible operation of the SBEP, and monitor the commitments of the parties to the Interlocal Agreement, including development and implementation of the Comprehensive Conservation and Management Plan (CCMP) and CCMP supplements, Action Plans and Action Plan supplements.
- 2.3 Board Membership. The Policy Board and the Management Board shall each include a representative selected by each Party to the Interlocal Agreement and a representative of the United States Environmental Protection Agency. In addition, the Management Board shall also include representatives from the U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, Fish and Wildlife Research Institute, the U.S. Army Corps of Engineers, the Florida Fish and Wildlife Conservation Commission, the Chair of the Technical Advisory Committee and the Chair of the Citizens Advisory Committee. Members of each Board may appoint alternates to serve in their place and attend meeting with the same rights as an appointing Member.
- 2.4 Voting. Each Member of the Policy Board shall have one vote, except that the representative of the U.S. Environmental Protection Agency shall be a non-voting member of the Policy Board. Each Member of the Management Board shall have one vote, except that representatives of the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency shall be non-voting Members of the Management Board.

## ARTICLE THREE - THE EXECUTIVE DIRECTOR AND OFFICERS OF THE BOARDS

- 3.1 Executive Director. The Policy Board shall appoint and exercise supervisory authority over the Executive Director. The Policy Board shall conduct the Executive Director's performance review on an annual basis and establish compensation. The Executive Director shall carry out policy as established by the Policy Board and shall also perform the duties associated with the day-to-day, general management of the affairs and staff of the SBEP, including acceptance of service of process.
- 3.2 Officers of the Boards. The officers of each Board shall consist of a Chair and a Vice-Chair, except that the Policy Board shall also have a Secretary-Treasurer. The officers of either Board shall have the following duties:
- a. Chair. The Chair or Co-Chair of each Board shall preside at all meetings of the applicable board and perform such other duties prescribed in these Bylaws or assigned by the Board;
  - b. Vice-Chair. The Vice-Chair shall, in the absence of the Chair and Co-Chair, perform the duties of the Chair as well as any other duties assigned by the Chair; and
  - c. Secretary-Treasurer. Subject to the direction of the Policy Board, the Secretary-Treasurer, with the support of the Executive Director, shall ensure that all records of the SBEP are maintained and that all financial transactions or dealings of the SBEP are executed in accordance with the Operating Procedures Manual and applicable law. The Secretary-Treasurer shall perform such other duties as may be prescribed by the Policy Board. The Secretary/Treasurer role will be filled by the Vice-Chair, with the Chair acting as the alternate Secretary/Treasurer.
- 3.3 Officers' Designation, Election, Appointment, and Tenure of Officers. Until such time as the U.S. Environmental Protection Agency ceases funding as provided in Article Nine of the Interlocal Agreement, the Co-Chairs of each Board shall be the representatives of the Florida Department of Environmental Protection and the U.S. Environmental Protection Agency who serve on each Board. The Vice-Chair of each Board and the Secretary-Treasurer of the Policy Board shall be elected every two years at the August meeting. Officers from each Board may be re-elected to multiple terms. The Management Board's election of Vice-Chair must be approved by the Policy Board. New appointments of officers require a simple majority of the Policy Board.
- 3.4 Removal of Officers. Any officer elected or appointed by the Policy Board or Management Board may be removed by the applicable Board whenever in its judgment the best interests of the SBEP will be served thereby. The Board shall not act to remove a newly-elected officer any sooner than two regularly-scheduled board meetings after that officer's election.
- 3.5 Vacancies. A vacancy in any office may be filled by the Board electing or appointing said officer.

## ARTICLE FOUR - BOARD MEETINGS

### 4.1 Frequency of Meetings.

- a. The Policy Board and Management Board shall each hold a minimum of three regular meetings each calendar year, or more often as called by its Chair.
- b. Special meetings of either Board may be called at any time by the Board Chair and will be scheduled as soon as practicable.

### 4.2 Time of Meetings. The time of the next regular meeting will be scheduled prior to the adjournment of any regular meeting, or as soon thereafter as possible.

### 4.3 Notice of Meeting. Written notice stating the date, time, and place of any regular meeting of either Board must comply with the requirements of the Florida Sunshine Law (Chapter 286, F.S.) and be given to each Board member not less than 10 days before the meeting.

### 4.4 Waiver of Notice.

- a. Actual Waiver. A Board member may waive his or her receipt of any required notice before or after the date and time stated in the notice. The waiver must be in writing, signed by the Board member entitled to notice, and delivered to the SBEP for inclusion in the minutes or filing with the records of the SBEP. Neither the business to be transacted at, nor the purpose of any meeting of the Board need be specified in any written waiver of notice.
- b. Constructive Waiver. A Board member's attendance at a meeting of its Board waives his or her objection to lack of notice or defective notice of the meeting of such Board, unless at the beginning of the meeting or promptly upon the member's arrival at the meeting, the member objects to the holding of the meeting of such Board or transacting business at the meeting.
- c. Presumption of Assent. A member of either Board of the SBEP who is present at a meeting of his or her Board at which action on any matter is taken shall be presumed to have assented to the action taken, unless the member objects, at the beginning of the meeting or promptly upon the member's arrival at the meeting, to the holding of the meeting or the transacting of specified business at the meeting, or unless the member votes against such action or abstains from the action taken.
- d. No Waiver of Public Notice. Public notice of any meeting that is required to be given in accordance with the Florida Sunshine Law (Chapter 286, F.S.) may not be waived for any reason.

### 4.5 Agenda. Board members may submit items to the Executive Director for inclusion on the agenda 15 days prior to the meeting date. The agenda for meetings will be developed by



the Executive Director and approved by the Chairman for each meeting. The final agenda and meeting materials for the Board's consideration will be distributed to the Board seven days in advance of a meeting. Additional items may be added at the beginning of a meeting if approved by a majority vote of those present.

- 4.6 Quorum. A quorum for meetings shall be a majority of voting Board members. Attendance shall be either in person or by telephone or other communication whereby the distant member and those members present in person all hear and may speak to and be heard on the matters raised therein. However, a quorum of voting members must be physically present in order to conduct a meeting.
- 4.7 Extraordinary Voting Requirements. A vote of two-thirds of the membership of the Policy Board is required to approve the SBEP budget, authorize expenditures or approve personnel actions. An affirmative vote of a majority of the Policy Board voting-membership is required to approve individual Action Plans. The CCMP and its Goals will not be amended, changed, extended, modified or supplemented without the unanimous consent of all voting Members of the Policy Board. For all other action by either Board, the affirmative vote of a majority of those in attendance is required.
- 4.8 Action of the Board. Action by either Board shall only be taken at meetings where a quorum is present. Such action shall be by a majority vote of those present, except where the Interlocal Agreement specifically provides otherwise. The terms "unanimously approved" and "unanimously agreed" as used in the Interlocal Agreement shall mean an affirmative vote of all Board members, except as otherwise provided in the Interlocal Agreement. Meetings will be conducted in accordance with the Florida Sunshine Law (Chapter 286, F.S.) and procedures set out in Robert's Rules of Order.
- 4.9 Recordation of Actions. All actions of either Board shall be recorded in minutes and shall be mailed to members of the applicable Board no fewer than 10 days prior to the next Board meeting.
- 4.10 Staff Participation. Each member of the Policy Board may bring staff participants to meetings. Staff participants can participate fully in meeting discussions but without a vote.
- 4.11 Public Participation at Meetings. All meetings of each Board are open to the public and public comment will be allowed on agenda and non-agenda items at the beginning of each meeting.

## **ARTICLE FIVE – COMMITTEES**

- 5.1 Advisory Committees. The Technical Advisory Committee is a fact-finding committee that provides advice to the Executive Director. The Community Advisory Committee provides advice to the Policy Board and the Management Board on matters related to implementation of the Comprehensive Conservation and Management Plan (CCMP) and

other issues and questions posed by the Boards related to the restoration and protection of Sarasota Bay.

- 5.2 Other Committees. Either Board may create or abolish such additional committees as they deem necessary. Any other committee established by either Board shall be chaired by a designated Board member.

## **ARTICLE SIX – MEDIA RELATIONS**

Active media participation in all aspects and activities of SBEP is invited and encouraged. The Executive Director, or his designee, shall serve as the primary media contact source.

## **ARTICLE SEVEN - INDEMNIFICATION AND INSURANCE**

- 7.1 Indemnification for Good Faith Actions.

- a. To the full extent permitted by law, the SBEP shall have the power to indemnify any Board member, Officer or employee of the SBEP against and from any and all claims, costs, charges and expenses (including fees and expenses of attorneys, expert witnesses and other consultants) which may be imposed in connection with his or her service as a Board member, Officer or employee of the SBEP, if such person acted in good faith and in a manner reasonably believed to be in the best interest of the SBEP and, with respect to any criminal action or proceedings, had no reasonable cause to believe such conduct was unlawful. The termination of any proceedings by judgment, order, settlement, or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in the best interest of the SBEP, or, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.
- b. In case any claim shall be made or action brought against any Board member, Officer or employee of the SBEP in which indemnity may be sought against the SBEP, such indemnified Board member, Officer or employee shall promptly notify the SBEP in writing setting forth the particulars of such claim or action.

- 7.2 Liability Insurance. The SBEP shall purchase and maintain insurance on behalf of any person who is or was a Board member, Officer or employee of the SBEP, or is or was serving at the request of the SBEP as a Board member, Officer or employee against liability asserted against said Board member, Officer or employee and incurred by him or her in any such capacity, or arising out of his or her status as such. The SBEP shall purchase and maintain insurance on behalf of the SBEP against liability asserted against the SBEP for any negligent act, error or omission of the SBEP or any of its Board members or employees.

- 7.3 Standards of Performance of Board Members of Both the Policy Board and the Management Board.

- a. In General. A Board member shall perform his or her duties as a Board member, including his or her duties as a member of any committee of a Board upon which he or she may serve, in good faith, with such care as an ordinary prudent person in a like position would exercise under similar circumstances, and in a manner he or she reasonably believes to be in the best interests of the SBEP.
- b. Board Members' Reliance.
  - (i) In performing his or her duties, each Board member shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:
    - (a) the Executive Director or any authorized personnel or consultants if any, of the SBEP; or
    - (b) legal counsel, public accountants or other persons as to matters which the Board member reasonably believes to be within such persons' professional or expert competence.
  - (ii) A Board member shall not be liable for the negligent acts or omissions of any employee, agent or representative, nor for anything the Board may do or refrain from doing in good faith, including errors in judgment, acts done or committed on advice of counsel, or mistake of law or fact.
  - (iii) A Board member shall not be considered to be acting in good faith if he or she has knowledge concerning the matter in question that would cause such reliance described above to be unwarranted.

## **ARTICLE EIGHT – CONFLICT OF INTEREST**

- 8.1 Vote or Action. No member of a Board or any staff member shall participate in any vote or take any action which would constitute a conflict of interest under Federal law or violate the Code of Ethics for Public Officers and Employees as set forth in Chapter 112, Part III, F.S.
- 8.2 Financial Disclosure. Each Policy Board member, alternate, and the Executive Director shall file a full and public disclosure of financial interests in accordance with the provisions of Sections 112.3144 and 112.3145, F.S., as they may be amended from time to time.

## **ARTICLE NINE – ANNUAL AUDIT**

The SBEP shall provide for an annual audit of its financial statements and shall provide the audited annual financial statements to each Party to the Interlocal Agreement after the close of each fiscal year upon completion of the audit.

**ARTICLE TEN - AMENDMENTS TO BYLAWS**

- 10.1 Amendment or Repeal of Bylaws. The Policy Board may amend or repeal these Bylaws by unanimous vote, provided that any such amendment or repeal will not become effective until the next regularly scheduled meeting of the Policy Board.
- 10.2 Writing. All Bylaws and amendments, including committee bylaws, shall be memorialized in writing, either by reproduction as amended or by attachment.

**POLICY BOARD CHAIR'S CERTIFICATION**

THIS IS TO CERTIFY that I am the Chair of the Policy Board of the **SARASOTA BAY ESTUARY PROGRAM**, and the foregoing Bylaws of said SBEP were duly adopted by unanimous vote of the Policy Board of the SBEP at a meeting held on \_\_\_\_\_, 2016.

IN WITNESS WHEREOF, I have affixed my signature this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

SIGNATURE: \_\_\_\_\_

NAME PRINTED: \_\_\_\_\_  
CHAIRMAN

**SARASOTA BAY ESTUARY PROGRAM**  
**CITIZEN ADVISORY COMMITTEE BYLAWS**

**ARTICLE I – NAME, AUTHORITY, LOCATION, PURPOSE AND FUNCTIONS**

- 1.1 **Name:** The name of this organization shall be the Sarasota Bay Estuary Program Citizens Advisory Committee, hereafter referred to as the “CAC”. Its area of interest shall be the entire Sarasota Bay and all of its tributaries, including but not limited to Anna Maria Sound, Palma Sola Bay, Little Sarasota Bay, Roberts Bay and Blackburn Bay.
- 1.2 **Authority:** The CAC has been established by the Policy Board of the Sarasota Bay Estuary Program (SBEP) pursuant to Section 5.7 of the Interlocal Agreement, dated October 1, 2004, governing the existence of the SBEP.
- 1.3 **Location:** The principal mailing address of the CAC shall be the SBEP office established by the SBEP Policy Board.
- 1.4 **Purpose and Functions:** The CAC shall provide citizen input to the SBEP Management Committee and Policy Board on the process of implementing, and promote public awareness and understanding of, the SBEP goals.

The CAC shall, as a deliberative body and in accordance with these bylaws:

- Advise the Management Committee and the Policy Board in the production of the annual report, review of the annual work plan and the budget.
- Identify opportunities and mechanisms to involve the public in implementing the CCMP.
- Communicate with decision makers and other implementing authorities about implementation needs for the CCMP.
- Abide by the policies established by the SBEP Policy Board for the SBEP.
- Make recommendations on issues referred by the Management and Policy Boards.

**ARTICLE II – MEMBERSHIP AND OFFICERS**

**2.1 Membership**

- A. **General Members:** The CAC shall be composed of residents of Manatee and Sarasota counties appointed to the CAC by the SBEP Policy Board, and represent a cross section of groups and organizations that use or have concerns about Sarasota Bay. The interests shall include:
  - Environmental, conservation and watershed associations.
  - The user community including but not limited to business, industry, real estate, sport and commercial fisheries, recreation, boating.

- Environmental education/academic community.
- Community stewards/general public.

**Honorary Members:** This designation may be conferred upon a past member who has a history of long and meritorious service with the CAC or Program Office.

- Recognition may be achieved upon the recommendation of one current CAC member, seconded by another current member and by a three-quarter vote at the annual meeting.
- They shall have all the privileges of CAC membership with none of the membership obligations.
- They are entitled to vote in all CAC business.
- They may not make or second motions.

C. **Composition:** The goal shall be to recruit a fair distribution of members from both Sarasota and Manatee Counties and to achieve a distribution of representation from among the membership categories defined in sub-section A. Membership on the CAC shall not exceed 30 general members. When there are less than 25 general membership members, the SBEP staff and the CAC (or a sub-committee thereof) shall begin recruitment of new CAC member candidates.

## 2.2 Criteria for Membership

Each member shall:

- Support the goals and objectives of the SBEP.
- Assume the responsibility for communicating with groups and the general public; and to attend scheduled meetings.
- Have an active e-mail account, so that they can receive committee correspondence from SBEP staff.
- Have knowledge and interest in Sarasota Bay water quality and resource management issues.

## 2.3 Terms of Appointment; Removal

The terms of appointment of the members appointed by the SBEP Policy Board pursuant to these bylaws shall be not limited. The term of appoint of any member serving in office on the date of adoption of these bylaws shall expire on January 1, 2015, unless such member is appointed to the CAC by the SBEP Policy Board pursuant to Section 4, below.

Any member of the CAC may be removed from office by majority of the full membership of the SBEP Policy Board. In the event that any member (a) is no longer a resident of Manatee or Sarasota County, (b) is convicted of a felony or any offense involving moral turpitude while in office, or (c) is found to have violated the policies of the SBEP or these bylaws, the SBEP Policy Board shall terminate the appointment of such person as a member of the CAC.

## 2.4 Method of CAC Appointment

All members of the CAC shall be appointed by the SBEP Policy Board by majority vote. The process for new member appointment to the CAC shall be as follows:

- Nominations for new members will be solicited from current members, SBEP management committee, and SBEP office staff, and an open invitation shall also be extended to the general public.
- The Vice-Chairman and SBEP staff shall review all applications considering the provisions of these bylaws concerning membership qualifications and composition and submit a list of proposed members to the SBEP Executive Director for presentation to the SBEP Policy Board for review and approval.
- The Executive Director shall forward the approved membership list to the SBEP Management Committee, for the record.
- The SBEP Executive Director may establish procedures for interested citizens to apply for membership on the CAC, and delegate to SBEP staff persons the responsibility to review and process such applications.

## 2.5 Duties of Members

CAC members shall:

- Attend regular meetings. If a member misses three consecutive meetings, the Chairperson(s) may ask the SBEP staff to solicit replacements for CAC consideration at the next regularly scheduled meeting. After missing two consecutive meetings, a member will be notified in writing of impending forfeiture of their seat on the CAC.
- Volunteer for at least one SBEP sponsored activity or special event each year.
- Assist the Management Committee and the Policy Board in the development, revision, and implementation of the Comprehensive Conservation and Management Plan.
- Serve as liaisons between their respective organizations and the public by communicating the activities of the SBEP and the CAC to their respective organizations and/or representative interest groups and conversely communicate the comments and concerns of these organizations to the SBEP Policy Board, Management and other SBEP Committees as appropriate.
- Abide by the policies established by the SBEP Policy Board for the SBEP.

## 6.6 Compensation

All members shall serve without compensation.

## 6.7 Officers

Officers of the CAC shall be elected by members. The officers shall be a Chair, a Vice-Chair and Secretary. Terms of office shall be for two years. Nominations of candidates shall be made during the annual CAC meeting, to be held in the last quarter of each calendar year. Officers shall be elected by a majority vote of CAC members or designates present, every other year, at the annual meeting when a quorum is present.

#### 6.8 Responsibilities of Officers

The Chairman shall:

- Attend SBEP Management Committee meetings.
- Communicate recommendations and concerns of the CAC to the SBEP Management Committee, and, vice versa.
- Set CAC meeting agenda with assistance from SBEP staff.
- Conduct CAC meetings.
- Coordinate an annual process to evaluate progress, priorities and next steps for the CAC, with assistance from the SBEP staff.

The Vice-Chairman shall:

- Serve in the absence of the Chair.
- Chair the SBEP CAC Membership Committee.

The Secretary shall:

- Evaluate attendance record and establish a quorum.
- Record CAC meeting minutes.

### **ARTICLE III - MEETINGS**

#### 3.1. Meetings

Meetings of the CAC shall be held at least 6 times per calendar year. The meeting schedule for the year shall be established at the last meeting of each calendar year, for the next year.

Meetings of the CAC shall take place in Manatee or Sarasota County.

Meetings of the CAC shall be open to the public and noticed by the project office in conformance with applicable Federal, state and local sunshine/public access requirements. A portion of time will be allocated at each meeting for public comment.



### 3.2. Agenda Items

Matters to be placed on the agenda for consideration at meetings of the CAC may be requested by any member of the following: CAC, Management Committee, TAC, PB or SBEP staff.

### 3.3. Parliamentary Procedure

The CAC may establish rules of procedure for the conduct of meetings in accordance with applicable law, the policies established by the SBEP Policy Board and these bylaws. In the absence of an applicable rule of procedure, Robert's Rules of Order, Revised, shall apply.

### 3.4. Conflict of Interest

No member of the CAC or staff representative shall participate in any decision or vote which would constitute or appear to be a direct conflict of interest. Members shall state any potential conflicts of interest prior to any discussion and abstain from voting on that issue.

### 3.5. Quorum

At least fifty-one percent (51%) of the current total membership, at that time, provided that at least one of either the CAC Chairman or Vice Chairman is present, shall constitute a quorum. Each member shall have one vote.

### 3.6. Annual Meeting

There will be one Annual Meeting per calendar year. Every other year, at the annual meeting, CAC Board Officers will be nominated and elected.

## **ARTICLE IV – SUB-COMMITTEES**

The CAC Chairman, in conjunction with SBEP Executive Director and staff may designate Ad hoc or standing sub-committees to facilitate the SBEP as deemed appropriate. All sub-committees shall elect a Chairman who will report sub-committee activities and progress to SBEP staff and at the CAC meetings. Sub-committees shall provide recommendations and input to the full CAC, and are not authorized to provide such recommendations or input to the SBEP staff, Management Board or Policy Board without first receiving the approval of the full CAC in accordance with Article VI, hereof.

## **ARTICLE V - STAFF**

Staff support for the CAC shall be provided by the SBEP staff under the direction and authority of the SBEP Executive Director. The staff shall be responsible for summarizing meetings, shall transmit notices and agendas to the membership, and shall provide a copy of the summary of the previous meeting to each member prior to the next regular

meeting. The summary shall include consensus, majority and dissenting views on matters that come before the CAC. The staff will coordinate CAC volunteer activities and provide assistance in scheduling and procuring appropriate facilities for CAC meetings.

## **ARTICLE VI – RECOMMENDATIONS AND INPUT**

Recommendations and input provided by the CAC to the SBEP staff, Management Board and/or Policy Board shall reflect and cite the pertinent section(s) of the SBEP CCMP. Such Recommendations and input shall be developed and approved by the CAC, in a properly noticed public meeting, by a two-thirds majority vote. Such recommendations and input will be provided to the Management Committee and Policy Board for their consideration.

CAC recommendations and input shall be consistent with SBEP Policies as adopted by the SBEP Policy Board, including without limitation the Policy regarding land use and permitting decisions adopted by the Policy Board at their meeting on January 31, 2014.

## **ARTICLE VII – ADOPTION AND AMENDMENTS**

### **7.1. Adoption**

These bylaws and any amendments thereto shall be effective immediately upon adoption by the SBEP Policy Board.

### **7.2. Amendments**

Amendments to these bylaws must be approved and adopted by the SBEP Policy Board.

**DULY ADOPTED BY THE  
SBEP POLICY BOARD,**

**MAY 2, 2014**



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111 S. Orange Avenue, Suite 200W, Sarasota, Florida • tel: 941.955.8085 • fax: 941.955.8081  
[www.sarasotabay.org](http://www.sarasotabay.org)

**Date:** April 1, 2016

**To:** Policy Board Members

**From:** Mark Alderson, Executive Director

**Subject:** TAC Bylaws

The draft set of bylaws for the TAC have been reviewed and are not proposed for adoption. The TAC is an advisory body to the Executive Director and SBEP staff that does not make any recommendations to a final decision maker. The draft bylaws are contrary to this and would make the TAC subject to the Sunshine Law. The TAC has worked effectively and meaningfully as an informal body that comes together to share technical and factual data based on the years of experience of the committee members. It does not take votes or implement actions. Instead, the members share their expertise with the Executive Director and members of the SBEP staff. As such, it works best without a formal set of bylaws.

**Board of Directors**

City of Sarasota  
City of Bradenton  
Sarasota County  
Manatee County  
Town of Longboat Key

**Federal Partners**

U.S. Fish & Wildlife Service  
U.S. Army Corp of Engineers  
U.S. Environmental Protection Agency  
National Oceanic & Atmospheric



**SARASOTA BAY  
ESTUARY PROGRAM**  
*Restoring Our Bays*

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[www.sarasotabay.org](http://www.sarasotabay.org)

**Date: April 1, 2014**

**To: Policy Board Members**

**From: Mark Alderson, Executive Director**

**Subject: Fund Balance Policy**

**This is to modify the Operating Procedures Manual incorporating the Fund Balance Policy adopted at the February 12, 2016, Policy Board meeting.**

**The policy is to:**

**“Maintain one year of operating reserves as a fund balance.”**

**This will be incorporated on Page 2 of section entitled the Annual Budget, second paragraph.**

**Board of Directors**

City of Sarasota  
City of Bradenton  
Sarasota County  
Manatee County  
Town of Longboat Key  
Southwest Florida Water Management District

**Federal Partners**

U.S. Fish & Wildlife Service  
U.S. Army Corp of Engineers  
U.S. Environmental Protection Agency  
National Oceanic & Atmospheric Administration



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[www.sarasotabay.org](http://www.sarasotabay.org)

May 10, 2019

To: Policy Board Members

From: Mark Alderson, Executive Director

Subject: Formal Adoption of City of Sarasota Procurement Procedures Amending the Procedures to Provide Jurisdictional Preference to Entities in the Manatee and Sarasota County

The Sarasota Bay Estuary Program (SBEP) has been utilizing the City of Sarasota for competitive bidding services since 2004.

The recent federal audit observed that while the Program is assisted by the purchasing office and procedures of the City of Sarasota for competitive procurements, the SBEP Operating Procedures Manual does not include any reference to the City's purchasing office or procedures. The City's Purchasing Ordinance (Ordinance 12-5009) is attached.

The Management Board reviewed the procedures and recommended that the Program's Operating Procedures Manual be amended to adopt and incorporate the City's Purchasing Ordinance, delete the current provision in the Manual concerning Requests for Proposal, but with the exception of the local preference sections of Ordinance 12-5009 which the Program should modify to provide a local preference for vendors with offices located in the jurisdictional area of the Program and not limited to the City of Sarasota.

Recommendation: Delete current section III C., Request for Proposals, of the Operating Procedures Manual, and adopt and incorporate into the Program's Operating Procedures Manual the City of Sarasota's Purchasing Ordinance (Ordinance 12-5009), with the exception of sections 2-362(b) and 2-368 which shall be modified to provide a uniform local vendor preference for all vendors with offices located in the jurisdictional area of the Program.

**Board of Governors**

City of Sarasota | City of Bradenton | Sarasota County | Manatee County | Town of Longboat Key | Southwest Florida Water Management District | Florida Department of Environmental Protection

**Federal Partners**

U.S. Fish and Wildlife Service | U.S. Army Corps of Engineers | U.S. Environmental Protection Agency | National Oceanic & Atmospheric Administration

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**ORDINANCE NO. 12-5009**

**AN ORDINANCE OF THE CITY OF SARASOTA, FLORIDA, AMENDING CHAPTER 2, ARTICLE VI, DIVISION 3, TO ESTABLISH THE CITY OF SARASOTA PROCUREMENT CODE; REPLACING SECTIONS 2-351 THROUGH 2-356 WITH SECTIONS 2-351 THROUGH 2-368; SETTING FORTH A PURPOSE AND INTENT; ESTABLISHING THE APPLICABILITY OF THE CODE AND THE AUTHORITY OF CITY OFFICIALS; SETTING FORTH THE AUTHORITY OF THE PURCHASING MANAGER; ESTABLISHING GENERAL BID REQUIREMENTS; PROVIDING FOR COMPETITIVE BIDDING WHEN THE PURCHASE AMOUNT FOR GOODS OR SERVICES EXCEEDS \$50,000.00; SETTING FORTH EXEMPTIONS TO THE PROCUREMENT REQUIREMENTS; ESTABLISHING PROCEDURES FOR SUBMITTING BIDS, ACCEPTING OR REJECTING BIDS, AND WITHDRAWING BIDS; PROVIDING PROCEDURES FOR DETERMINING THE LOWEST RESPONSIBLE BIDDER, FOR CORRECTING BIDS AND FOR AWARDING CONTRACTS; SETTING FORTH THE REQUIREMENTS FOR PERFORMANCE AND PAYMENT BONDS; ESTABLISHING PROCEDURES FOR REQUESTS FOR PROPOSALS AND INVITATIONS TO NEGOTIATE; ESTABLISHING A PROCEDURE FOR HEARING AND RESOLVING BID AND PROPOSAL PROTESTS; PROVIDING FOR EMERGENCY PROCUREMENTS; ESTABLISHING A LOCAL PREFERENCE POLICY; RENUMBERING SECTIONS IN ARTICLE VI, "FINANCE, PURCHASING AND SALES," DIVISION 4, "PROJECT LIST FOR INFRASTRUCTURE SURTAX; PROVIDING FOR THE SEVERABILITY OF THE PARTS HEREIN; REPEALING ORDINANCES IN CONFLICT; PROVIDING FOR READING BY TITLE ONLY; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the City Commission of the City of Sarasota, Florida, recognizes the necessity of procuring goods and services through a competitive process that is fair and open to all, and in which all such persons are treated equitably and uniformly; and,

WHEREAS, the City Commission finds that such open and fair competition inspires public confidence and insures the best value for the City; and,

WHEREAS, the City Commission recognizes that there are circumstances in which competitive bidding is unnecessary, including but not limited to situations when there is only a single source for goods or services; when a public emergency requires immediate or swift purchasing; or when the relatively low cost of the goods or services make it inefficient to engage in the competitive bidding process; and,

WHEREAS, the City Commission further recognizes the need to establish procedures for the selection of bidders and proposers; the correction or withdrawal of bids and proposals; and for hearing and resolving bid disputes; and,

WHEREAS, the City Commission finds that bonds or some other form of security may be necessary to insure a vendor or contractor's performance pursuant to a bid, proposal or contract; and,

WHEREAS, the City Commission finds that the adoption of the following Procurement Code is necessary to protect and preserve the public health, safety and welfare;

**NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF SARASOTA, FLORIDA:**

**Section 1:** Chapter 2, Administration, Article VI, Finance, Purchasing and Sales, Division 3, Sections 2-351 through 2-356, are hereby repealed and replaced with a new Division 3, which shall be known and may be cited as the "City of Sarasota Procurement Code." (New text is indicated by quotation marks. Deleted text is indicated by strikethrough.)

~~DIVISION 3. COMPETITIVE BIDS~~

~~Sec. 2-351. Required.~~

~~(a) — Except as provided in subsection (b) of this section, prior to entering into any contract for the construction, alteration, repair or demolition of any public street, public building, paving improvement, utility plant, pipe lines, sanitary sewer, storm sewer, pumping station, bridge, recreational development or beautification project or any other public works project where the contract sum is in excess of the category two threshold set forth in F.S. § 287.017(1)(b), as amended from time to time, the city shall first solicit sealed competitive bids in accordance with the provisions of this division.~~

~~(b) The requirements of subsection (a) of this section shall not apply to public works contracts:~~

- ~~(1) Between the city and nonprofit organizations, other governmental agencies or other public entities.~~
- ~~(2) When the city manager determines, after conducting a review of available sources, that there is only one (1) source for the required public works project.~~
- ~~(3) When the city manager determines that there exists a threat to public health, welfare, or safety which requires an emergency procurement of public works contractual services.~~

~~Sec. 2-352. Invitations.~~

~~Invitations for all competitive bids shall be published at least once a week for two (2) consecutive weeks in a newspaper of general circulation within the city, the first publication to be at least fifteen (15) days before the time established for opening of bids. Such bid invitations shall contain sufficient information to enable prospective bidders to respond by informing of the availability of plans, specifications and other data and setting forth the time and place for opening bids. All such invitations shall further:~~

- ~~(1) Reserve unto the city the right to reject all bids, to waive informalities and to award a contract to the lowest responsible bidder.~~
- ~~(2) Provide that all bids, where the contract sum is in excess of fifty thousand dollars (\$50,000.00), shall be accompanied by a cashier's check or bid bond with a corporate surety in an amount not less than five (5) percent of the bid. The bid or any bidder who fails to furnish such a cashier's check or bid bond shall be rejected.~~

~~Sec. 2-353. Submission; correction or withdrawal; acceptance; rejection.~~

~~(a) All bids shall be submitted in writing, signed by the bidder or the bidder's duly authorized agent, and shall be mailed or delivered to and received by the city manager or his designee prior to the time scheduled for the opening of bids. Each such envelope shall be sealed and shall contain the name and address of the bidder and the name of the project on the outside of the envelope. All bids shall be opened in public by the city manager or his designee, in the presence of the city auditor and clerk or his designee at the time and place designated in the advertisement inviting bids. A tabulation of such bids shall forthwith be forwarded to the city commission by the city auditor and clerk.~~

~~(b) The city manager shall make such recommendations to the city commission as the manager shall deem proper in respect to the bids at the earliest practicable meeting of the city commission. The city commission shall either reject all bids, accept the bid of the lowest responsible bidder, or readvertise the proposed project for new bids in accordance with the provisions of this division. In the event the lowest responsive bid for a public works project exceeds the available funds for the project, the city manager or~~



~~his designee may negotiate an adjustment of the bid price with the lowest responsible bidder, in order to bring the bid within the amount of available funds.~~

~~(c) — A bidder may withdraw a bid any time prior to the opening of the bid by the city. After a bid is opened, but prior to acceptance of the bid by the city commission giving notice of its intent to award the contract, the city commission may allow the withdrawal of a bid because of the mistake of the bidder in the preparation of the bid. In such a circumstance, the decision of the city commission to allow the bid withdrawal, although discretionary, shall be based upon a finding that the bidder, by clear and convincing evidence, has met each of the following tests:~~

- ~~(1) — The bid has not been submitted fraudulently or deceptively.~~
- ~~(2) — The error in bid preparation was of such a magnitude that to enforce compliance by the bidder would work a severe hardship on the bidder.~~
- ~~(3) — The mistake was not the result of gross negligence or willful inattention by the bidder.~~
- ~~(4) — The error was discovered and communicated to the city prior to the city's having formally given notice of its intent to award the contract to bidder.~~

~~(d) — The city commission may reject all bids for any reason whatsoever. The city commission may reject one (1) or more bids, but less than all bids under the following circumstances:~~

- ~~(1) — When the city has evidence of collusion between bidders.~~
- ~~(2) — When any bidder has an interest in more than one (1) bid submitted for the same work.~~
- ~~(3) — When the city determines that the bid is not responsive according to the bid specifications.~~
- ~~(4) — When the city commission determines that a bidder is not a responsible bidder.~~

~~Sec. 2-354. Determination of lowest responsible bidder.~~

~~The following factors concerning the bidder and his or her subcontractors shall be relevant in determining the lowest responsible bidder:~~

- ~~(1) — The ability, capacity and skill of the bidder to perform the contract or provide the service required.~~

- ~~(2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.~~
- ~~(3) The character, integrity, reputation, judgment, experience and efficiency of the bidder.~~
- ~~(4) The quality of performance of previous contracts or services.~~
- ~~(5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.~~
- ~~(6) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.~~
- ~~(7) The quality, availability, and adaptability of the supplies, or contractual services to the particular use required.~~
- ~~(8) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.~~
- ~~(9) Litigation by the bidder on previous contracts with the city.~~
- ~~(10) Whether the bidder has complied with the city's minority business enterprise utilization plan.~~
- ~~(11) Whether the bidder has been debarred or the bidder's license suspended by the State of Florida.~~

~~Sec. 2-355. Contracts under the statutory threshold amount.~~

~~Where the provisions of state or federal law or the conditions of any contract for state or federal grants require open and competitive bidding as prerequisites for letting of contracts where the amount involved is less than the category two threshold set forth in F.S. § 287.017(1)(b), as amended from time to time, then the provisions of this division shall be followed in connection therewith unless inconsistent with the provisions of any such laws or the terms of any such contracts.~~

~~Sec. 2-356. Payment and performance bonds.~~

~~All persons entering into a contract with the city under the provisions of this division when the amount of the contract is in excess of fifty thousand dollars (\$50,000.00) shall be required to furnish payment and performance bond or letter of credit to the favor of the city in an amount equal to the contract price. All bonds or letters of credit shall be in a form approved by the city attorney.~~

~~Sec. 2-357. Local Preference in bidding for City Contracts.~~

(a) ~~Definitions.~~

- ~~(1) *Local city business* means the vendor has (i) a valid Local Business Tax Receipt, issued by the City of Sarasota at least one year prior to a bid or proposal submission, to do business within the City of Sarasota that authorizes the business to sell goods or services or to engage in construction, and (ii) a physical business address located within the City of Sarasota from which the vendor is operating or performing its business, and at which it maintains full-time employees.~~
- ~~(2) *Local county business* means the vendor has (i) a valid Local Business Tax Receipt, issued by Sarasota County at least one year prior to a bid or proposal submission, to do business within Sarasota County that authorizes the business to sell goods or services or to engage in construction, and (ii) a physical business address located within Sarasota County from which the vendor is operating or performing its business, and at which it maintains full-time employees.~~
- ~~(3) *Non-local business* means any vendor that does not meet either the definition of local city business or local county business in subsections (1) and (2) above.~~

~~(b) *Establishment as local city or local county business.* To establish that a vendor is either a local city business or local county business, as defined herein, a vendor shall provide written confirmation of compliance with the definitions for each such local business as defined in subsection (a) herein, at the time of submitting a bid or proposal. Post Office Boxes are not verifiable and shall not be used for the purpose of establishing the required physical business address. A vendor who misrepresents the local preference status of its firm in a proposal or bid submitted to the City will lose the privilege to claim local preference status for a period of two (2) years.~~

~~(c) *Local Preference in Purchasing and Contracting.* The City of Sarasota shall give preference to local city businesses and local county businesses in the purchase of commodities, personal property, general services, professional services, the purchase of or contract for construction or renovation of public works or improvements, by means of competitive bid, request for proposals, qualifications or other submittals and competitive negotiation and selection. The City of Sarasota shall give such preference to local city businesses and local county businesses in the following manner:~~

- ~~(1) *Competitive bid.* Each formal competitive bid solicitation shall clearly identify how the price order of the bids received will be evaluated and determined. Under a competitive bid solicitation, when a qualified and responsive non-local business submits the lowest price bid, and the lowest bid submitted by a qualified and responsive local city business is within five-percent (5%) of the lowest bid, then the lowest bidding local city~~

~~business shall have the opportunity to submit an offer to match the price submitted by the lowest non-local business bidder. In such instances, staff shall first verify if the lowest non-local business bidder and the lowest local city business are in fact qualified and responsive bidders. If the lowest local city business bidder submits an offer that matches or is lower than the lowest bid submitted, and the two vendors are similarly qualified and responsive bidders, then the award shall be made to such local city business. If the lowest local city business bidder declines or is unable to match the lowest bid, then the option to do so moves to the next local city business if such business's bid is within five percent (5%) of the lowest bid, and it is a similarly qualified and responsive bidder. At such time as there is no local city business within five percent (5%) of the lowest bid, the option to match the lowest bid shall go to the lowest bidding local county business, if such bid is within two percent (2%) of the lowest bid, and it is a similarly qualified and responsive bidder. If the lowest local county business bidder declines or is unable to match the lowest bid, then the option to do so moves to the next local county business if such business's bid is within two percent (2%) of the lowest bid, and it is a similarly qualified and responsive bidder.~~

- ~~(2) Request for proposals, qualifications or other submittals and competitive negotiation and selection. For all other competitive solicitations in which specified factors used to evaluate the responses from vendors are assigned point totals, the City Commission, or its purchasing designee, shall give a preference to a local city business or local county business by giving additional points to each as follows: ten (10) additional points (out of 100) to a local city business, and five (5) additional points (out of 100) to a local county business.~~
- ~~(3) Ties. In the event of any tie (either in the best and final bid price under a bid process, or in the point total in a proposal process) between a local city or county business, and a non-local business, a contract award, or the first opportunity to negotiate, as applicable, shall be made to the local city or county business. In the event of any tie between a local city business and a local county business, the local city business shall be awarded the contract or receive the first opportunity to negotiate, as applicable. In the event of any tie between a local city business and another local city business, or a local county business and another local county business, the local vendor with the greatest number of full-time employees working in the City of Sarasota or Sarasota County respectively, shall be awarded the contract or receive the first opportunity to negotiate, as applicable.~~
- ~~(d) Exceptions to Local Preference Policy. The local preference policy set forth herein shall not apply to any of the following purchases or contracts:~~

- ~~(1) Goods or services provided under a cooperative purchasing agreement or piggyback agreement; or~~
- ~~(2) Contracts for professional services the procurement of which is subject to the Consultants' Competitive Negotiation Act (§287.055, Florida Statutes) or subject to any competitive consultant selection policy or procedure adopted or utilized by the City Commission; or~~
- ~~(3) Purchases or contracts which are funded, in whole or in part, by a governmental entity and the laws, regulations, or policies governing such funding prohibit application of that preference; or~~
- ~~(4) Purchases made or contracts let under emergency or noncompetitive situations, or for litigation related legal services, as described in the City's Purchasing Polices.~~

~~(e) *Waiver of the Application of Local Preference Policy.* Any request for the waiver of local preference to any particular purchase or contract must be heard by the City Commission prior to advertising the bid or proposal. The City Commission, as the awarding authority, may approve the waiver of local preference upon review and at its discretion.~~

~~(f) *Comparison and Review of Qualifications.* The preferences established herein in no way prohibit the right of the City of Sarasota to compare and review the quality of materials proposed for purchase, and to compare and review the qualifications, character, responsibility, and fitness of all persons, firms or corporations submitting bids or proposals. Furthermore, the local preference established herein, shall not prohibit the City of Sarasota from giving any other preference permitted by law in addition to the local preference contained herein.~~

~~(g) *Administration of Local Preference Policy.* This policy shall apply to all departments under the purview of the City Commission. The Purchasing Division of the Financial Administration Department shall be responsible for administration of the local preference policy.~~

~~Secs. 2-358-365. Reserved.~~

### **"DIVISION 3. CITY OF SARASOTA PROCUREMENT CODE**

#### **Sec. 2-351. Purpose and intent.**

The City of Sarasota Procurement Code is a set of uniform rules that govern all purchases of goods and services by the City of Sarasota. The intent is to create a central procurement system in which all persons who wish to provide goods and services to the City are treated fairly and equitably; in which the City receives maximum

value for its public dollars; and in which procurements are conducted in an open and competitive manner, free of arbitrariness or collusion.

**Sec. 2-352. Applicability and authority.**

(a) The City of Sarasota hereby establishes a central procurement system to procure goods and services of every description and nature necessary to the operation of the City government. Unless otherwise stated herein, all procurements shall be processed through the central procurement system, under the direction of a Purchasing Manager as designated by the City Manager.

(b) The Office of the City Auditor and Clerk shall procure goods and services for its own use pursuant to this procurement system and in compliance with the provisions herein. The City Auditor and Clerk shall have authority commensurate to that granted hereunder to the City Manager.

(c) When the procurement involves the expenditure of funds received pursuant to a federal, state or local government grant, or pursuant to a gift or bequest, the procurement shall be conducted in accordance with the terms of said grant, gift, or bequest, provided the terms are consistent with law.

**Sec. 2-353. Authority of Purchasing Manager.**

(a) The Purchasing Manager shall serve as the principal public purchasing official for the City and shall be responsible for insuring compliance with the procedures set forth herein. Subject to the approval of the City Manager, the Purchasing Manager may delegate his/her procurement authority to a designee.

(b) The Purchasing Manager shall have the following specific duties:

- (1) The procurement and disposition of all goods and services in accordance with this Code.
- (2) Selling, trading, or otherwise disposing of surplus materials and supplies.
- (3) In cooperation with other City departments and governmental agencies, establishing and maintaining programs to administer contracts and for the inspection and acceptance of goods and services.
- (4) Approval or disapproval of all purchase orders.
- (5) Adoption of internal procedures to implement or supplement this Code, including but not limited to procedures governing the use of

purchase orders, purchasing cards, expenditure vouchers, and petty cash purchases.

- (6) Performance of other related duties as assigned by the City Commission, City Manager or other supervising officials.

(c) In addition to the decision-making authority specifically set forth herein or otherwise implied by this Code, the Purchasing Manager is authorized to make the following decisions:

- (1) To accept, reject and cancel bids and proposals.
- (2) To determine the lowest responsive and responsible bidder.
- (3) To determine if a procurement is exempt from this Code.
- (4) To require competitive bidding for goods and services costing less than \$5,000.
- (5) To determine when bond requirements may be waived.
- (6) To determine when bids or proposals may be corrected or withdrawn.
- (7) To determine whether to issue an Invitation to Bid, a Request for Proposal or an Invitation to Negotiate; however, the Purchasing Manager may defer the selection of the process to the City Commission when options are available.

**Sec. 2-354. General bid requirements.**

(a) All goods and services costing \$50,000 or more shall be procured by competitive sealed bids or proposals except as otherwise stated herein.

(b) The City shall procure goods or services costing more than \$5,000 but less than \$50,000 by seeking written quotations from at least three vendors.

(c) The City shall procure goods or services costing less than \$5,000 by comparing prices in the open market.

(d) Procurement requirements shall not be artificially divided so as to constitute a purchase below limits set forth herein or in administrative guidelines.

(e) Professional architectural, engineering, landscape architectural, or surveying and mapping services, as well as planning and design-building services, shall be procured in accordance with the Consultants' Competitive Negotiations Act (CCNA),

Section 287.055, Florida Statutes, as amended. Independent certified public accountants shall be selected and retained in accordance with the provisions of Section 11.45(3), Florida Statutes, as amended. The City may negotiate with any qualified firm for these professional services when the cost of the service is less than the threshold amount set forth in Section 287.055, Florida Statutes, as amended,

(f) Selection of an auditor to conduct the annual financial audit as required in Section 218.39, Florida Statutes, as amended, shall be conducted in accordance with Section 218.391, Florida Statutes, as amended.

(g) Bids in excess of \$150,000 require security in the form of a bid bond issued by a surety company licensed to do business in Florida, a cashier's check, or an irrevocable letter of credit in an amount equal to five percent of the bid, unless the Purchasing Manager issues a written determination that the imposition of such requirement would detract from competition without adding a material benefit to the City. All bonds, cashier's checks, or letters of credit shall require the bidder to forfeit bid security upon a refusal or failure to execute the contract within ten days of issuance of the notice of award of contract. If the contract is then awarded to the second-lowest bidder, the bond or other form of security shall be applied to compensate the City for the difference in price between the lowest and second lowest bids.

#### **Sec. 2-355. Exemptions to procurement requirements.**

The competitive bid requirements listed herein shall not apply to:

- (1) Interlocal governmental contracts or other verbal or written agreements with local governments.
- (2) Contracts procuring goods or services entered into by other governmental entities and not-for-profit organizations if the contracting entity extends the terms and conditions of the contract to the City of Sarasota and the contract has been awarded through acceptable bidding procedures substantially equivalent to the requirements of this Code (a process commonly referred to as "piggybacking").
- (3) Sole source agreements in which there is only one available source for the item required. However, the Purchasing Manager shall take all reasonable steps to insure that specifications for items to be procured are developed to permit competition whenever possible. Additionally, the Purchasing Manager shall post electronically the sole source purchases for a minimum of seven business days prior to making a sole source determination. The Purchasing Manager shall approve all sole source purchases. Approval must also be obtained from the City Manager or the City Auditor and Clerk if the sole source purchase exceeds \$50,000.



- (4) Single source agreements in which the Purchasing Manager has determined that it is advantageous for the City to use a particular supplier of goods or services because of a warranty or other proprietary relationship; because of a manufacturer's recommendation regarding parts or service; or for standardization, compatibility, or some other reason related to functionality. The Purchasing Manager shall approve all single source purchases. Approval must also be obtained from the City Manager or the City Auditor and Clerk if the single source purchase exceeds \$50,000.
- (5) Procurement of the following: dues and memberships in trade or professional organizations; subscriptions for periodicals; real property; books; maps, works of art; advertising; graphic design; legal services; services of entertainers and artists; medical, dental, psychological, pharmaceutical, registered nurses, and other medically registered professional services; real estate brokering and appraisal services; abstracts, titles, or title insurance for real property; funeral-related services; water, sewer, electrical, cable television or other utility services; services obtained through a franchise agreement; and personnel, whether in the classified service or not, including, but not limited to, part-time, temporary and contract services. Any contract service for personnel shall be in a form as prescribed by the Director of Human Resources and approved by the City Attorney.
- (6) Any procurement made under Federal General Services Administration (G.S.A.) contracts or State purchasing contracts or other governmental agencies' bids, purchases from Prison Rehabilitation Industries and Diversified Enterprise, Inc. (PRIDE) and the Rehabilitation Enterprise Service and Products (RESPECT), as provided by Florida Statutes.
- (7) Commodities purchased for resale through enterprise funds.
- (8) An extraordinary or unusual procurement that the City Commission determines must be exempted from this Code in order to avoid a hardship or loss to the City.
- (9) Professional development training, including educational programs and seminars.
- (10) Procurement of goods and services by the Sarasota Police Department when such purchases are required to apprehend persons suspected of violating the law and when the use of this Code would jeopardize the official law enforcement operation.

- (11) Contractual arrangements for goods and services to be provided directly to the citizenry by the contractor, except in those cases where the City Manager or the City Auditor and Clerk, as a matter of policy, determines that such an item be processed through the procurement system established herein.
- (12) Goods and services provided pursuant to an agreement with a performer at a City venue.

**Sec. 2-356. Invitations to bid.**

a) Procurements requiring the receipt of competitive sealed bids under this Regulation shall be upon Invitation to Bid. Invitations to Bid shall include procurement specifications, bid evaluation criteria, and all principal terms and conditions applicable to the procurement. The bid evaluation criteria shall be objectively measurable. No criteria may be used in bid evaluations that are not set forth in the Invitation to Bid.

(b) Invitations to Bid shall be advertised in newspapers or other media in accordance with the Florida Statutes.

(c) Invitations to Bid shall include or make available plans, specifications and other data sufficient to enable a prospective bidder to respond.

(d) Invitations to Bid shall set forth the time by which a bid must be received in order to be accepted, as well as the time and place for the opening of bids.

**Sec. 2-357. Submission of bids.**

(a) Bids must be submitted in writing and signed by the bidder or the bidder's duly authorized agent. Unless otherwise required in the Invitation to Bid, each bid must be sealed with the name and address of the bidder and the name of the project on the outside of the envelope.

(b) Bids must be received by the Purchasing Manager or his or her designee by the time listed in the solicitation for the opening of bids in order to be accepted. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation to bid. Bids for the construction or repairs on a public building or public work shall be opened at a public meeting in accordance with Section 255.0518, Florida Statutes, as amended. The amount of each bid, and such other relevant information as may be specified in the invitation to bid, together with the name of each bidder, shall be announced and recorded.

(c) A pre-bid conference may be held at the option of the Purchasing Manager. Nothing stated at a pre-bid conference shall change the Invitation to Bid unless a change is made by written addendum, which shall be supplied to all those

prospective bidders known to have received an invitation to bid. Pre-bid conferences may be recorded.

**Sec. 2-358. Acceptance or rejection of bids.**

(a) The City may accept the lowest responsive bid from a responsible bidder, reject some or all bids, or re-advertise the proposed project for new bids. In the event the lowest bid exceeds the allocated or available funds for the project, the Purchasing Manager may negotiate an adjustment of the bid price with the lowest responsive and responsible bidder in order to bring the bid within the amount of available funds.

(b) The City reserves the right to reject all bids for any reason whatsoever.

(c) The City reserves the right to compare, contrast and otherwise evaluate the quality of materials, qualifications, character, responsibility and fitness of all persons, firms, partnerships, companies or corporations submitting formal bids, requests for proposals, and quotations for the procurement for goods and/or services when making an award in the best interest of the City.

(d) The City may, after bid opening, request additional information or clarification by the bidder.

(e) The City may waive or accept minor irregularities in a bid when such waiver or acceptance is deemed to be in the best interest of the City and does not conflict with the basic principles of fair and open competition.

**Sec. 2-359. Withdrawal of bids.**

(a) A bidder may withdraw a bid any time prior to the opening of the bid by the City.

(b) The Purchasing Manager has the discretion to allow a bidder to withdraw a bid after a bid is opened, but prior to acceptance of the bid by the City, when the bid contains a material error. In making such a decision, the Purchasing Manager shall consider:

- (1) Whether the bid was submitted in good faith, with no intent to defraud or deceive.
- (2) Whether the error is of such a magnitude that to enforce compliance by the bidder would work a severe hardship on the bidder.
- (3) Whether the mistake was inadvertent and not the result of gross negligence or willful inattention of the bidder.

(c) If a bidder unilaterally withdraws his bid without permission, that bidder shall automatically be suspended from receiving new orders or contracts from the City for two years, dating from the date of unilateral withdrawal.

**Sec. 2-360. Determination of lowest responsible bidder.**

(a) Once a bidder has been deemed the lowest responsive bidder to the Invitation to Bid, the City shall determine whether the bidder is sufficiently responsible to perform pursuant to the contract.

(b) The following factors concerning the bidder and his or her subcontractors shall be relevant in determining whether the bidder is responsible:

- (1) The ability, capacity and skill of the bidder to perform the contract or provide the service required.
- (2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
- (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- (4) The quality of performance on previous City contracts, including but not limited to the failure of a bidder to successfully complete its performance pursuant to the terms and conditions of a prior contract with the City.
- (5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.
- (6) The sufficiency of the bidder's financial resources for purposes of performing the contract or providing the goods or services.
- (7) The quality, availability, and adaptability of the supplies, or contractual services to the particular use required.
- (8) The ability of the bidder to provide future maintenance and services, if needed.
- (9) The ability of the bidder to work cooperatively and productively with the City in the administration of the contract.
- (10) Whether the bidder has been debarred or the bidder's license suspended by the State of Florida, the City of Sarasota or another local government.

**Sec. 2-361. Correction of bids.**

(a) No bidder shall be permitted to correct a bid mistake after bid opening that would cause such bidder to have the low bid, except that any bidder may correct errors in extension of unit prices in the bids, or in multiplication, division, addition or subtraction. In such cases the unit price bid prevails and shall not be changed.

(b) A low bidder may be permitted to demonstrate clerical or scrivener's error in their bid where an examination of the entire bid submitted shows the error to be consistent with, and does not change, the bid price.

(c) Nothing herein is intended to prohibit the acceptance of a voluntary reduction in price from a lowest bidder after bid opening, provided such reduction is not conditioned on, or does not result in, the modification or deletion of any conditions contained in the Invitation to Bid.

**Sec. 2-362. Award of contract.**

(a) Contracts resulting from the competitive sealed bid process shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder, unless the basis of award in the Invitation to Bid explicitly establishes other criteria.

(b) In the event tie bids are received, the City shall award the bid to the business located within the City limits or, if no business is located within the City limits, to a County-based business or a certified minority business enterprise, as defined in Section 288.703, Florida Statutes. If a tie exists and it is not possible to resolve the tie using the above preferences, the award will be made by a lot drawn by the Purchasing Manager before at least one witness.

(c) In the event all bids for a construction project exceed available funds as certified by the Finance Director, the City Manager or the City Auditor and Clerk, for their respective departments/divisions, may authorize negotiation of the bid price with the lowest responsive and responsible bidder, in order to bring the bid within the amount of available funds.

(d) Notwithstanding the foregoing, the City of Sarasota reserves the right to cancel any awards or contracts based on bid mistakes after a written determination of the mistake by the Purchasing Manager.

(e) In the event the lowest responsible and responsive bidder refuses to perform or defaults on the contract awarded through the competitive sealed bid process, the Purchasing Manager may award the contract to the next lowest responsible and responsive bidder.

**Sec. 2-363. Performance and payment bonds.**

(a) The Purchasing Manager shall require the successful bidder on a public construction contract to obtain a good and sufficient performance and payment bond as security for the faithful performance of a public construction contract entered into between the City and the successful bidder and as security for the payment of all persons performing labor or furnishing materials in connection with such contract. The Purchasing Manager may waive the performance and payment bond for public construction contracts of \$150,000 or less if the City would not materially benefit from requiring such bond.

(b) The Purchasing Manager may require a successful bidder on a contract other than a public construction contract to obtain a good and sufficient performance and payment bond as security for the faithful performance of the contract entered into between the City and the successful bidder and as security for the payment of all persons performing labor or furnishing materials in connection with such contract.

(c) In lieu of the performance and payment bond, a successful bidder may provide the City with an alternative form of security in the form of cash, cashier's check, or irrevocable letter of credit. Any such alternative form of security shall be for the same purpose and be subject to the same conditions as those applicable to the performance and payment bond required herein.

**Sec. 2-364. Requests for Proposals.**

(a) The City may procure goods and services through a Request for Proposal when an Invitation to Bid is impractical or would not be advantageous to the City.

(b) The Request for Proposal shall be governed by the same rules set forth in this Code that govern Invitations to Bid with the exception of those rules that are inconsistent with the purpose of the Request for Proposal. When applying these provisions to Requests for Proposals, the words, "bid" and "bidder" shall be replaced with the words, "proposal" and "proposer."

(c) The Request for Proposal shall state the relative importance of price and other evaluation criteria.

(d) The Purchasing Manager may discuss a proposal with a Proposer when clarification is needed to identify the terms and conditions of the submittal or to determine the responsiveness of the submittal. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing Proposers.

(e) Awards shall be made to the responsible Proposer whose proposal is determined by a selection committee to be the most advantageous to the City, taking into consideration the evaluation criteria set forth in the Request for Proposal.

(f) The City reserves the right to cancel any Request for Proposal during any phase of the solicitation process. The City further reserves the right to cancel any recommended award or recommended contract at any time prior to contract execution. Such cancelations may be made when it is in the best interest of the City and for any reason, including but not limited to errors in terms, conditions or specifications; procedural flaws or irregularities; City Commission decisions to cancel or delay a project; technical or engineering issues; and budgetary concerns.

**Sec. 2-365. Invitation to Negotiate.**

(a) The City may utilize an Invitation to Negotiate to determine the best method to achieve a specific goal or solve a particular problem and to identify one or more responsive vendors with whom the City may negotiate in order to receive the best value.

(b) The Invitation to Negotiate shall be governed by the same rules set forth in this Code that govern Invitations to Bid with the exception of those rules that are inconsistent with the purpose of the Invitation to Negotiate. When applying these provisions to Invitations to Negotiate, the words, "bid" and "bidder" shall be replaced with the words, "response" and "responder."

(c) The Invitation to Negotiate shall describe the questions being explored, the facts being sought, and the specific goals or problems that are the subject of the solicitation.

(d) The Invitation to Negotiate shall specify the criteria that the City will use to determine the acceptability of the response and to guide the selection of the responders.

(e) A negotiating committee selected by the Purchasing Manager shall evaluate responses against the evaluation criteria set forth in the Invitation to Negotiate in order to establish a competitive range of responses reasonably susceptible of award. The Purchasing Manager may select one or more responders within the competitive range with which to commence negotiations. After negotiations are conducted, the City shall award the contract to the responsible and responsive vendor that the City determines will provide the best value to the City based on the selection criteria.

(f) The contract file for a vendor selected through an Invitation to Negotiate shall contain a short plain statement that explains the basis for the selection of the vendor and that sets forth the vendor's deliverables and price, pursuant to the contract, along with an explanation of how these deliverables and price provide the best value to the City.

**Sec. 2-366. Bid and proposal protests.**

(a) Upon completion of the evaluation of all bids for a particular procurement, the Purchasing Manager shall issue a Notice of Bid/Proposal Action. This notice, containing the date and time of issuance, shall be posted in the office of the Purchasing Division, on the City of Sarasota website, and on Internet bid service websites named in the bid documents.

(b) A bidder with a "substantial interest" who has been adversely affected by the City's selection of a bidder may protest the selection by complying with the requirements set forth herein. A bidder shall be deemed to have a "substantial interest" if said bidder would have been selected as the lowest responsive and responsible bidder but for the alleged mistake or irregularity described in the protest. If the Purchasing Manager determines that a bidder does not have a "substantial interest," that bidder is precluded from bringing a protest pursuant to this Section.

(c) A bidder wishing to object to terms, conditions, specifications, procedures, selection criteria, or other matter set forth in the bid or proposal documents must make such objections in writing during the period of time set forth for Questions and Answers in the Invitation to Bid, Request for Proposal or Invitation to Negotiate. A bidder who has not raised such objections in writing during the Question and Answer time may not use the bid protest process to object to these matters once a Notice of Bid/Proposal Action has been posted.

(d) A bidder may file a Notice of Protest by emailing or faxing said Notice to the Purchasing Manager within 3 business days of the issuance of the Notice of Bid/Proposal Action. Such Notice of Protest shall include the bid or proposal number and title; the name and address of the protestor; and a brief statement as to the basis of the protest.

(e) The complete written protest must be filed with the Purchasing Manager within 10 calendar days of the issuance of the Notice of Bid Action. To be considered, the written protest must include:

- (1) Bid or Proposal number and title;
- (2) Name and address of protestor;
- (3) The facts and law upon which the protest is based;
- (4) Rules, regulations or statutes pertinent to the protest;
- (5) Relief which the protestor seeks;
- (6) Any other information that the protestor deems to be material to the protest; and.



(7) A bid protest bond in the form of a certified check, cashier's check, or money order made payable to the City of Sarasota in an amount equal to five percent of the protestor's bid or \$1,000, whichever is less. The entire amount of the bond shall be forfeited if the City determines that the protest was without merit, was filed to cause harm or delay, or was filed for some other improper purpose.

(f) Upon receipt of a timely filed and complete formal written protest, the Purchasing Manager shall stay award of the purchase order or contract until the protest is resolved, unless the Purchasing Manager determines in writing that compelling circumstances exist which require that the award be processed without further delay, in order to protect the City's interest or for the purpose of avoiding an immediate and serious danger to the public health, safety or welfare.

(g) After receipt of the timely filed and complete written protest, and upon the protestor's request, the Purchasing Manager shall meet with the protestor to discuss the allegations and to attempt to resolve the matter. The Purchasing Manager shall issue his/her decision on the protest within 14 calendar days of the meeting, or if no meeting is requested, within 14 days of receipt of the timely filed and complete written protest. Such decision shall be e-mailed or sent by facsimile to the Protester on the date of issuance unless otherwise directed by the Protester.

(h) The protestor may appeal the decision of the Purchasing Manager to the City Manager by filing a written appeal with the City Manager's Office within three business days of issuance of the Purchasing Manager's decision. The appeal must be in writing and must include a full explanation of the basis of disagreement with the decision rendered by the Purchasing Manager, as well as the relief sought. The City Manager shall issue his/her decision on the appeal within 10 calendar days of receipt of the appeal. The City Manager's decision shall be e-mailed or sent by facsimile to the Protester on the date of issuance unless otherwise directed by the Protester.

(i) The decision of the City Manager may be appealed to the City Commission by the filing of a written appeal with the City Commission Office within three business days of issuance of the City Manager's decision. The City Commission shall overturn the selection if the protestor proves that the selection did not comply in material respects with the requirements contained in the Invitation to Bid, Request for Proposal or Invitation to Negotiate; with this Procurement Code; or with Florida law. The decision of the City Commission shall be final.

(j) Failure by a bidder to comply with the timelines and requirements set forth herein shall result in an immediate invalidation and termination of the protest and a waiver of the right to seek further redress or to appeal the alleged adverse action in a court of law.

**Sec. 2-367. Emergency procurements.**

(a) The City Manager may declare the existence of an emergency procurement condition, suspend competitive selection and any other provisions of this Code, and authorize the purchase of goods or services required as a result of the emergency condition, which is defined as a situation in which the public's health, safety or welfare is at risk.

(b) Once an emergency has been declared and provisions of this Code suspended, the City Manager may approve procurements of any required goods and services. Notwithstanding the above, the Purchasing Manager may approve procurements of goods and services up to \$50,000 if the Purchasing Manager declares the emergency condition, as defined herein. In approving such procurements, the City Manager or Purchasing Manager shall document the factual basis of the emergency, the projected cost of the purchase, the funding source, the basis upon which a particular supplier or contractor has been selected, and any other information that is pertinent to the procurement or that is otherwise required by the City Commission.

(c) Emergency procurements shall be made with as much competition as is practicable under the circumstances.

(d) Documentation of emergency procurements shall be filed with the Purchasing Manager.

(e) Emergency procurements in excess of \$200,000 shall be reported to the City Commission at their next regularly scheduled meeting.

**Sec. 2-368. Local preference in bidding for city contracts.**

(a) Definitions.

(1) *Local city business* means the vendor has (i) a valid Local Business Tax Receipt, issued by the City of Sarasota at least one year prior to a bid or proposal submission, to do business within the City of Sarasota that authorizes the business to sell goods or services or to engage in construction, and (ii) a physical non-residential business address located within the City of Sarasota from which the vendor is operating or performing its business, and at which it maintains full-time employees who receive from the local business a regular paycheck from which deductions are made for employment related payroll taxes, including but not necessarily limited to social security and medicare.

(2) *Local county business* means the vendor has (i) a valid Local Business Tax Receipt, issued by Sarasota County at least one year prior to a bid or proposal submission, to do business within Sarasota County that authorizes the business to sell goods or services or to engage in

construction, and (ii) a physical non-residential business address located within Sarasota County from which the vendor is operating or performing its business, and at which it maintains full-time employees who receive from the local business a regular paycheck from which deductions are made for employment related payroll taxes, including but not necessarily limited to social security and medicare.

- (3) *Non-local business* means any vendor that does not meet either the definition of local city business or local county business in subsections (1) and (2) above.

(b) *Establishment as local city or local county business.* To establish that a vendor is either a local city business or local county business, as defined herein, a vendor shall provide written confirmation of compliance with the definitions for each such local business as defined in subsection (a) herein, at the time of submitting a bid or proposal. Post Office Boxes are not verifiable and shall not be used for the purpose of establishing the required physical business address. A vendor who misrepresents the local preference status of its firm in a proposal or bid submitted to the City will lose the privilege to claim local preference status for a period of two (2) years.

(c) *Local Preference in Purchasing and Contracting.* The City of Sarasota shall give preference to local city businesses and local county businesses in the purchase of commodities, personal property, general services, professional services, the purchase of or contract for construction or renovation of public works or improvements, by means of competitive bid, request for proposals, qualifications or other submittals and competitive negotiation and selection. The City of Sarasota shall give such preference to local city businesses and local county businesses in the following manner:

- (1) *Competitive bid.* Each formal competitive bid solicitation shall clearly identify how the price order of the bids received will be evaluated and determined. Under a competitive bid solicitation, when a responsible and responsive non-local business submits the lowest price bid, and the lowest bid submitted by a responsible and responsive local city business is within five-percent (5%) of the lowest bid, then the lowest bidding local city business shall have the opportunity to submit an offer to match the price submitted by the lowest non-local business bidder. In such instances, staff shall first verify if the lowest non-local business bidder and the lowest local city business are in fact responsible and responsive bidders. If the lowest local city business bidder submits an offer that matches or is lower than the lowest bid submitted, and the two vendors are similarly responsible and responsive bidders, then the award shall be made to such local city business. If the lowest local city business bidder declines or is unable to match the lowest bid, then the option to do so moves to the next local city business if such business's bid is within five percent (5%) of the lowest bid, and it is a similarly responsible and responsive bidder. At such time as there is no local city business within five percent (5%) of the

lowest bid, the option to match the lowest bid shall go to the lowest bidding local county business, if such bid is within two-percent (2%) of the lowest bid, and it is a similarly responsible and responsive bidder. If the lowest local county business bidder declines or is unable to match the lowest bid, then the option to do so moves to the next local county business if such business's bid is within two percent (2%) of the lowest bid, and it is a similarly responsible and responsive bidder.

(2) *Request for proposals, qualifications or other submittals and competitive negotiation and selection.* For all other competitive solicitations in which specified factors used to evaluate the responses from vendors are assigned point totals, the City Commission, or its purchasing designee, shall give a preference to a local city business or local county business by giving additional points to each as follows: ten (10) additional points (out of 100) to a local city business, and five (5) additional points (out of 100) to a local county business.

(3) *Ties.* In the event of any tie (either in the best and final bid price under a bid process, or in the point total in a proposal process) between a local city or county business, and a non-local business, a contract award, or the first opportunity to negotiate, as applicable, shall be made to the local city or county business. In the event of any tie between a local city business and a local county business, the local city business shall be awarded the contract or receive the first opportunity to negotiate, as applicable. In the event of any tie between a local city business and another local city business, or a local county business and another local county business, the local vendor with the greatest number of full-time employees working in the City of Sarasota or Sarasota County respectively, shall be awarded the contract or receive the first opportunity to negotiate, as applicable.

(d) *Exceptions to Local Preference Policy.* The local preference policy set forth herein shall not apply to any of the following purchases or contracts:

- (1) Goods or services provided under a cooperative purchasing agreement or piggyback agreement; or
- (2) Contracts for professional services the procurement of which is subject to the Consultants' Competitive Negotiation Act (§287.055, Florida Statutes) or subject to any competitive consultant selection policy or procedure adopted or utilized by the City Commission; or
- (3) Purchases or contracts which are funded, in whole or in part, by a governmental entity and the laws, regulations, or policies governing such funding prohibit application of that preference; or

- (4) Purchases made or contracts let under emergency or noncompetitive situations, or for litigation related legal services, as described in the City's Purchasing Polices.

(e) *Waiver of the Application of Local Preference Policy.* Any request for the waiver of local preference to any particular purchase or contract must be heard by the City Commission prior to advertising the bid or proposal. The City Commission, as the awarding authority, may approve the waiver of local preference upon review and at its discretion.

(f) *Comparison and Review of Qualifications.* The preferences established herein in no way prohibit the right of the City of Sarasota to compare and review the quality of materials proposed for purchase, and to compare and review the qualifications, character, responsibility, and fitness of all persons, firms or corporations submitting bids or proposals. Furthermore, the local preference established herein, shall not prohibit the City of Sarasota from giving any other preference permitted by law in addition to the local preference contained herein.

(g) *Administration of Local Preference Policy.* This policy shall apply to all departments under the purview of the City Commission. The Purchasing Division of the Financial Administration Department shall be responsible for administration of the local preference policy.

**Secs. 2-369 - 2-380. Reserved."**

**Section 2.** The Sarasota City Code, Article VI, "Finance, Purchasing and Sales," Division 4, "Project List for Infrastructure Surtax" is hereby amended to renumber the sections as follows (Deleted text appears in ~~striktthrough~~ format; new text appears in underlined format):

**"DIVISION 4. PROJECT LIST FOR INFRASTRUCTURE SURTAX**

**Sec. 2-36681.** **Project list for infrastructure surtax.**

On July 10, 1997, the city commission approved the city project list for the infrastructure surtax for FY00—FY09. The project list, attached to Sarasota County Ordinance No. 97-083 as Exhibit "C", is hereby incorporated hereto by reference.

**Sec. 2-36782.** **Modification.**

The city project list for infrastructure surtax for FY00—FY09 or the allocation of sales tax proceeds among projects may be modified by resolution of the city commission. In addition to the requirements for the enactment of a resolution, as set

forth in Article IV, section 2, of the Charter of the city, a resolution modifying the project list or allocation of sales tax proceeds shall be enacted only after a public hearing thereon. The proposed resolution shall be noticed once in a newspaper of general circulation in the city at least ten (10) days prior to the public hearing. The notice of proposed enactment shall state the date, time, and place of the public hearing, the title or titles of the proposed resolution, and the place or places within the municipality where such proposed resolution may be inspected by the public. Said notice shall also advise that interested parties may appear at the public hearing and be heard with respect to the proposed resolution.

**Secs. 2-36883 – 2.400. Reserved."**

**Section 3.** Should any section, sentence, clause, part or provision of this ordinance be held or declared invalid or unenforceable by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part held or declared to be invalid.

**Section 4.** Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 5.** This ordinance shall take effect immediately upon second reading.


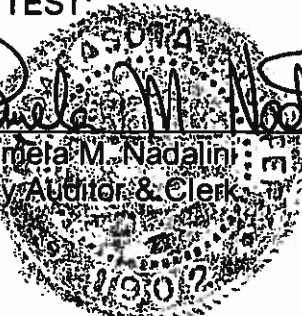
PASSED on first reading by title only, after posting on the bulletin board at City Hall for at least three (3) days prior to first reading, as authorized by Article IV, Section 2, Charter of the City of Sarasota, Florida this 4th day of June, 2012.

PASSED on second reading and finally adopted this 16th day of July, 2012.

CITY OF SARASOTA, FLORIDA

  
Suzanne Atwell, Mayor

ATTEST:

  
Pamela M. Nadalini  
City Auditor & Clerk  


Yes Mayor Atwell  
Yes Vice Mayor Shaw  
Yes Commissioner Caragiulo  
Yes Commissioner Snyder  
Yes Commissioner Turner